

City of Philadelphia



September 13, 2012

CERTIFICATION: This is to certify that Bill No. 120396, entitled "An Ordinance authorizing Northern Liberties Auction, Inc. ("Owner") to construct, use and maintain various encroachments within the right-of-way on the north sidewalk of Spring Garden Street between N. Third Street and Bodine Street ("Property")," was returned by the Mayor to City Council on the Thirteenth day of September, 2012 "DISAPPROVED."

The said bill having been considered again, was repassed on the thirteenth day of September, 2012. Two-thirds of all of the members of City Council having voted in the affirmative, the said bill became law without the Mayor's approval, pursuant to the provisions of Section 2-202 of the Philadelphia Home Rule Charter.

(Bill No. 120396)

AN ORDINANCE

Authorizing Northern Liberties Auction, Inc. ("Owner") to construct, use and maintain various encroachments within the right-of-way on the north sidewalk of Spring Garden Street between N. Third Street and Bodine Street ("Property"), under certain terms and conditions.

THE COUNCIL OF THE CITY OF PHILADELPHIA HEREBY ORDAINS:

SECTION 1. Permission is hereby granted to Owner to construct, use and maintain various encroachments at the Property ("Encroachments") as follows:

Building Encroachments Over Spring Garden Street

Balconies with lights and column supports will be constructed for the second and third floors over the north sidewalk of Spring Garden Street. The balconies begin approximately thirty-five feet (35') east of the east curbline of N. Third Street and span approximately sixty-one feet (61') across the building frontage. The balconies will encroach over the north sidewalk approximately fourteen feet-four inches (14'-4") leaving approximately one foot-eight inches (1'-8") of sidewalk.

Awnings will be constructed above the first, second and third floors over the north sidewalk of Spring Garden Street. The awnings, with the

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exception of those located on the third floor, are located outside the limits of the balconies. The awnings will project approximately three feet (3') from the property line and the lower edge of the first floor awning will be at least eight feet (8') above the sidewalk.

Building Encroachments Upon Spring Garden Street

A vestibule will be constructed upon the north sidewalk of Spring Garden Street that will be approximately ten feet (10') in length and project approximately four feet-eight inches (4'-8") into the footway, leaving approximately eleven feet-four inches (11'-4") of unobstructed sidewalk. The vestibule begins approximately sixty feet (60') east of the east curbline of N. Third Street.

A set of stairs with planters and a canopy will be constructed upon the north sidewalk of Spring Garden Street at the intersection of Bodine Street. The stairs will encroach approximately six feet-six inches (6'-6") into the footway, leaving approximately nine feet-six inches (9'-6") of unobstructed sidewalk.

A total of eleven (11) planters will be placed upon the north sidewalk of Spring Garden Street. Three (3) planters will be placed adjacent to the building and eight (8) planters will be placed adjacent to the curbline.

A total of twelve (12) bollards will be placed along the curbline of the north sidewalk of Spring Garden Street.

SECTION 2. The construction, use and maintenance of the Encroachments described and listed in Section 1 shall be in accordance with the laws, rules and regulations of the City of Philadelphia, and specifically those of the Department of Licenses and Inspections and the Department of Streets, provided that the Department of Streets, in its sole, unreviewable discretion, may allow minor variations of the dimension limits of Section 1, within standard tolerances of current engineering practice.

SECTION 3. Before exercising any rights or privileges under this Ordinance, Owner must first obtain all required permits, licenses and approvals from all appropriate City departments, boards, agencies or commissions. No such department, board, agency or commission shall be required to issue any such permit, license or approval solely because this Ordinance has been enacted, it being the express intent of this Ordinance not to supersede any other provision of law governing the issuance of such permits, licenses or approvals. In addition, before exercising any rights or privileges under this Ordinance, Owner shall enter into an agreement ("Agreement") with the appropriate City department(s), in a form satisfactory to the Law Department, to provide that Owner shall, *inter alia*:

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- (a) secure all necessary permits, licenses and approvals from all appropriate departments, agencies, boards or commissions of the City, or from any other governmental entity as may be required by law;
- (b) assume the cost of all changes and adjustments to, or relocation or abandonment of, all utilities and structures within the public right-of-way which are necessary due to the construction of the Encroachments;
- (c) carry public liability and property damage insurance that covers the Encroachments, co-naming the City of Philadelphia as an insured party, in such amounts as shall be satisfactory to the Law Department.
- (d) upon one hundred and eighty (180) days notice from the City, remove the encroachments described in Section 1 without cost or expense to the City and shall remove the Encroachments described in Section 1 at no cost or expense to the City of Philadelphia when given written notice to do so by the City to accommodate a municipal or municipal sponsored construction project;
- (e) insure that each construction contractor for the Encroachments carries public liability and property damage insurance, naming the City of Philadelphia as an insured party in such amounts as shall be reasonably satisfactory to the City;
- (f) give the City and all public utility companies the right-of-access, ingress and egress for the purpose of inspection, maintenance, alteration, relocation or reconstruction of any of their respective facilities which may lie within the public footway adjacent to the Encroachments;
- (g) indemnify and hold harmless the City, its officers, employees and agents from and against any and all loss resulting from injury to, or death to persons or damage to property arising out of, resulting from, or in any manner caused by the presence, location, use, operation, installation, maintenance, replacement or removal of the Encroachments; and
- (h) furnish the City with a bond with corporate surety in an amount required by the Department of Streets and in a form satisfactory to the Law Department to insure the compliance with all the terms and conditions of this Ordinance and the Agreement.

SECTION 4. The Law Department shall include in the Agreement such other terms and provisions deemed necessary to protect the interest of the City of Philadelphia.

SECTION 5. The permission granted to Owner to construct, own and maintain the Encroachments shall expire without any further action by the City of Philadelphia if Owner has not entered into an Agreement and satisfied all requirements of the Agreement

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that are listed in Section 3 of this Ordinance within one (1) year after this Ordinance becomes law.

SECTION 6. This Ordinance shall not become effective unless the sum of two hundred dollars (\$200.00), toward the costs thereof, is paid into the City Treasury within sixty (60) days after this Ordinance becomes law.