

City Clerk File No. Ord. 10-009

Agenda No. 3.A 1st Reading

Agenda No. 4.A 2nd Reading & Final Passage



## ORDINANCE OF JERSEY CITY, N.J.

COUNCIL AS A WHOLE

offered and moved adoption of the following ordinance:

CITY ORDINANCE 10-009

TITLE:

**A FRANCHISE ORDINANCE GRANTING PERMISSION TO ONE LLC, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS TO A PORTION OF LANDS WITHIN THE SIDEWALK AREA OF THE BOWERS STREET PUBLIC RIGHT-OF-WAY LOCATED ADJACENT TO 3438 KENNEDY BOULEVARD, JERSEY CITY, NJ**

**WHEREAS**, One LLC, having its offices located at 53 Hillside Avenue, Berkeley Heights, New Jersey, is the owner of the property located at 3438 Kennedy Boulevard, Jersey City, and known as Block 866, Lot E on the current tax maps of the City of Jersey City, and as part of its development desires to make site improvements to a portion of lands located within the sidewalk area of the Bowers Street public right-of-way. The proposed development of the property includes the renovation of the existing building and continue its use for retail purposes (a Dunkin' Donuts); and

**WHEREAS**, the property is located on the corner of Kennedy Boulevard and Bowers Street; and

**WHEREAS**, part of the renovation includes the proposed construction of a handicap ramp and landing within the Bowers Street sidewalk area of the public right-of-way; and

**WHEREAS**, One LLC has filed a petition for relief and represented to the Municipal Council of the City of Jersey City that the passage of this Ordinance is essential for the construction of the handicap ramp for handicap accessibility to the building; and

**WHEREAS**, after due notice was given in accordance with law, a public hearing was held on the Petition filed by One LLC to grant permission to construct private improvements within the public right-of-way for the following purposes:

1. The contemplated improvements will include the installation of a handicap ramp and landing to be located within the sidewalk area of the Bowers Street public right-of-way for the purpose of providing handicap accessibility to the building.
2. All costs associated with these improvements will be incurred by the Petitioner.

and there being no objections thereto; and

**WHEREAS**, the Jersey City Zoning Officer and Building Department approved the construction of the improvements at the subject property conditioned upon the Petitioner being granted a franchise ordinance by the City Council of the City of Jersey City; and

**WHEREAS**, a franchise ordinance is required to permit the construction of the private improvements within the public right-of-way; and

**WHEREAS**, by reason of the character of the development of the area within which this property is situated, and the area requested for the franchise is minimal, and the said improvements will assist in meeting handicap access to the property and greatly benefit Jersey City and the surrounding neighborhood; and

**WHEREAS**, the public interest will be served by said improvements, which will be of great benefit to the citizens of Jersey City and Hudson County and the rights of the public will not be injuriously or adversely affected by the requested relief;

**A FRANCHISE ORDINANCE GRANTING PERMISSION TO ONE LLC, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS TO A PORTION OF LANDS WITHIN THE SIDEWALK AREA OF THE BOWERS STREET PUBLIC RIGHT-OF-WAY LOCATED ADJACENT TO 3438 KENNEDY BOULEVARD, JERSEY CITY, NJ**

**NOW, THEREFORE, BE IT ORDAINED**, by the Municipal Council of the City of Jersey City, that:

**SECTION I.** Permission be, and is hereby granted to One LLC, its successors and assigns, to make private improvements to a portion of lands located at the corner of Kennedy Boulevard and Bowers Street (3438 Kennedy Boulevard), and known as Block 866, Lot E in the City of Jersey City, said areas being more particularly described as follows and on the plan attached hereto as Exhibit A (survey and metes and bounds description).

1. The contemplated improvements will include the installation of a handicap ramp and landing to be located within the sidewalk area of the Bowers Street public right-of-way (see Exhibits A & B); and
2. The contemplated improvements will be constructed consistent with the Plans approved by the Jersey City Zoning Officer and Building Department and will provide a minimum of five (5) feet clearance for the respective pedestrian sidewalks.
3. All costs associated with these improvements will be incurred by the Petitioner.

