

**ORDINANCE #68592**  
**Board Bill No. 316**

An ordinance recommended by the Board of Public Service to vacate public surface rights for vehicle, equestrian, and pedestrian travel on a portion of Halliday Avenue in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain conditions on such vacation.

**BE IT ORDAINED BY THE CITY OF SAINT LOUIS, AS FOLLOWS:**

**SECTION ONE.** The public surface rights of vehicle, equestrian, and pedestrian travel, between the rights-of-way of:

A tract of land being a portion of Halliday Avenue being in City Block 1447 in the City of St. Louis, Missouri, and more particularly described as follows:

COMMENCING AT THE INTERSECTION OF THE EAST LINE OF GRAND BOULEVARD BEING 150 FEET WIDE, WITH THE NORTH LINE OF HALLIDAY AVENUE BEING 60 FEET WIDE, THENCE SOUTH 81 DEGREES 37 MINUTES 10 SECONDS EAST, 5.00 FEET AND SOUTH 08 DEGREES 22 MINUTES 50 SECONDS WEST 12.00 FEET TO THE POINT OF BEGINNING OF TRACT HEREIN DESCRIBED; THENCE EASTERLY ALONG A LINE BEING 12.00 FEET PARALLEL WITH THE NORTH LINE OF SAID HALLIDAY AVENUE SOUTH 81 DEGREES 37 MINUTES 10 SECONDS EAST A DISTANCE OF 5.00 FEET TO A POINT; THENCE NORTH 08 DEGREES 22 MINUTES 50 SECONDS EAST A DISTANCE OF 2.00 FEET TO A POINT; THENCE SOUTH 81 DEGREES 37 MINUTES 10 SECONDS EAST A DISTANCE OF 55.50 FEET TO A POINT; THENCE SOUTH 08 DEGREES 22 MINUTES 50 SECONDS WEST A DISTANCE OF 2.00 FEET TO A POINT; THENCE SOUTH 81 DEGREES 37 MINUTES 10 SECONDS EAST A DISTANCE OF 11.50 FEET TO A POINT; THENCE SOUTH 08 DEGREES 22 MINUTES 50 SECONDS WEST A DISTANCE OF 12.00 FEET TO A POINT; THENCE NORTH 81 DEGREES 37 MINUTES 10 SECONDS WEST A DISTANCE OF 72.00 FEET TO A POINT; THENCE NORTH 08 DEGREES 22 MINUTES 50 SECONDS EAST A DISTANCE OF 12.00 FEET TO THE POINT OF BEGINNING. CONTAINING 975 SQUARE FEET MORE OR LESS (the "Vacated Property")

are, upon the conditions hereinafter set out, vacated.

**SECTION TWO.** The Petitioners are the owners of all the units, including, but not limited to, Units 101, 102, 201, 202, and 301 (the "Unit Owners") of the Halliday Place Condominiums (the "Condominium") created by the filing of a Plat on May 1, 2007 in Book 05012007 at Page 0013 and a Declaration on May 1, 2007 in Book 05012007 at Page 0012 in the Office of the Recorder of Deeds for the City of St. Louis, Missouri (the "Declaration"), located at 3557-3559 Halliday Avenue, and the Halliday Place Condominium Association (the "Association"). The Vacated Property will be held in the name of the Association, on behalf of the Unit Owners, and shall not become common elements or any part of the Condominium. The Vacated Property will only be used to provide residential automobile parking spaces to the Unit Owners, as defined in the Declaration.

**SECTION THREE.** All rights of the public in the land bearing rights-of-way traversed by the foregoing conditionally vacated portion of street are reserved to the City of St. Louis for the public including present and future uses of utilities, governmental service entities and franchise holders, except such rights as are specifically vacated, abandoned or released herein.

**SECTION FOUR.** The Association may, with the consent of all the Unit Owners, at the Unit Owners' election and expense, remove the surface pavement of said so vacated portion of street provided however, all utilities within the rights-of-way shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

**SECTION FIVE.** The City, utilities, governmental service entities and franchise holders shall have the right and access to go upon the land and occupation hereof within the rights-of-way for purposes associated with the maintenance, construction or planning of existing or future facilities, being careful not to disrupt or disturb the Unit Owners and/or the Association interests more than is reasonably required. The City is not responsible for reimbursing the Petitioner, Unit Owners, and/or the Association for any damage, repairs, or loss of use to said space or vacated area.

**SECTION SIX.** Neither the Unit Owners nor the Association shall place any improvement upon, over or in the area(s) vacated without: 1) lawful permit from the Building Division or Authorized City agency as governed by the Board of Public Service; and 2) obtaining written consent of the then present utilities, governmental service entities and franchise holders. The written consent with the terms and conditions thereof shall be filed in writing with the Board of Public Service by each of the above agencies as needed and approved by such Board prior to construction.

**SECTION SEVEN.** The Association may, with the consent of all the Unit Owners, secure, at the Unit Owners' expense, the removal of all or any part of the facilities of a utility, governmental service entity or franchise holder by agreement in writing with such utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the undertaking of such removal.

