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**STANDING COMMITTEES OF THE  
CITY OF WEST ALLIS COMMON COUNCIL**

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Vice-Chair: Vincent Vitale  
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Vice-Chair: Martin J. Weigel  
Michael J. Czaplowski  
Daniel J. Roadt  
James W. Sengstock

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Vice-Chair: Richard F. Narlock  
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Daniel J. Roadt  
Martin J. Weigel

**ADVISORY**

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Vice-Chair: Daniel J. Roadt  
Kurt E. Kopplin  
Richard F. Narlock  
Vincent Vitale



# City of West Allis

7525 W. Greenfield Ave.  
West Allis, WI 53214

## Resolution

**File Number: R-2009-0046**

**Final Action:**

**Sponsor(s):** Public Works Committee

FEB 17 2009

Resolution Granting a Privilege for Encroachment (Major) to New Owner Out of Eden LLC for property located at 1439-41 South 70th Street.

WHEREAS, by Resolution No. 22644, adopted October 4th, 1988, the City of West Allis granted to Wolfgang Ludwig a certain Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of a porch, steps and canopy encroaching on that portion of the right-of-way on said property located at 1439-41 South 70th Street, in the City of West Allis, WI (the "Privilege"); and,

WHEREAS, the property was quit claimed to Faith's Creation Christian Fellowship on October 1st, 2007, Document No. 09554609, recorded in the Register of Deed's Office on February 1st, 2008, and then sold to Out of Eden LLC on July 18th, 2008, who desires to retain the Privilege.

NOW, THEREFORE, BE IT RESOLVED that the City of West Allis grants to Out of Eden LLC the Privilege for Encroachment Beyond the Lot Line and Within Public Street Right-of-Way consisting of porch and steps encroaching on that portion of the right-of-way on South 70th Street, said property located at 1439-41 South 70th Street, in the City of West Allis, WI.

BE IT FURTHER RESOLVED that additional improvements on said area must require prior approval of the Board of Public Works.

BE IT FURTHER RESOLVED that the Mayor and City Administrative Officer, Clerk/Treasurer of the City of West Allis are hereby authorized and directed to execute and deliver the aforesaid Privilege on behalf of the City of West Allis.

ATTR-Encroachment-Out of Eden LLC

ADOPTED

FEB 17 2009

Paul M. Ziehler, City Admin. Officer, Clerk/Treas.

APPROVED

2/23/09

Dan Devine, Mayor

## **PRIVILEGE FOR ENCROACHMENT**

### **Major**

#### **Beyond Lot Line and Within a Public Street Right-of-Way**

Out of Eden, LLC, owner(s) of property located at 1439-41 South 70<sup>th</sup> Street, West Allis, hereinafter "Grantee(s)", desires to maintain an encroachment extending beyond the lot line and within the public street right-of-way consisting of a porch and steps on that portion of the right-of-way of South 70<sup>th</sup> Street as platted in Central Improvement Co. Subdivision No. 1, located in the Northwest ¼ of Section 3, Township 6 North, Range 21 East, in the City of West Allis, Milwaukee County, State of Wisconsin, more particularly described as follows:

Beginning at the Southeast corner of Lot 21, Block 4 of said subdivision; thence North along the East line of said Lot 21, 28.50 feet; thence East at right angles to said East line, 1.80 feet; thence South and parallel with said East line of Lot 21, 28.50 feet; thence West at right angles to said East line, 1.80 feet to the Point of Beginning of this description. Tax Key No. 453-0052-000.

The Board of Public Works is satisfied that the granting of this privilege is not adverse to the public interest.

NOW, THEREFORE, pursuant to the authority contained in Section 66.0425 of the Wisconsin Statutes, the Common Council of the City of West Allis does hereby grant the above-described privilege, subject to the following terms and conditions:

1. Upon acceptance hereof, the Grantee(s) shall become primarily liable for damages to persons or property by reason of the granting of this privilege; and the Grantee(s) agree to hold the City harmless for any damage to their property resulting from snow plowing or snow removal operations.

2. The Grantee(s) shall be obligated to remove the encroachment upon ten (10) days notice by the State of Wisconsin or City of West Allis, and shall be entitled to no damages for

removal of the encroachment. Grantee(s) grant permission to the City of West Allis to remove the encroachment if it is not removed pursuant to Sec. 66.0425(2), Wisconsin Statutes, the cost of which shall be at Grantee's expense.

3. The Grantee(s), by acceptance hereof, waives any right to contest in any manner the validity of Section 66.0425 of the Wisconsin Statutes.

4. Any third parties whose rights are interfered with by the granting of this privilege shall have a right of action against the Grantee(s) only.

5. No part of the porch or steps shall extend over the sidewalk; and no part of the porch or steps shall extend farther than 1.8 feet onto the public right-of-way of South 70<sup>th</sup> Street.

6. The porch and steps shall be constructed and maintained in a manner to safeguard the public and shall specifically comply with the West Allis Municipal Code.

7. Plans and specifications of any repair/alterations being performed in the public right-of-way for which this privilege is granted, other than the porch and steps as provided herein, shall require submission to, and final approval of, the City Engineer of the City of West Allis.

8. It is understood that Grantee(s), their heirs, successors and assigns, shall file a Bond with the City Clerk/Treasurer in the amount of One Thousand Dollars (\$1,000) and a Certificate of Insurance in the amount of at least Ten Thousand Dollars (\$10,000.00), in a form approved by the City Attorney, for damages to person or property by reason of the granting of this privilege. The City of West Allis shall be named as an additional insured, as its interest may appear, on the certificate of insurance. The insurance certificate shall further provide that ten (10) day written notice to the City of West Allis shall be provided in the event of any material change, or cancellation of insurance coverage.

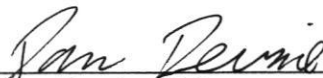
9. Grantee(s) shall pay to the City of West Allis as compensation for this privilege the sum of Fifty Dollars (\$50.00).

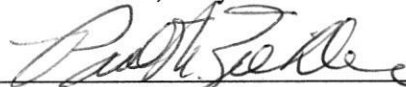
10. This privilege shall be in force and have effect only upon payment of the required fee and filing of the Certificate of Insurance and Bond referred to above. This privilege shall cease upon the lapse or cancellation of the said insurance coverage. New application and new payment shall then be required to extend grant of privilege.

11. This privilege shall be binding upon and inure to the benefit of the Grantee(s), their respective heirs, successors and assigns.

Dated at West Allis, WI, this 17 day of February, 2009.

CITY OF WEST ALLIS

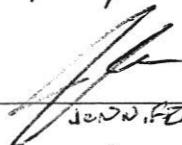
BY:   
Dan Devine, Mayor

BY:   
Paul M. Ziehler  
CAO, City Clerk/Treasurer

ACCEPTED BY:  
OUT OF EDEN, LLC

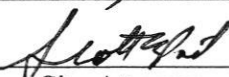
BY:   
GAIL BRONNER, President

Date: 11/8/08

BY:   
GAIL BRONNER, Secretary

Date: 11/8/08

Approved as to form this 4 day  
of February, 2009.

  
City Attorney

C/Encrprimajor-Out of Eden LLC