

13-R-02

A RESOLUTION

**Authorizing the City Manager to Execute
Documents Consenting to the Release of a
Certain 1926 Easement for Private Alley
In the 1600 Block of Chicago Avenue**

WHEREAS, Marilyn A. Educate and Martha J. Koch ("Owners") are desirous of developing the property at 605 Davis Street (the "605 Parcel") located in the City's Downtown; and

WHEREAS, the 601 Parcel is the easternmost of three adjoining parcels, *i.e.*, 601, 605, and 611 Davis Street, with the 601 Parcel located at the northwest corner of Davis Street and the 1600 Block of Chicago Avenue; and

WHEREAS, the north sixteen (16) feet of the entire 601 Parcel and the entire 605 Parcel, as well as the east forty (40) feet of the 611 Parcel, have been subject to an easement for private alley ("easement property") since on or about August 11, 1926; and

WHEREAS, the easement property is approximately sixteen (16) feet by one hundred sixty (160) feet; and

WHEREAS, creation of the easement property was required by the City's Zoning Board of Appeals ("ZBA") as a condition to a zoning variation to allow construction of a public garage and store at 1616 Chicago Avenue; and

WHEREAS, the easement provided that it was not to be released without the City's prior consent; and

WHEREAS, the easement was required for a term of years recorded variously in ZBA documents from the year 1926 as sixty (60) and eighty (80) years; and

WHEREAS, more than sixty (60) years have elapsed since the date of the ZBA's order; and

WHEREAS, the seventy-five and one-half (75 ½) years which have elapsed since August 11, 1926, constitute substantial fulfillment of an eighty- (80-) year easement term; and

WHEREAS, the aforescribed garage and store, the reason for the 1926 easement, no longer exist, and the 1616 Chicago Avenue site now is occupied by the John Buck Company's property, the Park Evanston apartment building; and

WHEREAS, the City has received a letter from the John Buck Company advising that the John Buck Company is not using the easement property and claims no easement or ownership interest in the easement property; and

WHEREAS, said letter reserves to the John Buck Company its rights as a landowner adjoining the 601 Parcel, the 605 Parcel, and the 611 Parcel, including any setback or other zoning requirements applicable to future development said parcels; and

WHEREAS, a copy of said letter, from John Buck Company Principal Kent A. Swanson to City Assistant Corporation Counsel Ellen Szymanski is attached hereto as Exhibit A and made a part hereof; and

WHEREAS, Marilyn A. Educate and Martha J. Koch have advised the City that they cannot proceed with their desired development without release of the aforescribed easement; and

WHEREAS, the prospect of new development in the City's Downtown is in the best interests of the citizens of Evanston; and

WHEREAS, the City's consent to release of the easement will facilitate development and is, therefore, in the best interests of its citizens of Evanston, and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS:

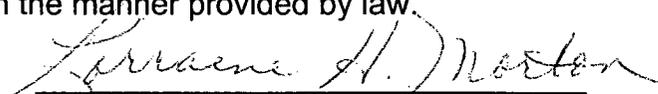
SECTION 1: That the City Council hereby finds as fact the foregoing recitals.

SECTION 2: That the City Council hereby authorizes and directs the City Manager to execute, and the City Clerk to attest, documents evidencing the City's consent to release of the aforescribed easement.

SECTION 3: The City Manager may negotiate any terms and conditions consistent with this Resolution as he deems in the best interests of the City.

SECTION 4: The authority granted hereby to the City Manager does not extend to disposition or encumbrance of any City ownership interest, should the City determine such interest to exist.

SECTION 5: That this Resolution shall be in full force and effect from and after the date of its passage and approval in the manner provided by law.


Lorraine H. Morton, Mayor

ATTEST:


Nancy P. Morris
City Clerk

Adopted: February 25 2002

THE JOHN BUCK COMPANY

Kent A. Swanson
Principal

February 18, 2002

Ms. Ellen Szymanski
City of Evanston
2100 Ridge Avenue
Evanston, IL 60201

Re: 16' x 160' Alley Parcel between 1630 Chicago Avenue and 601-611 Davis Street

Dear Ellen:

Pursuant to our conversation and your letter to me dated February 6, 2002, JBC Evanston L.P. has analyzed its ownership position regarding the above referenced alley.

This will confirm that the undersigned, as the owner of the Park Evanston project, is not using the "alley" described in Mr. Marvin Temple's January 23, 2002 letter to the City and is not claiming any easement or ownership interest in that "alley" under the August 12, 1926 Agreement referred to in that letter. This letter does not in any way waive or diminish any of our rights as an adjoining landowner with respect to the development of the parcels located at 601 - 611 Davis including any setback or other zoning requirements that might apply to the construction of a new development on 601 - 611 Davis and on the "alley" parcel.

If you have any other questions regarding this issue, please do not hesitate to contact me.

Best regards,

THE JOHN BUCK COMPANY



c: Martha Koch
Greg Merdinger
Marvin Temple

John Lamberts
Patrick Moran

EXHIBIT A