**SECTION EIGHT.** In the event that granite curbing or cobblestones are removed within the vacated area, the Department of Streets of the City of St. Louis must be notified and the Association, on behalf of all the Unit Owners and at the Unit Owners' expense, must have curbing cobblestones returned to the Department of Streets in good condition.

**SECTION NINE.** All of the Unit Owners and the Association, and each of their successors and assigns shall protect, defend, and hold the City of St. Louis, its Board of Alderman, officers, agents, and employees completely harmless from and against any and all liabilities, losses, suits, claims, judgments, fines or demands arising by reason of injury or death of any persons or damage to any property, including all reasonable costs for investigation and defense thereof (including but not limited to attorney fees, court costs, and expert fees), of any nature whatsoever arising out of or incident to this vacation and/or use of the property so vacated or the acts or omissions of the Association and/or the Unit Owners, and their officers, agents, employees, contractors, subcontractors, licensees, or invitees regardless of where the injury, death, or damage may occur, unless such injury, death, or damage is caused by the sole negligence of the City of St. Louis.

**SECTION TEN.** The Vacated Property shall only be used for ingress, egress and residential automobile parking for all of the Unit Owners and/or the Association, and should this vacated property be used for such purposes other than ingress, egress and residential automobile parking for all of Unit Owners and/or the Association, this vacation shall be immediately revoked and the public surface rights of vehicle, equestrian, and pedestrian travel on the subject property shall be reinstated.

**SECTION ELEVEN.** The Vacated Property shall be for the common use of all of the Unit Owners, the Association, any tenant leasing a unit, and any of their invitees. Such property shall be restricted to use by the Unit Owners, the Association, any tenant leasing a unit, and any of their invitees, and may not be encumbered, licensed, leased, rented, transferred, sold, gifted to any person or entity, or used as collateral or pledge for a loan or mortgage. Should this condition be violated, this vacation shall be immediately revoked and the public surface rights of vehicle, equestrian, and pedestrian travel on the subject property shall be reinstated.

**SECTION TWELVE.** This vacation shall be immediately revoked should the property located at 3557-3559 Halliday, currently known as the Halliday Place Condominiums, not be used for residential purposes in its entirety.

**SECTION THIRTEEN.** The Association must maintain liability insurance for the Vacated Property covering each person up to \$100,000 and each accident up to \$500,000 and \$100,000 property damage approved by the City Counselor as to form and by the Comptroller as to surety and naming of the City of St. Louis as co-insured. This certificate of insurance shall be filed with the Secretary's Office, Board of Public Service. Said certificate of insurance shall be kept in effect during the entire time this vacation is in existence. This vacation shall be immediately revoked should this liability insurance not remain effective.

**SECTION FOURTEEN.** This ordinance shall be ineffective unless within three hundred sixty (360) days after its approval, or such longer time as is fixed by the Board of Public Service not less than three (3) days prior to the affidavit submittal date as specified in the Section 16 of this ordinance, the Unit Owner(s) or the Association fulfill the following monetary requirements, if applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be deposited by these agencies with the Comptroller of the City of St. Louis.

- 1) CITY WATER DIVISION to cover the full expenses of removal and/or relocation of Water facilities, if any.
- 2) CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of removal, relocation and/or purchase of all lighting facilities, if any. All street signs removed must be returned.
- 3) CITY STREET DEPARTMENT to cover the full expenses required for the adjustments of the City's alley(s),

sidewalk(s) and street(s) as affected by the vacated area(s) of this ordinance.

**SECTION FIFTEEN.** An affidavit signed by the Association certifying that, as of the date of the submission of the affidavit, the Association, acting on behalf of the Unit Owners, is in compliance with all of the conditions of this ordinance and will continue to be in compliance must be submitted to the Director of Streets for review of compliance within 365 days (1 year) from the date of signing and approval of this ordinance. If, after submission of the affidavit, the Director of Streets determines that the Association and/or the Unit Owners have not complied with the conditions of this ordinance, the Director of Streets shall notify the Association and all of the Unit Owners in writing and the Association and all of the Unit Owners shall have thirty (30) days from the date of delivery of such notice to comply with said conditions. If said affidavit is not submitted within the prescribed time, or if the Association and/or the Unit Owners fail to correct any noncompliance within such thirty-day cure period, this ordinance will be null and void. Once the Director of Streets has verified compliance, the affidavit will be forwarded to the Board of Public Service for acceptance.

**SECTION SIXTEEN.** If the Association and/or the Unit Owners are not in compliance with the conditions of this ordinance or the submitted affidavit at any time after acceptance of the affidavit by the Board of Public Service, the Director of Streets shall notify the Association and all of the Unit Owners in writing and the Association and all of the Unit Owners shall have thirty (30) days from the date of delivery of such notice to comply with said conditions. If the Association and/or the Unit Owners fail to correct any noncompliance within such thirty-day cure period, this ordinance will be null and void.

**SECTION SEVENTEEN.** If this ordinance becomes null and void or if this vacation is revoked for any reason, all costs to restore and reinstitute the public right of way of the Vacated Property shall be paid by the Unit Owners and/or the Association to the City of St. Louis.

**Approved: March 16, 2010**