

11-0-1372

(Do Not Write Above This Line)

AN ORDINANCE BY
CITY UTILITIES COMMITTEE

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH THE METROPOLITAN CONDOMINIUM ASSOCIATION, INC., OWNER OF REAL PROPERTY LOCATED AT 20 MARIETTA STREET, N.W., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.

ADOPTED BY

OCT 17 2011

COUNCIL

- CONSENT REFER
- REGULAR REPORT REFER
- ADVERTISE & REFER
- 1st ADOPT 2nd READ & REFER
- PERSONAL PAPER REFER

Date Referred 10/3/11

Referred To: City Utilities

Date Referred

Referred To:

Date Referred

Referred To:

First Reading
 Committee City Utilities
 Date 10/17/2011
 Chair Paula Chapman
 Referred to _____

Committee City Utilities
 Date 10/1/2011
 Chair [Signature]
 Action [Signature]
 Fav, Adv, Hold (see rev. side)
 Other _____

Members _____
 Refer To _____
 Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____

Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____

Members _____
 Refer To _____
 Committee _____
 Date _____
 Chair _____
 Action _____
 Fav, Adv, Hold (see rev. side)
 Other _____

FINAL COUNCIL ACTION
 2nd 1st & 2nd 3rd
 Readings
 Consent V Vote RC Vote

CERTIFIED

CERTIFIED
 OCT 17 2011

ATLANTA CITY COUNCIL, PRESIDENT
[Signature]

CERTIFIED
 OCT 17 2011
[Signature]
 MUNICIPAL CLERK

MAYOR'S ACTION

APPROVED

OCT 26 2011

WITHOUT SIGNATURE
BY OPERATION OF LAW



**AN ORDINANCE BY
CITY UTILITIES COMMITTEE**

AN ORDINANCE AUTHORIZING THE MAYOR, OR HIS DESIGNEE, ON BEHALF OF THE CITY OF ATLANTA, TO ENTER INTO AN ENCROACHMENT AGREEMENT FOR NON-CONFORMING USES WITH THE METROPOLITAN CONDOMINIUM ASSOCIATION, INC., OWNER OF REAL PROPERTY LOCATED AT 20 MARIETTA STREET, N.W., ATLANTA, GEORGIA FOR THE PURPOSE OF PERMITTING AN EXISTING BASEMENT WHICH PRESENTLY EXTENDS INTO THE PUBLIC RIGHT-OF-WAY; TO WAIVE THE APPLICATION FEE AND YEARLY INSPECTION FEE; AND FOR OTHER PURPOSES.

WHEREAS, the Metropolitan Condominium Association, Inc. ("Metropolitan") owns real property located at 20 Marietta Street, N.W. in Atlanta, Georgia ("Property"); and

WHEREAS, the property currently has an existing basement which extends into the public right-of-way approximately One Hundred Twenty Five (125) feet in length and Sixteen (16) feet Three (3) inches in depth along Marietta Street and approximately One Hundred (100) feet in length and Eleven (11) feet in depth along Broad Street; and

WHEREAS, the City of Atlanta's ("City") Code of Ordinances, at Sections 138-20, 138-22, and 138-24, require that an Encroachment Agreement be entered into between the City and Metropolitan for authorization to allow the basement to remain in the public right-of-way and for authorization for Metropolitan to continue to maintain the existing basement in the public right-of-way; and

WHEREAS, Metropolitan has been exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances; and

WHEREAS, the Commissioner of the Department of Public Works has reviewed the plans for the right-of-way encroachment and has determined that the existing basement will not adversely impact the ability of the affected right-of-way to handle pedestrian traffic or otherwise to perform its intended public function; and

WHEREAS, Metropolitan desires to maintain the existing basement; and

WHEREAS, Metropolitan has agreed to conform to the conditions set out in the City Code of Ordinances at Sections 138-20, 138-22, and 138-24.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF ATLANTA, GEORGIA, as follows:

SECTION 1: That the Mayor is authorized, on behalf of the Department of Public Works, to enter into an Encroachment Agreement for Non-Conforming Uses, as outlined



in Section 138, Article II, of the City's Code of Ordinances with the Metropolitan Condominium Association, Inc., for the purpose of granting to Metropolitan the right to continue to use and the obligation to maintain a basement in the public right-of-way located at 20 Marietta Street, N.W., with the encroachment extending out into and under the Marietta Street right of way at a variable width with an approximate maximum dimension of Sixteen (16) feet and Three (3) inches from the face of building at sidewalk level and for One Hundred Twenty Five (125) feet along Marietta Street and out into and under the Broad Street right of way approximately Eleven (11) feet from the face of the building and for One Hundred (100) feet along Broad Street , in Atlanta, Georgia as depicted in Exhibit "A" attached hereto, in a form and pursuant to the conditions determined by the Commissioner of the Department of Public Works and the City Attorney, to be desirable and in the best interests of the City of Atlanta for this transaction.

