

BY AUTHORITY

ORDINANCE NO. 918
SERIES OF 1997

COUNCIL BILL NO. 909
COMMITTEE OF REFERENCE:

PUBLIC WORKS

A BILL

FOR AN ORDINANCE GRANTING A REVOCABLE PERMIT OR LICENSE, SUBJECT TO CERTAIN TERMS AND CONDITIONS, TO NATIONAL PALACE LOFTS ASSOCIATION, L.P., ITS SUCCESSORS AND ASSIGNS, TO ENCROACH WITH SHORING AND TIE BACKS INTO 15TH STREET, BLAKE STREET AND THE ALLEY IN BLOCK 18, EAST DENVER, AT 1499 BLAKE STREET.

BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:

Section 1. That the City and County of Denver hereby grants National Palace Lofts Association, L.P., its successors and assigns, a revocable permit or license to encroach with shoring and tie backs in the following described area:

A parcel of land located in a portion of Blake Street, 15th Street and alley in Block 18, East Denver, City and County of Denver, Colorado, being more particularly described as follows:

Beginning at the most easterly corner of Lot 32 of said Block 18;
thence N45°26'26"W along the northeasterly line of said Lot 32, a distance of 125.33 feet;
thence S44°33'49"W along the northwesterly lines of Lot 22 through Lot 32 inclusive of said Block 18, a distance of 275.21 feet to the most westerly corner of said Lot 22;
thence N45°26'11"W, a distance of 16.00 feet;
thence N44°33'49"E along the southeasterly lines of Lot 1 through Lot 11 inclusive of said Block 18 and the prolongation thereof, a distance of 305.21 feet;

thence S45°26'26"E along a line 30.00 feet northeasterly of and parallel with the northeasterly line of Lot 32 of said Block 18 and the prolongation thereof, a distance of 171.33 feet;
thence S44°33'49"W along a line 30.00 feet southeasterly of and parallel with the southeasterly lines of Lot 22 through Lot 32 of said Block 18 and the prolongation thereof, a distance of 305.21 feet;
thence N45°26'11"W a distance of 30.00 feet to the most southerly corner of said Lot 22;
thence N44°33'49"E along the southeasterly lines of said Lot 22 through Lot 32, a distance of 275.21 feet to the Point of Beginning. Containing 17,799 square feet (0.409 acres), more or less.

1 **Section 2.** The revocable permit or license granted by this ordinance is expressly granted
2 upon and subject to each and all of the following terms and conditions:

3 (a) The Association (the "Association") of the owners of the Condominium Property (the
4 "Property") which includes all the real estate in the condominium shall be obligated to remove
5 excavation shoring and tie-back materials used during the construction of the Building (the
6 "Building") in which the condominium units are located and left in place on or adjacent to the
7 Property, in whole or in part, as may be required by the City and County of Denver (the "City") in
8 connection with future extension of utility lines to the Building or other repair or construction work
9 required by the City. In the event the City requires such work, the Association shall arrange to have
10 such work performed, at its sole expense, within sixty (60) days after receipt of a written notice from
11 the City describing the work to be performed. In the event the Association fails to commence such
12 work within sixty (60) days after receipt of the notice, the Manager of Public Works (the "Manager")
13 is hereby authorized to have such work performed. The Manager shall bill the Association for the
14 costs and expenses as determined by the Manager.

15 If the Association shall fail within sixty (60) days after billing of the costs and expenses of the
16 work by the City, a lien may be assessed against the Property. The Manager, to initiate such lien,
17 shall certify a statement thereof to the Manager of Revenue, who shall assess and charge the same
18 against the property and collect the same due, together with interest at the rate of interest
19 established by law for delinquent real property taxes.

20 The lien created hereby shall be superior and propr to other liens, regardless of date, except
21 liens for general and special taxes.

22 (b) The tie-backs left under private property or shoring along private property lies are not
23 part of this revocable permit and therefore are not reviewed nor approved by the City. The owners
24 of these properties must be made aware of the fact that these items exist and that the developer
25 or the Association are responsible for any necessary mitigation.

26 The shoring along the alley must be removed to a depth of 2 (two) feet, but not along 15th
27 Street due to the fiber optic lines. The shoring left in place may be required to be removed in whole
28 or in part at some future time, as mentioned above.

29 (c) All construction in, on or over the area of encroachment shall be accomplished in
30 accordance with the Building Code of the City and County of Denver. Plans and specifications,
31 governing the construction of said encroachments, shall be approved by the Manager of Public

1 Works and the Director of the Building Inspection Division prior to construction. Upon completion,
2 a reproducible copy of the exact location and dimensions of the encroachments shall be filed with
3 the Manager of Public Works.

4 (d) The licensee shall pay all costs of construction and maintenance of said
5 encroachments and upon revocation of permit as provided herein or upon abandonment shall pay
6 all costs of removing the said structures from the encroachment area and return the streets/alley
7 to their original condition under the supervision of the City Engineer.

8 (e) This revocable permit or license shall not operate or be construed to abridge, limit or
9 restrict the City and County of Denver in exercising its right to make full use of 15th Street, Blake
10 Street and the alley in Block 18, East Denver as public thoroughfares nor shall it operate to restrict
11 the utility companies in exercising their rights to construct, remove, operate and maintain their
12 installations within the said streets/alley.

13 Any costs that are incurred relocating facilities for the utility companies during construction
14 within the encroachment area will have to be borne by the licensee.