**SECTION II.** All the work herein authorized shall be done under the supervision of the proper department or departments of the City of Jersey City. Further, all the work herein authorized shall comply with any State of New Jersey Uniform Construction Code requirements. The construction plans shall be submitted to the City Engineer for his review and comments prior to the start of construction. After construction there shall remain no damage to the sidewalk or roadway or interference with the free and safe flow of pedestrian traffic and vehicular traffic. One LLC, and its successors and assigns, shall maintain all improvements installed by it for the entire term of this Franchise at no cost to the City.

**SECTION III.** This Ordinance shall remain in full force and effect for a period of ninety-nine (99) years. This Ordinance shall take effect upon final passage and publication according to law. In the event that the Municipal Council determines that this Ordinance must be canceled in whole or in part because of a public purpose, the City reserves the right to cancel this Ordinance or any part thereof by giving written notice to the Petitioners one year prior to the date of cancellation.

**SECTION IV.** All costs and expenses incident to the introduction, passage and publication of this Ordinance shall be borne and paid by said One LLC.

**SECTION V.** In accepting the privileges of this Ordinance and the installation, maintenance and use hereby authorized, One LLC, its successors and assigns hereby agree to assume full, complete and undivided responsibility for any and all injury or damage to persons or property by reason of said installation, maintenance and use, and to indemnify and hold the City of Jersey City harmless from all injury or damage to persons or property by reason of such installation, maintenance and use (except such injury or damage which is caused by the negligence or misconduct of the City or its officers, employees or agents) for the term of this Ordinance. One LLC, its successor and assigns, shall maintain in effect, during the term of this franchise, liability insurance naming the City of Jersey City, its officers and employees as additional insured, covering the use and occupancy of the public property subject to this franchise. A certificate of insurance, in the amount of \$1,000,000.00 in a form deemed acceptable by the City's Risk Manager, shall be delivered to the Risk Manager before use or occupancy of the premises subject to this Franchise Ordinance.

**SECTION VI.** This Ordinance shall not become effective unless an acceptance hereof in writing is filed by the Petitioner with the City Clerk. In the event, that the Petitioner shall not file with the City Clerk its acceptance in writing of the provisions of this Ordinance within 30 days after receiving notice of its passage, this Ordinance shall become void and be of no effect.

**SECTION VII.** Only with prior written consent and approval by the City Council of the City of Jersey City, which consent and approval shall not be unreasonably withheld, shall Petitioner have the right to assign or otherwise transfer its rights under this Franchise Ordinance.

**A FRANCHISE ORDINANCE GRANTING PERMISSION TO ONE LLC, ITS SUCCESSORS AND ASSIGNS, TO MAKE PRIVATE IMPROVEMENTS TO A PORTION OF LANDS WITHIN THE SIDEWALK AREA OF THE BOWERS STREET PUBLIC RIGHT-OF-WAY LOCATED ADJACENT TO 3438 KENNEDY BOULEVARD, JERSEY CITY, NJ**

**SECTION VIII.** An easement for the duration of this Ordinance is reserved for the benefit of the City of Jersey City and all public utility companies including any cable television company as defined in the "Cable Television Act", P.L. 1972, c. 186 (c. 48:5A-1 et seq.) for the purpose of ingress and egress over and upon the area subject to this Franchise Ordinance in order to maintain, repair or replace existing utility facilities including water lines, sewer lines, gas lines and telephone, electrical and cable television wires and poles which may be located either beneath or above the surface of the area subject to this Franchise Ordinance.

**SECTION IX.** For the rights and privileges herein granted, said beneficiaries hereunder, their successors and assigns, shall pay annually to the City of Jersey City the sum of One Dollar (\$1.00), which payment shall be made annually on the 1st day of July next succeeding the time when this Ordinance shall become effective and on each first day of July thereafter until the termination of this Ordinance.

**SECTION X.**

- A. All ordinances and parts of ordinances inconsistent herewith are hereby repealed.
- B. This Ordinance shall be a part of the Jersey City Code as though codified and fully set forth therein. The City Clerk shall have this Ordinance certified and incorporated in the official copies of the Jersey City Code.
- C. This Ordinance shall take effect at the time and in the manner as provided by law.
- D. The City Clerk and the Corporation Counsel be and they are hereby authorized and directed to change any chapter numbers, article numbers and section numbers in the event that the codification of this Ordinance reveals that there is a conflict between those numbers and the existing Code, in order to avoid confusion and possible accidental repealers of existing provisions.