SECTION 2: That the plans and specifications for said basement shall be submitted for the review and approval of the Commissioner of the Department of Public Works.

SECTION 3: That Metropolitan is exempted from paying the application and yearly inspection fees as contained in Section 138-20(a) and Appendix B of the City Code of Ordinances, and said fee requirements are hereby waived.

SECTION 4: That Metropolitan shall indemnify the City for any damages to persons or properties resulting from the maintenance of said basement.

SECTION 5: That Metropolitan shall comply with the conditions set out at Sections 138-120, 138-22, and 138-24 of the City's Code of Ordinances.

SECTION 6: That the City Attorney is directed to prepare an Encroachment Agreement, acceptable as to form, for execution by the Mayor and Metropolitan.

SECTION 7: That the Agreement shall not become binding upon the City, and the City shall incur neither obligation nor liability thereunder until the Agreement has been approved as to form by the City Attorney, executed by the Mayor, attested to by the Municipal Clerk and delivered to the Metropolitan Condominium Association, Inc.

A true copy,


Municipal Clerk

ADOPTED by the Atlanta City Council
APPROVED as per City Charter Section 2-403

Oct. 17, 2011
Oct. 26, 2011

EXHIBIT "A"

LEGAL DESCRIPTION

All that tract or parcel of land lying and being in the City of Atlanta, State of Georgia and in Land Lots 77 and 78 of the 14th District of Fulton County, Georgia and being more fully described as follows:

BEGINNING at the intersection of the Southwesterly right-of-way of Marietta Street (115' r/w) and the Southeasterly right-of-way of Broad Street (closed) (said point being the point of beginning). Thence from the point of beginning running S48°45'57" W along the said Southeasterly right-of-way of Broad Street a distance of 103.64 feet to a point; thence running S52°41'14" W along the said Southeasterly right-of-way of Broad Street a distance of 5.16 feet; thence leaving the said right-of-way and running S55°10'29" E a distance of 92.69 feet to a point; thence running S 33°35'43" W a distance of 21.45 feet to a point; thence running S55°31'46" E a distance of 50.56 feet to a point; thence running N33°35'43" E a distance of 110 feet to a point located on the Southwesterly right-of-way of Marietta Street; thence running N55°21'34" W along the said right-of-way of Marietta Street a distance of 50.56 feet to a point; thence running N40°30'00" W along the said Southwesterly right-of-way of Marietta Street a distance of 66.40 feet to a point and the POINT OF BEGINNING.

Said tract or parcel containing 13,267 square feet or 0.304 acres.

Exhibit B

20 Marietta Street NW
Marietta Street NW and Broad Street NW Encroachment

The existing and original (built 1911) basement of the building extends out into and under the Marietta Street right of way at a variable width with a maximum dimension of 16 feet and 3 inches from the face of building at sidewalk level and for 125 feet along Marietta Street; and out into and under the Broad Street right of way approximately 11 feet from the face of the building and for 100 feet along Broad Street.

The encroachment includes underground basement footings, foundations and structure.

DRAFT

RCS# 1478
10/17/11
2:41 PM

Atlanta City Council

REGULAR SESSION

CONSENT I

CONSENT AGENDA SECTION I
OCTOBER 17, 2011
ADOPT

YEAS: 11
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 4
EXCUSED: 0
ABSENT 1

Y Smith	NV Archibong	Y Moore	Y Bond
NV Hall	Y Wan	Y Martin	NV Watson
Y Young	Y Shook	Y Bottoms	Y Willis
Y Winslow	Y Adrean	B Sheperd	NV Mitchell

ITEMS ADOPTED ON CONSENT	ITEMS ADOPTED ON CONSENT	10-17-11 ITEMS ADVERSESED ON CONSENT
1. 11-O-1292 2. 11-O-1383 3. 11-O-1483 4. 11-O-1380 5. 11-O-1371 6. 11-O-1372 7. 11-O-1421 8. 11-O-0815 9. 11-O-1234 10. 11-O-1290 11. 11-O-1291 12. 11-O-1235 13. 11-O-1375 14. 11-O-1376 15. 11-R-1443 16. 11-R-1471 17. 11-R-1444 18. 11-R-1445 19. 11-R-1472 20. 11-R-1485 21. 11-R-1438 22. 11-R-1439 23. 11-R-1440 24. 11-R-1481 25. 11-R-1482 26. 11-R-1406 27. 11-R-1448 28. 11-R-1449 29. 11-R-1450 30. 11-R-1451 31. 11-R-1452 32. 11-R-1453 33. 11-R-1454 34. 11-R-1455 35. 11-R-1456 36. 11-R-1457	37. 11-R-1458 38. 11-R-1459 39. 11-R-1460 40. 11-R-1461 41. 11-R-1462 42. 11-R-1463 43. 11-R-1464 44. 11-R-1465 45. 11-R-1466 46. 11-R-1467	47. 11-R-1468 48. 11-R-1469 49. 11-R-1470