



COUNCIL OF THE CITY OF NEW YORK

**AGENDA
OF
THE LAND USE COMMITTEE
FOR THE MEETING OF MAY 10, 2012**

LEROY G. COMRIE, *Chair*, Land Use Committee

MARK WEPRIN, *Chair*, Subcommittee on Zoning and Franchises

BRAD LANDER, *Chair*, Subcommittee on Landmarks, Public Siting
and Maritime Uses

STEPHEN LEVIN, *Chair*, Subcommittee on Planning, Dispositions
and Concessions

<http://legistar.council.nyc.gov/Calendar.aspx>

**AGENDA
OF THE
LAND USE COMMITTEE**

The Land Use Committee will hold a meeting in the **Council Committee Room, 250 Broadway, 16th Floor**, New York City, New York 10007, commencing at **10:00 A.M. on Thursday, May 10, 2012**, and will consider the following items and conduct such other business as may be necessary:

**L.U. No. 552
92 WEST TREMONT AVENUE**

BRONX CB - 5

C 120107 HAX

Application submitted by the Department of Housing Preservation and Development (HPD):

1. pursuant to Article 16 of the General Municipal Law of New York State for:
 - a) the designation of property located at 92 West Tremont Avenue (Block 2867, Lot 125) as an Urban Development Action Area; and
 - b) An Urban Development Action Area project for such area;
2. pursuant to Section 197-c of the New York City Charter for the disposition of such property to a developer selected by HPD;

to facilitate the development of a six-story building with approximately 61 dwelling units to be developed under HPD's Low Income Rental Program.

L.U. No. 590
AUTHORIZING RESOLUTION

CITYWIDE

20125458 GFY

Resolution authorizing franchises for cable television services

By Council Members Comrie and Weprin (at the request of the Mayor).

WHEREAS, by Executive Order 25, dated August 23, 1995, the Mayor has designated the Department of Information Technology and Telecommunications as the responsible agency for the granting of telecommunications franchises; and

WHEREAS, the Commissioner of the Department of Information Technology and Telecommunications has made an initial determination, pursuant to Section 363 of the Charter (the "Charter") of the City of New York (the "City"), of the need for franchises for cable television services (as that term is defined hereinafter); and

WHEREAS, the Mayor has submitted to the Council a proposed authorizing resolution for such franchises pursuant to Section 363 of the Charter; and

WHEREAS, use of the inalienable property of the City (as defined hereinafter) helps to facilitate the availability of cable television service;

The Council hereby resolves that:

A. The Council authorizes the Department of Information Technology and Telecommunications to grant non-exclusive franchises for the construction, installation, use, operation and/or maintenance of cable, wire and/or optical fiber and associated equipment on, over and under the inalienable property of the City (including through pipes, conduits and similar improvements thereto) for provision of cable television services in the City.

B. The public services to be provided under such franchises shall be cable television services, as defined hereinafter.

C. For purposes of this resolution, "inalienable property of the City" shall mean the property designated as inalienable in Section 383 of the Charter. References herein to facilities "in the inalienable property" shall mean facilities located in, on, over or under the surface of such inalienable property of the City.

D. For purposes of this resolution, "cable television services" shall mean "cable service" as defined in the Cable Communications Policy Act of 1984, as amended (47 U.S.C. Sections 521 et seq.).

E. All franchises granted pursuant to this resolution shall require, as provided in Charter Sections 363 and 372, the approval of the Franchise and Concession Review Committee and the separate and additional approval of the Mayor.

F. The authorization to grant franchises pursuant to this resolution shall expire on the fifth anniversary of the date on which this resolution is adopted by the Council.

G. Prior to the grant of any such franchise, and to the extent consistent with New York State and federal law, a request for proposals or other solicitation ("solicitation") shall be issued by the Department of Information Technology and Telecommunications. Prior to issuing any such solicitation, all legally required environmental and land use review shall be conducted in accordance with City Environmental Quality Review ("CEQR") and Section 197-c of the Charter. The criteria to be used by the Department of Information Technology and Telecommunications to evaluate responses to such solicitation shall include, but not be limited to, the following, if and to the extent permitted by law:

- (1) the adequacy of the proposed compensation to be paid to the City;
- (2) the financial, legal, technical and managerial experience and capabilities of the applicant(s), including (without limitation, except as limited by law) the ability of the applicant(s) to maintain the property of the City in good condition throughout the term of the franchise; and
- (3) the degree to which the public interest will be served by the service proposed to be provided.