APPROVED AS TO LEGAL FORM

\_\_\_\_\_  
Corporation Counsel

APPROVED: \_\_\_\_\_

APPROVED:  \_\_\_\_\_  
Business Administrator

Certification Required   
Not Required

**DMC ASSOCIATES, INC. LAND SURVEYORS**

211 Main Street, Butler, New Jersey 07405

Phone: 973-838-9187 Fax: 973-838-4389

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November 13, 2009

**RE: DMC NO. 0908024 – LOT E, BLOCK 866 A.K.A. 3438 KENNEDY BOULEVARD**  
**CITY OF JERSEY CITY, COUNTY OF HUDSON, NJ**

The purpose of this description is to describe a tract of land/area located within the R.O.W. of J. F. Kennedy Boulevard, a 80.00 wide R.O.W. and the R.O.W. of Bowers Street, a 65.00 feet wide R.O.W. Said land/area is to occupy a handicap ramp for the benefit of Lot E in Block 866 a.k.a. 3438 J. F. Kennedy Boulevard. Said description is in accordance with a survey entitled "Exhibit A Lot E, Block 866, 3438 Kennedy Boulevard" prepared by DMC Associates, Inc. Land Surveyors. Said survey/exhibit is to be made part of this description. Said lands being more particularly described as follows:

Beginning at a point, said point being North 48 degrees 30 minutes 00 seconds West for a distance of 1.00 feet from the point of intersection formed by the southeasterly R.O.W. line of J. F. Kennedy Boulevard, an 80.00 feet wide R.O.W. formerly known as both Hudson Boulevard and Grand Avenue and the southwesterly R.O.W. line of Bowers Street, a 66.00 feet wide R.O.W. formerly known as Ludlow Place and running thence;

- (1) North 41 degrees 30 minutes 00 seconds East for a distance of 3.50 feet to a point, thence;
- (2) South 48 degrees 30 minutes 00 seconds East for a distance of 16.50 feet to a point, thence;
- (3) South 41 degrees 30 minutes 00 seconds West for a distance of 3.50 feet to a point, thence;
- (4) North 48 degrees 30 minutes 00 seconds West for a distance of 16.50 feet to the point and place of beginning herein described.

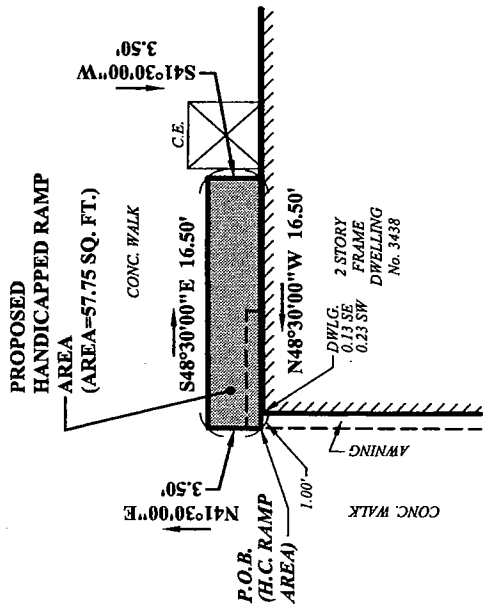
  
Robert L. Cigol, P.L.S.

N.J. License No. 24GS04026100

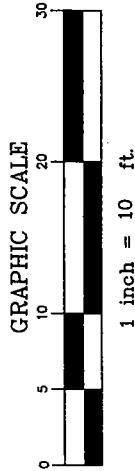
Certificate of Authorization No. 24GA27919000

"A"

