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CITY CLERK**

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CITY CLERK

VIRGINIA K. HENRY, CMC
ASSISTANT CITY CLERK

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CHIEF DEPUTY CITY CLERK

**CITY OF SACRAMENTO
CALIFORNIA**

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September 19, 2001

City Council
Sacramento, California

Honorable Members in Session:

SUBJECT: Appeal of Earl Boltman, dba Goldie's Bookstore, Inc., dba Parkway Books regarding the Issuance by Traffic Engineering of a Notice of Violation and Thirty (30) Day Order to cease use of Illegal Driveway.

LOCATION AND COUNCIL DISTRICT:

The subject address is **201 North 12th Street, Sacramento CA 95814 (District 1)**

STAFF RECOMMENDATION: This report is for information only.

CONTACT PERSON: Carolyn E. Hoover, Deputy City Clerk, 264-7200
Valerie A. Burrowes, City Clerk, 264-5799

FOR COUNCIL MEETING OF: **September 19, 2001**

SUMMARY:

On August 14, 2001 the City Clerk determined the appeal may involve a lengthy fact finding process which would be more appropriately accommodated by a formal hearing before a hearing officer. The hearing for this appeal has been scheduled to be held at **9:00 a.m. on Wednesday, October 10, 2001**, at the McGeorge School of Law, 3455 Fifth Avenue, Sacramento, California, 95817, in **Rooms S9 & S10**.

COMMITTEE/COMMISSION ACTION: None

BACKGROUND INFORMATION:

Pursuant to City Code Chapter 1.24.010, attached is the appeal of Mr. Earl Boltman, dba Goldie's Bookstore, Inc., dba Parkway Books, of the action taken by Martin W. Hanneman, P.E., City Traffic Engineering, as set forth in his August 8, 2001 letter, attached. Stephen S. Brand, Attorney for Mr. Boltman, contends that the North 12th Street Driveway was approved by the City of Sacramento both in 1960 when the driveway was originally installed and in approximately 1986 when an agreement was reached with Regional Transit and the City of Sacramento when appellant widened the northerly driveway on 12th Street and relocated slightly north of the original position and closed the southerly driveway on North 12th Street. At that time, as part of the agreement, the fences along North 12th Street were installed. Mr. Brand also states in the appeal that the City of Sacramento has been aware since at least 1960 of the existence of the above-mentioned driveways on North 12th Street and until now has taken no action with regard to the alleged illegal driveways.

FINANCIAL CONSIDERATIONS:

The estimated cost is \$1425 and the funds are available from the Public Works/Traffic Engineering budget.

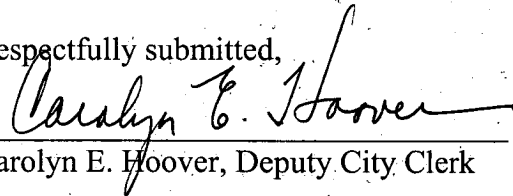
POLICY CONSIDERATIONS:

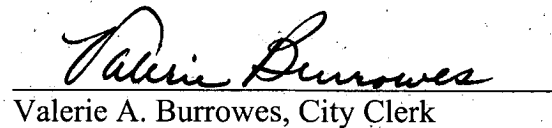
The current policy regarding administrative appeals is consistent with procedures specified in the Sacramento City Code.

ESBD CONSIDERATIONS:

Not applicable.

Respectfully submitted,


Carolyn E. Hoover, Deputy City Clerk


Valerie A. Burrowes, City Clerk

Attachment

cc: Hearing Officer, McGeorge School of Law
Deputy City Attorney Susana Wood
Martin W. Hanneman, P.E., City Traffic Engineer
File

Law Offices of
STEPHEN S. BRAND
601 UNIVERSITY AVENUE
Suite 255
SACRAMENTO, CALIFORNIA 95825
TELEPHONE (916) 923-0830
FAX (916) 923-0831

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August 14, 2001

City Clerk
City Clerk's Office
915 I Street, Room 304
Sacramento, CA 95814

Re: *Notice of Violation and Thirty (30) Day Order to cease use of Illegal Driveway located at 201 North 12th Street, Sacramento, CA - APN 001-0123-003*

NOTICE OF APPEAL

Dear Madam Clerk:

Pursuant to City Code Chapter 1.24.010, Mr. Earl Boltman, dba Goldie's Bookstore, Inc., dba Parkway Books hereby appeals the action taken by Martin W. Hanneman, P.E., City Traffic Engineer as set forth in his August 8, 2001 letter.

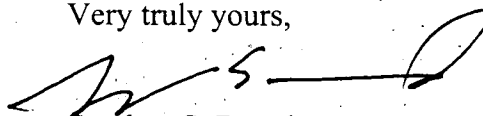
The basis for this appeal is that the North 12th Street Driveway was, in fact, approved by The City of Sacramento, both in 1960 when the driveway was originally installed and, in approximately 1986 when an agreement was reach with Regional Transit and The City of Sacramento when appelland widened the northerly driveway on 12th Street and relocated slightly north of the original position and closed the southerly driveway on North 12th Street. In addition, at that time as part of the agreement the fences along North 12th Street were installed. Also, The City of Sacramento has been aware since at least 1960 of the existence of the above-mentioned driveways on North 12th Street and until now has taken no action with regard to the alleged illegal driveways.