H. Any franchise granted pursuant to this authorizing resolution shall be by written agreement which shall include, but not be limited to, terms and conditions consistent with the following to the extent permitted by law (and shall not include any provision which is prohibited by law from inclusion in such franchise agreement):

- (1) no franchise granted pursuant hereto shall have a term that exceeds fifteen (15) years, including options to renew if any;

- (2) the compensation for the franchise to be paid to the City shall be adequate and may include monetary compensation, the provision of facilities and/or services to the City, or both;
- (3) the franchise may be terminated or cancelled in the event of the franchisee's failure to comply with the material terms and conditions of the agreement;
- (4) the franchisee shall be required to provide security to ensure the performance of the franchisee's obligations under the agreement;
- (5) there shall be remedies to protect the City's interest in the event of the franchisee's failure to comply with the terms and conditions of the franchise agreement;
- (6) there shall be adequate insurance and indemnification requirements to protect the interests of the public and the City;
- (7) all franchisees shall be required to maintain complete and accurate books of account and records sufficient to assure franchisee's compliance with the franchise agreement, which books of account and records shall be made available on demand to the City for inspection;
- (8) there shall be provisions to ensure quality workmanship and construction methods with respect to those facilities constructed, installed, used, operated and/or maintained pursuant to the franchise and located in the inalienable property;
- (9) there shall be provisions containing the agreements required pursuant to paragraph 6 of subdivision (h) of Section 363 of the Charter relating to collective bargaining and other matters;
- (10) there shall be provisions requiring the franchisee to comply with applicable City laws and regulations related to, but not limited to, employment and investigations;
- (11) there shall be provisions to ensure adequate oversight by the City of franchisee's performance of its franchise obligations;

- (12) there shall be provisions requiring the consent of the City prior to an assignment or other transfer of, or change in control of, the franchise;
- (13) there shall be provisions regarding City rights to inspect facilities constructed, installed, used, operated and/or maintained pursuant to the franchise and located in the inalienable property, and regarding City rights to direct relocation of such facilities;
- (14) all franchisees shall have been subject, prior to commencement of the franchise term, to review under the City's Vendor Information Exchange System ("VENDEX") or any successor system;
- (15) all franchises shall include provisions incorporating the MacBride Principles;
- (16) there shall be provisions preserving the right of the City to perform public works or public improvements in and around those areas subject to the franchise;
- (17) there shall be provisions requiring the franchisee to protect the property of the City from damage, and the delivery of public services from interruption, resulting from the construction, installation, use, operation, maintenance and/or removal of franchisee's facilities in the inalienable property;
- (18) there shall be provisions designed to minimize the extent to which the public use of the streets of the City are disrupted in connection with the construction, installation, use, operation, maintenance and/or removal of franchisee's facilities in the inalienable property;
- (19) no franchise granted hereunder shall contain economic or regulatory burdens on the franchisee which when taken as a whole are greater or lesser than those burdens placed upon another cable television franchisee operating in the same area;
- (20) all franchises shall be subject to comparable obligations and requirements provided that where the imposition of such obligations and requirements would be duplicative, then alternative but comparable obligations or requirements shall be imposed; and

(21) there shall be provisions requiring capacity and support for public, educational and governmental access.

I. The Department of Information Technology and Telecommunications shall file with the Council the following documents:

- (1) within fifteen (15) days of issuance, a copy of each solicitation issued pursuant to this resolution;
- (2) within fifteen (15) days of approval by the Mayor, a copy of the agreement for each franchise granted pursuant to this resolution; and
- (3) on or before July 1 of each year, a report detailing the revenues received by the City from each franchise granted pursuant to this resolution during the preceding calendar year.