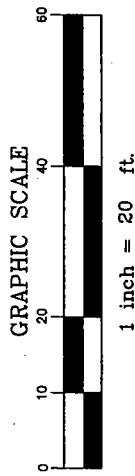
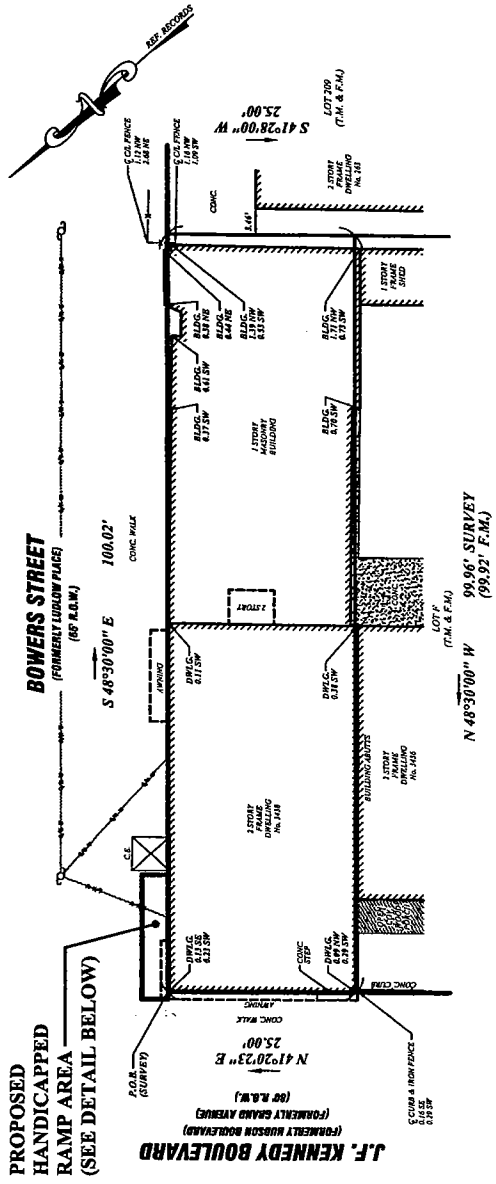
**BOWERS STREET**



**DETAIL**  
SCALE: 1" = 10'



**OVERALL PROPERTY VIEW**  
SCALE: 1" = 20'



**EXHIBIT "A"**

LOT E, BLOCK 866  
3438 KENNEDY BOULEVARD  
CITY OF JERSEY CITY,  
HUDSON COUNTY, NEW JERSEY

DMC ASSOCIATES, INC.  
LAND SURVEYORS  
211 MAIN STREET, BUTLER N.J. 07405  
973-838-9187 FAX 973-838-4389

ROBERT L. CIGOL, N.J.L.S. NO. 24GS04026100  
CERTIFICATE OF AUTHORIZATION NO. 24GA27919000

DRAWN	DATE	PROJECT No.
JSL	11-13-08	0908024

**J.F. KENNEDY BOULEVARD**

B

# City of Jersey City Office of the City Clerk

## FRANCHISE/VACATION ORDINANCE REPLY SHEET

Franchise Ordinance 3438 Kennedy Blvd. Construction of a handicap ramp.					
DEPARTMENT	DATE	COMMENT	YES	NO	REVISE
Business Administrator Brian O'Reilly - 5147	12/15		X		
Construction Official Raymond Meyer - 5697	12/17		X		
Engineering William Goble, Mun. Engineer - 4413					
Fire Department Armando Roman, Director - 4239	1/4		X		
Housing, Economic Dev. & Commerce Carl Czaplicki, Director - 5070					
Div. of Planning Robert Cotter, Director - 4499	12/29		X		
Law Department Ext. 5229 William Matsikoudis, Corp. Counsel	1/7		X		
Police Department Samuel Jefferson, Director - 5300	1/4		X		
Public Works John Yurchak, Director - 4402	12/24		X		
Risk Manager Peter Soriero - 6929	12/13		X		
Tax Assessor Ed Toloza - 4707	1/4		X		
Tax Collector Maureen Cosgrove - 5120	12/16		X		
Traffic & Transportation Joao D'Souza - 4530					

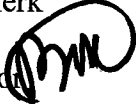
*Last Updated: January 8, 2010  
by Tolonda Griffin-Ross, Deputy City Clerk*

Charles J. Harrington, Esq. Of Connell Foley  
 Harborside Financial Center  
 2510 Plaza Five  
 Jersey City, New Jersey 07311  
 Tel. 201-521-1000 : Fax 201-521-0100  
[Charrington@connellfoley.com](mailto:Charrington@connellfoley.com).



**City of Jersey City**  
**Office of the Business Administrator**  
**Interdepartmental Memorandum**

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**DATE:** December 15, 2009  
**TO:** Tolonda Griffin-Ross, Deputy City Clerk  
**FROM:** Brian O'Reilly, Business Administrator   
**SUBJECT:** Proposed Franchise Ordinance- One LLC, 3438 Kennedy Boulevard

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Please be advised that I have no objectives in regards to the handicap ramp for access.