City Clerk
August 14, 2001
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It would be appreciated if you could consult me prior to a hearing date to confirm I have no scheduling conflicts.

Thank you for your courtesy.

Very truly yours,

A handwritten signature in black ink, appearing to read 'S. Brand', with a large, stylized flourish at the end.

Stephen S. Brand
Attorney for Earl Boltman, dba Goldie's Bookstore,
Inc., dba Parkway Books



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DEPARTMENT OF
PUBLIC WORKS

TRAFFIC ENGINEERING
SERVICES

CITY OF SACRAMENTO
CALIFORNIA

1000 I STREET
SUITE 170
SACRAMENTO, CA
95814-2806

PH 916-264-5307
FAX 916-264-8404

August 8, 2001

Mr. Earl Boltman
dba Goldies Bookstore Inc.
Parkway Books
564 Parker Road
Fairfield, California 94533

RE: Notice of Violation and Thirty (30) Day Order to cease use of Illegal Driveway located at 201 North 12th Street,
Sacramento, CA – APN 001-0123-003;
Notification of Appeal Rights

Dear Mr. Boltman:

In accordance with the provisions of section 1.28.010 of the Sacramento City Code, you are hereby ordered to within thirty (30) days of the date of this letter, close off all access to your North 12th street driveway which was installed without the required permit. This Notice is being sent to you as the Responsible Party/Property owner of the property listed in the subject line above.

Pursuant to Section 18.08.010(B) of the Sacramento City Code (copy attached), no person may construct, repair, relocate or otherwise establish a driveway without first obtaining a permit from the City of Sacramento. Please take notice that if you fail to close off all access to this driveway, and restore the public right of way to it's original condition within the allotted time frame, the City will immediately proceed to do the work. If it becomes necessary for the City to take this action, you will be liable for the cost of fencing and restoration of the public right of way, in addition to any associated administrative and enforcement costs.

You are hereby notified that you have the right to appeal this action to the Sacramento City Council, in accordance with the procedures set forth in section 18.08.140 of the Sacramento City Code (copy attached). An appeal must be filed with the City Clerk's office within ten days from the date this letter is served upon you.

Sincerely,

Martin W. Hanneman, P.E.
City Traffic Engineer

Cc: Michael Kashiwagi, Public Works Director
Shana S. Faber, Senior Deputy Attorney
Valerie Burrows, City Clerk
Susana Alcala Wood, Deputy City Attorney
Steven S. Brand, Esq.

Attachments

File: Goldies Violation Letter Aug, 01.doc

Title 18 ADDITIONAL DEVELOPMENT REQUIREMENTSChapter 18.08 DRIVEWAY PERMITS

18.08.010 Permit required--Definitions.

A. No person shall establish or maintain vehicular access from that portion of a street used for vehicular travel to property without constructing a driveway.

B. No person shall construct, repair, relocate or otherwise establish a driveway, nor shall any person cause to be constructed, repaired, relocated or otherwise establish a driveway without first obtaining a permit from the traffic engineer and paying the fee required by this chapter for plans checking and inspection.

C. For the purposes of this chapter, "driveway" means the improved means of vehicular access from that portion of a street used for vehicular travel to the adjacent property including the portion of the sidewalk lying within said way or means of access.

D. No permit shall be required for standard single-family or two-family dwelling unit driveways abutting roll curbs where no construction in public right-of-way is necessary; provided that such exempt driveways may not be constructed in violation of Sections 18.08.040(A) through (H) or 18.08.050.

E. No permit shall be required for a driveway constructed as part of, or along with, other improvements for which improvement plans showing such driveway are submitted to the city for approval. In such case, the permit and permit fees for such driveway shall be considered to be included with the fees collected for plan-check and inspection of such other improvements. The construction of such driveway shall remain subject to all other requirements of this chapter. (Prior code § 38.13.160)

Title 18 ADDITIONAL DEVELOPMENT REQUIREMENTSChapter 18.08 DRIVEWAY PERMITS

18.08.140 Appeals.

Any person may appeal to the city council an action taken under this chapter, by the director of public works, or his or her representative, by filing a notice of appeal with the city clerk. The notice of appeal shall comply with the provisions of Chapter 1.24 of this code. The notice of appeal shall be filed with the city clerk no later than ten (10) days after the director of public works' (or his or her representative's) action, except that an appeal of a variance granted pursuant to Section 18.08.080 of this chapter shall be filed no later than ten (10) days after written notice is mailed to owners of property abutting the property where the variance has been granted, as specified in Section 18.08.080(B) of this chapter. Upon receipt of a timely and complete notice of appeal, the city clerk shall schedule a date and time when said appeal will be heard by the city council. Notice of the date, time and location of such hearing shall be mailed to the person filing the notice of appeal no later than ten (10) days prior to the date of such hearing. The hearing of said appeal, and judicial review of any decision regarding said appeal, shall be subject to provisions of Chapter 1.24 of this code. (Prior code § 38.13.172)