J. If any clause, sentence, paragraph, section or part of this resolution shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this resolution or the application thereof but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

L.U. NOS. 595 THROUGH 598 ARE RELATED

L.U. No. 595

MILL BASIN

BROOKLYN CB - 18

C 120108 ZMK

Application submitted by NYC Department of Small Business Services pursuant to Sections 197-c and 201 of the New York City Charter for the amendment of the Zoning Map, Section Nos. 29a and 29c, changing from a C3 District to a C8-1 District property bounded by a line perpendicular to the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 100 feet northeasterly of Flatbush Avenue, a line at an angle of 42 degrees to Flatbush Avenue and passing through a point on the northeasterly street line of Flatbush Avenue distant 1290 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, a line 400 feet

northeasterly of Flatbush Avenue, a line perpendicular to the northeasterly street line of Flatbush Avenue distant 420 feet northwesterly (as measured along the street line) from the point of intersection of the northeasterly street line of Flatbush Avenue and the northerly street line of Shore Parkway, and Flatbush Avenue, as shown on a diagram (for illustrative purposes only) dated November 28, 2011.

L.U. No. 596

MILL BASIN

BROOKLYN CB - 18

C 070512 MMK

Application submitted by the Department of Small Business Services pursuant to Sections 1302, 197-c and 199 of the New York City Charter and Section 5-430 et seq. of the New York City Administrative Code for an amendment to the City Map involving:

- the narrowing, by elimination, discontinuance and closing, of a portion of Flatbush Avenue between Avenue U and Pelican Street;
- the elimination, discontinuance and closing of Marginal Street, Wharf or Place bounded by Flatbush Avenue, Shore Parkway and Mill Basin (such Marginal Street, Wharf or Place, where the same is shown on any existing plans for the waterfront or portion thereof, shall be incorporated, as modified herein, into the City Map, in accordance with Section 1302(a) of the New York City Charter);
- and the adjustment of grades necessitated thereby;

including authorization for any disposition or acquisition of real property related thereto, in accordance with Map Nos. Z-2703 and Z-2704, dated July 30, 2008 and signed by the Borough President.

L.U. No. 597

MILL BASIN

BROOKLYN CB - 18

C 120111 PPK

Application submitted by the NYC Department of Small Business Services (DSBS), pursuant to Section 197-c of the New York City Charter for disposition to the New York City Economic Development Corporation (EDC) of city-owned property located at 2875 Flatbush Avenue (Block 8591, p/o Lot 100, p/o Lot 125, and p/o Lot 175), which includes the disposition of an easement over p/o Lot 100 and a restriction prohibiting Use Group 16 on Block 8591, p/o Lot 100 and p/o Lot 125.

L.U. No. 598

MILL BASIN

BROOKLYN CB - 18

N 120109 ZAK

Application submitted by NYC Department of Small Business Services for the grant of an authorization pursuant to Section 62-822(a)(1) of the Zoning Resolution to modify the location requirements of Sections 62-511 (Location of visual corridors) and 62-56 (Requirements for Upland Connections) and the minimum dimension requirements of Section 62-53 (Requirements for Shore Public Walkways); in connection with a proposed waterfront zoning lot subdivision, on property bounded by Mill Basin, Four Sparrow Marsh Park, and Flatbush Avenue (Block 8591, Lots 125, 175, 980 and p/o Lot 100) in a C3 and C8-1 Districts.

L.U. No. 599

119-03 SPRINGFIELD BOULEVARD

QUEENS CB - 13

C 090466 ZMQ

Application submitted by ADC Builders & Developers pursuant to Sections 197-c and 201 of the New York City Charter, for an amendment of the Zoning Map, Section No. 19a, by establishing within an existing R2A District a C1-3 District bounded by 119th Avenue, Francis Lewis Boulevard, 217th Street, a line perpendicular to the southeasterly street line of Springfield Boulevard distant 140 feet southwesterly (as measured along the street line) from the point of intersection of the southeasterly line of Springfield Boulevard and the southwesterly street line of 119th Avenue, and Springfield Boulevard.

L.U. No. 602

SERAFINA

MANHATTAN CB - 2

20125364 TCM

Application pursuant to Section 20-226 of the Administrative Code of the City of New York, concerning the petition of Serafina Meatpacking LLC, d/b/a Serafina, for a revocable consent to establish, maintain and operate an unenclosed sidewalk café located at 7 9th Avenue.

L.U. No. 607

BATTERY MARITIME BUILDING LEASE

MANHATTAN CB - 1

20125571 PNM

Application pursuant to §1301(2)(f) of the New York City Charter concerning the proposed maritime lease at the Battery Maritime Building between the Department of Small Business Services and the Governors Island Corporation d/b/a The Trust for Governors Island.