Thank You.

RECEIVED  
2009 DEC 16 A 10:18  
CITY CLERK'S OFFICE  
JERSEY CITY, N.J.

**From:** Raymond Meyer  
**To:** Tolonda Griffin-Ross  
**Date:** 12/17/2009 3:53 PM  
**Subject:** 3438 Kennedy Blvd

I have no objections for the ramp installation

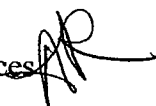


**CITY OF JERSEY CITY**  
**FIRE DEPARTMENT**



**INTERDEPARTMENTAL MEMORANDUM**

To: ROBERT BYRNE, CITY CLERK

From: Armando Roman, Director of Fire & Emergency Services 

Date: December 16, 2009

Re: PROPOSED FRANCHISE ORDINANCE  
PETITIONER: ONE LLC  
ADDRESS 3438 KENNEDY BLVD. - BLOCK 866, LOT E  
DESCRIPTION: THE PETITIONER IS RENOVATING THE EXISTING  
BUILDING AND WILL CONTINUE ITS USE FOR RETAIL  
PURPOSES (A DUNKIN DONUTS), AND PROPOSES THE  
CONSTRUCTION OF A HANDICAP RAMP AND LANDING TO  
FACILITATE HANDICAP ACCESS WITHIN THE SIDEWALK AREA  
OF THE BOWERS STREET RIGHT OF WAY.

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The Fire Department has reviewed the above proposed Franchise Ordinance and has no objections to it's approval.

Additionally, we want to insure that the Fire Department has accessability to the fire hydrants located within the proposed plan.

Thank you for your assistance.

AR:ef

## Sean Gallagher - 3438 Kennedy Boulevard

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**From:** Robert Cotter  
**To:** Franchise Ord Committee  
**Date:** 1/6/2010 10:55 AM  
**Subject:** 3438 Kennedy Boulevard  
**CC:** Charles Harrington

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Please be advised that the Division of City Planning has no objection to this franchise request.

Robert D. Cotter, PP, AICP  
Jersey City Planning Director  
Division of City Planning  
30 Montgomery Street, Suite 1400  
Jersey City, NJ 07302  
Phone: 201-547-5050  
Fax: 201-547-4323  
email: [bobbyc@jcnj.org](mailto:bobbyc@jcnj.org)

**Tolonda Griffin-Ross - Franchise ordinance for ONE, LLC for property at 3438 Kennedy Blvd.**

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**From:** Raymond Reddington  
**To:** tolonda@jcnj.org  
**Date:** 1/7/2010 3:49 PM  
**Subject:** Franchise ordinance for ONE, LLC for property at 3438 Kennedy Blvd.

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The legal form of the proposed franchise ordinance is acceptable.



# JERSEY CITY POLICE DEPARTMENT

## OFFICE OF THE DIRECTOR

8 Erie Street – Jersey City, NJ 07302  
Office # (201) -547-5300 – Fax # (201) 547-4283

### Memorandum

**Date:** December 29, 2009

**To:** Tolonda Griffin- Ross, Deputy City Clerk

**From:** Samuel Jefferson, Director of Police

A handwritten signature in black ink, appearing to be "SJ", written over the "From:" line.

**Subject:** Proposed Franchise Ordinance 3438 Kennedy Boulevard

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The attached Franchise Ordinance Proposal for 3438 Kennedy Boulevard has been reviewed. There are no problems with the handicap ramp being proposed for the site.

SJ/do  
Cc: file


Attachment



**JERSEY CITY POLICE DEPARTMENT  
OFFICE OF THE CHIEF**

8 Erie Street – Jersey City, NJ 07302  
201-547-5301

TO: SAMUEL JEFFERSON  
DIRECTOR OF POLICE

FROM: DEPUTY CHIEF PETER NALBACH   
OFFICE OF THE CHIEF, O.D.C.

DATE: 12/23/09

SUBJECT: PROPOSED FRANCHISE ORDINANCE 3438 KENNEDY BOULEVARD

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The attached Franchise Ordinance Proposal for 3438 Kennedy Boulevard was forwarded to the attention of Captain Philip Zacche, North District Commander. He reports no impediment to pedestrian traffic should the handicap ramp be constructed.

