

1 An ordinance recommended by the Board of Public Service to vacate above surface, surface and  
2 sub-surface rights for vehicle, equestrian and pedestrian travel in Kemper beginning 240 feet west of  
3 Hereford and continuing westwardly 130.315 feet to a point previously vacated by Ordinance No.  
4 63602 in the City of St. Louis, Missouri, as hereinafter described, in accordance with Charter  
5 authority, and in conformity with Section 14 of Article XXI of the Charter and imposing certain  
6 conditions on such vacation.

7 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

8 **SECTION ONE:** The above surface, surface and sub-surface rights of vehicle, equestrian  
9 and pedestrian travel, between the rights-of-way of:

10 Part of Kemper (60°W) Avenue, adjacent to city Blocks 4733WB and 4735 in the  
11 City of St. Louis, Missouri, described as follows:

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13  
14 Commencing at the southeast corner of said City Block 4733WB;  
15 thence along the north line of Kemper (60°W) Avenue, north 82  
16 degrees 42 minutes 28 seconds west a distance of 240.00 feet to the  
17 point of beginning; thence departing said north line of Kemper  
18 (60°W) Avenue, south 07 degrees 17 minutes 32 seconds west a  
19 distance of 60.00 feet to the south line of said Kemper (60°W)  
20 Avenue; thence along said south line of Kemper (60°W) Avenue,  
21 north 82 degrees 42 minutes 28 seconds west a distance of 130.25  
22 feet to the east line of vacated Kemper (60°W) Avenue as per  
23 Ordinance 63602; thence along said east line of vacated Kemper  
24 (60°W) Avenue as per Ordinance 63602, north 07 degrees 10 minutes  
25 06 seconds east a distance of 60.00 feet to the aforesaid north line of  
26 Kemper (60°W) Avenue; thence along said north line of Kemper  
27 (60°W) Avenue, south 82 degrees 42 minutes 28 seconds east a  
28 distance of 130.38 feet to the point of beginning and containing 7,819  
29 square feet or 0.179 acres according to a survey by the Sterling  
30 Company during July of 2009.

31  
32 are, upon the conditions hereinafter set out, vacated.  
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1           **SECTION TWO:** Petitioned by Kemper Avenue Associates, Kemper-Themis LLC and  
2 David Sherman Corp (aka Luxco, Inc.). Vacated area will be used to increase security to abutting  
3 properties. Property owner(s) must provided uninhibited access to Water facilities as well as  
4 emergency vehicles.

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

9           **SECTION FOUR:** The owners of the land may, at their election and expense remove the  
10 surface pavement of said so vacated street provided however, all utilities within the rights-of-way  
11 shall not be disturbed or impaired and such work shall be accomplished upon proper City permits.

12           **SECTION FIVE:** The City, utilities, governmental service entities and franchise holders  
13 shall have the right and access to go upon the land and occupation hereof within the rights-of-way  
14 for purposes associated with the maintenance, construction or planning of existing or future  
15 facilities, being careful not to disrupt or disturb the owners interests more than is reasonably  
16 required.

17           **SECTION SIX:** The owner(s) shall not place any improvement upon, over or in the area(s)  
18 vacated without: 1) lawful permit from the Building Division or Authorized City agency as  
19 governed by the Board of Public Service; 2) obtaining written consent of the utilities, governmental  
20 service entities and franchise holders, present or future. The written consent with the terms and  
21 conditions thereof shall be filed in writing with the Board of Public Service by each of the above  
22 agencies as needed and approved by such Board prior to construction.

23           **SECTION SEVEN:** The owners may secure the removal of all or any part of the facilities  
24 of a utility, governmental service entity or franchise holder by agreement in writing with such

Date: September 25, 2009

Page 2 of 3

Board Bill No. 194 Sponsor: Aldermen Joseph Vollmer & Stephen Conway

1 utilities, governmental entity or franchise holder, filed with the Board of Public Service prior to the  
2 undertaking of such removal.

3 **SECTION EIGHT:** In the event that granite curbing or cobblestones are removed within  
4 the vacated area, the Department of Streets of the City of St. Louis must be notified. Owner(s) must  
5 have curbing cobblestones returned to the Department of Streets in good condition.

6 **SECTION NINE:** This ordinance shall be ineffective unless within three hundred sixty  
7 (360) days after its approval, or such longer time as is fixed by the Board of Public Service not to  
8 exceed three (3) days prior to the affidavit submittal date as specified in the last section of this  
9 ordinance, the owner(s) of the area to be vacated must fulfill the following monetary requirements, if  
10 applicable, as specified by the City of St. Louis Agencies listed below. All monies received will be  
11 deposited by these agencies with the Comptroller of the City of St. Louis.

- 12 1) CITY WATER DIVISION to cover the full expenses of removal and/or relocation of  
13 Water facilities, if any.
- 14 2) CITY TRAFFIC AND TRANSPORTATION DIVISION to cover the full expense of  
15 removal, relocation and/or purchase of all lighting facilities, if any. All street signs must  
16 be returned.
- 17 3) CITY STREET DEPARTMENT to cover the full expenses required for the adjustments  
18 of the City's alley(s), sidewalk(s) and street(s) as affected by the vacated area(s) as  
19 specified in Sections Two and Eight of the Ordinance.

20 **SECTION TEN:** An affidavit stating that all of the conditions be submitted to the Director  
21 of Streets for review of compliance with conditions one year (365 days) from the date of the signing  
22 and approval of this ordinance. Once the Director of Streets has verified compliance, the affidavit  
23 will be forwarded to the Board of Public Service for acceptance. If this affidavit is not submitted  
24 within the prescribed time the ordinance will be null and void.

Date: September 25, 2009

Page 3 of 3

Board Bill No. 194 Sponsor: Aldermen Joseph Vollmer & Stephen Conway