

ORDINANCE NO. 3714

AN ORDINANCE authorizing an encroachment into the public sidewalk right-of-way at 606 King Street, in the City of Alexandria, Virginia.

WHEREAS, the Bank of Alexandria ("Applicant") is the occupant of the property located at 606 King Street in the City of Alexandria, Virginia; and

WHEREAS, Applicant desires to establish and maintain, and applied for, an encroachment into the public sidewalk right-of-way at 606 King Street, which encroachment shall consist of an awning constructed of metal frame and covered with canvass that will be erected to a height of 9 feet, 6 inches above the sidewalk, will measure 17 feet in length across the front of the building and will project 4 feet from the building's front wall; and

WHEREAS, the public right-of-way at that point in the 600 block of King Street will not be significantly impaired by this encroachment; and

WHEREAS, this encroachment has been approved by the Planning Commission of the City of Alexandria at one of its regular meetings subject to certain conditions; and

WHEREAS, it has been determined by the Council of the City of Alexandria that this encroachment is not detrimental to the public interest; therefore,

THE CITY COUNCIL OF ALEXANDRIA HEREBY ORDAINS:

Section 1. That Applicant be, and the same hereby is, authorized to establish and maintain an encroachment into the public sidewalk right-of-way at 606 King Street in the City of Alexandria, said encroachment consisting of an awning constructed of metal frame and covered with canvass that will be erected to a height of 9 feet, 6 inches above the sidewalk, will measure 17 feet in length across the front of the building and will project 4 feet from the building's front wall into a portion of the public sidewalk right-of-way at 606 King Street, until the encroachment is removed or destroyed, or the authorization to maintain it is terminated by the city; provided, that this authorization to establish and maintain the encroachment shall continue only so long as Applicant occupies the building at 606 King Street; and provided further, that said authorization shall not be construed to relieve Applicant of liability for any negligence on its part on account of or in connection with the encroachment and shall be subject to the provisions set forth below.

Section 2. That the authorization hereby granted to establish and maintain the encroachment shall at all times be

subject to the condition that the proposed awning and building facade combine may not encroach more than 4 feet, 9 inches in the public sidewalk right-of-way.

Section 3. That the authorization hereby granted to establish and maintain said encroachment shall be subject to and conditioned upon Applicant maintaining, at all times and at its own expense, liability insurance, covering both bodily injury and property damage, with a company authorized to transact business in the Commonwealth of Virginia and with minimum limits as follows:

Bodily Injury:       \$1,000,000 each occurrence  
                          \$2,000,000 aggregate

Property Damage:   \$1,000,000 each occurrence  
                          \$2,000,000 aggregate

This liability insurance policy shall identify the City of Alexandria and Applicant as named insureds and shall provide for the indemnification of the City of Alexandria and Applicant against any and all loss occasioned by the establishment, construction, placement, existence, use or maintenance of the encroachment. Evidence of the policy and any renewal thereof shall be filed with the city attorney's office. Any other provision herein to the contrary notwithstanding, in the event this policy of insurance lapses, is canceled, is not renewed or otherwise ceases to be in force and effect, the authorization herein granted to establish and maintain the encroachment shall, at the option of the city, forthwith and without notice or demand by the city, terminate. In that event, Applicant shall, upon notice from the city, remove the encroachment from the public sidewalk right-of-way, or the city, at its option, may remove the encroachment at the expense and risk of Applicant. Nothing in this section shall relieve Applicant of its obligations and undertakings required under this ordinance.

Section 4. That by accepting the authorization hereby granted to establish and maintain the encroachment and by so establishing and/or maintaining the encroachment, Applicant shall be deemed to have promised and agreed to indemnify and hold harmless the City of Alexandria from any and all loss and liability (including attorneys' fees and litigation expenses) arising by reason of the establishment, construction, placement, existence, use or maintenance of the encroachment.

Section 5. That the authorization herein granted to establish and maintain the encroachment shall be subject to Applicant maintaining the area of the encroachment at all times unobstructed and free from accumulation of litter, snow, ice and other potentially dangerous matter.

Section 6. That nothing in this ordinance is intended to constitute, or shall be deemed to be, a waiver of sovereign immunity by or on behalf of the City of Alexandria or any of its officers or employees.

Section 7. That the authorization herein granted to establish and maintain the encroachment shall be terminated whenever the City of Alexandria desires to use the affected public right-of-way for any purpose whatsoever and, by written notification, demands from Applicant the removal of the encroachment. Said removal shall be completed by the date specified in the notice or within sixty days of the date of written notice, whichever is later. Removal shall be accomplished by Applicant without cost to the city. If Applicant cannot be found, or shall fail or neglect to remove the encroachment within the time specified, the city shall have the right to remove the encroachment, at the expense of Applicant, and shall not be liable to Applicant for any loss or damage to the structure of the encroachment caused by the removal.

Section 8. That this ordinance shall be effective upon the date and at the time of its final passage.

PATRICIA S. TICER  
Mayor

Final Passage: March 19, 1994