15 (f) The licensee is to assume full responsibility for any and all damages incurred to
16 facilities of the Water Department and/or drainage facilities for water and sewage of the City and
17 County of Denver due to activities authorized by the permit. Any and all replacement or repair of
18 facilities of the Water Department and/or drainage facilities for water and sewage of the City and
19 County of Denver attributed to the work shall be made by the Water Department and/or the City and
20 County of Denver at the sole expense of the licensee.

21 (g) The sidewalk and streets/alley over the encroachment area shall be capable of
22 withstanding an HS-20 Loading in accordance with the latest AASHTO Specifications. The
23 installations within the said encroachment area shall be so constructed that the paved section of
24 the streets/alley can be widened without requiring additional structural modifications.

25 The sidewalk shall be constructed so that it can be removed and replaced without affecting
26 structures within the encroachment area.

27 (h) The licensee shall agree to indemnify and always save the City and County of Denver
28 harmless from all costs, claims or damages arising out of the rights and privileges granted by this
29 permit to the extent it is permitted by law.

30 (i) During the existence of said encroachments, the licensee or permittee, its successors
31 and assigns, at its expense, and without cost to the City and County of Denver, shall procure and
32 maintain a single limit comprehensive general liability insurance policy with a limit of not less than

1 \$500,000.00. All overages are to be arranged on the occurrence basis and include coverage for
2 those hazards normally identified as X.C.U. during construction. The insurance coverage
3 hereinabove enumerated constitutes a minimum requirement and such enumeration shall in no way
4 be deemed to limit or lessen the liability of the licensee or permittee, its successors or assigns,
5 under the terms of this revocable license or permit; all of the insurance coverage required herein
6 shall be written in form and by a company or companies approved by the Manager of Public Works
7 of the City and County of Denver and authorized to do business in the State of Colorado. A certified
8 copy of all such insurance policies shall be filed with the said Manager of Public Works, and each
9 such policy shall contain a statement therein or endorsement thereon that it will not be canceled or
10 materially changed or altered without at least thirty (30) days prior written notice, by registered mail,
11 to the said Manager of Public Works at least thirty (30) days prior to the termination of the term; all
12 such insurance policies shall be specifically endorsed to include all liability assumed by the licensee
13 or permittee hereunder and shall name the City and County of Denver as an additional insured.

14 (j) The licensee shall also remove and replace any and all streets/alley paving, sidewalks
15 and curb and gutter, both inside the area of encroachment and in the area of the streets/alley
16 adjoining thereto, that becomes broken, damaged or unsightly during the course of construction
17 without cost to the City.

18 In the future the licensee shall also remove, replace or repair any streets/alley paving,
19 sidewalks and curb and gutter that become broken or damaged when, in the opinion of the City
20 Engineer, the damage has been caused by the construction within the area of encroachment.

21 The work required to effect the said repairs shall be accomplished without cost to the City and
22 under the supervision of the City Engineer.

23 (k) The City and County of Denver reserves the right to make an inspection of the said
24 encroachments and facilities contained within the confines of these encroachments for which an
25 annual fee of \$50.00 shall be assessed.

26 (l) The licensee shall fully comply with the provisions of Article IV (Prohibition of
27 Discrimination in Employment, Housing and Commercial Space, Public Accommodations,
28 Educational Institutions and Health and Welfare Services) of Chapter 28 (Human Rights) of the
29 Revised Municipal Code of the City and County of Denver. The failure or refusal to comply with any
30 provisions of this Article in said Chapter shall be a proper basis for revocation of this revocable
31 permit or license.

32 (m) The right to revoke this license or permit is expressly reserved to the City and County

1 of Denver.

2 **Section 3.** That the revocable permit or license hereby granted shall be revocable at any
3 time that the Council of the City and County of Denver shall determine that the public convenience
4 and necessity or the public health, safety or general welfare require such revocation, and the right
5 to revoke the same is hereby expressly reserved to the City and County of Denver; provided
6 however, at a reasonable time prior to Council action upon such revocation or proposed revocation,
7 opportunity shall be afforded to licensee or permittee, its successors and assigns, to be present at
8 a hearing to be conducted by the Council upon such matters and thereat to present its views and
9 opinions thereof and to present for consideration action or actions alternative to the revocation of
10 such license or permit.

11 **Section 4.** That this license or permit shall be of no force or effect until the following things
12 have been done and performed:

13 (a) The licensee or permittee shall have filed with the Manager of Public Works a
14 written acceptance of the terms and conditions of this ordinance together with a fee for filing with
15 the Clerk and Recorder in and for the City and County of Denver; said acceptance shall be in
16 substantially the following form:

17 Date: _____

18 We, the undersigned do hereby accept all of the terms and conditions
19 recited in Ordinance No. _____, Series of 19__.

20 Signed by: _____
21 (Permittee or Licensee)

22 By: _____
23 (Name of Officer)

24 (b) The licensee or permittee shall have filed with the Manager of Public Works all
25 insurance policies and certificates herein recited; and

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1 (c) The Manager of Public Works shall have certified in writing that the foregoing
2 requirements have been performed.

3 PASSED BY THE COUNCIL December 15 1997

4 Cathy Reynolds - PRESIDENT

5 APPROVED: Fred Montoya - MAYOR 12/16 1997

6 ATTEST: ACTING MAYOR - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 ATTEST: Joanmary E. Godoy CITY AND COUNTY OF DENVER

9 PUBLISHED IN THE ROCKY MTN. NEWS Dec. 12, 1997 Dec. 19, 1997

10 PREPARED BY: ROBERT M. KELLY, ASSISTANT CITY ATTORNEY 12/2/97

11 REVIEWED BY: [Signature] - CITY ATTORNEY 12/2 1997

12 SPONSORED BY COUNCIL MEMBER(S) _____

