

ORDINANCE NO. 003-54

AN ORDINANCE NOTIFYING THE TENANT  
OF THE CONCESSION LOCATED AT 944 W.  
FULLERTON, CHICAGO, ILLINOIS, D/B/A  
DEMON DOGS, OF TERMINATION OF  
TENANCY FOR TRANSIT PURPOSES

WHEREAS, The Authority owns and operates the Brown Line elevated rail line on which the Fullerton Avenue Station ("Station") is located; and

WHEREAS, Located north of the Station and beneath the elevated rail line on Fullerton Avenue is a concession restaurant named Demon Dogs, operated by Peter and Mary Schivarelli ("Tenant") on land owned by the Authority ("Premises"); and

WHEREAS, The address of the Premises is 944 West Fullerton Avenue, Chicago, Illinois; and

WHEREAS, The Authority and Tenant initially entered into a lease agreement for the Premises in March 1983, which expired no later than February 28, 1993; and

WHEREAS, On August 27, 1985, the parties entered into an amended lease ("Amended Lease") for the Premises which contained a maximum expiration date of February 28, 2003; and

WHEREAS, Both the original and Amended Lease provided the Authority with the unilateral right to terminate the lease for transportation purposes; and

WHEREAS, Section 17 of the Amended Lease states that it may be terminated by the Authority for transportation purposes at any time before the expiration of its term by giving Tenant 120 days' written notice; and

WHEREAS, In 1995, Tenant approached the Authority to once again extend the term of the Amended Lease, until 2013; and

WHEREAS, In December 1995, the Transit Board, by Ordinance 95-183, authorized the Chairman to execute another amendment to the original lease to extend the lease term to 2013 ("Proposed Amended Lease"). The extension of the lease, however, was never completed; and

WHEREAS, In July 1996 the Transit Board, by Ordinance 96-78, consented to the assignment of the Amended Lease from Peter and Mary Schivarelli to H.D. Stans, L.L.C. The assignment of the lease, however, was never completed; and

WHEREAS, Negotiations over the Proposed Amended Lease were protracted and the Authority never signed the Proposed Amended Lease; and

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WHEREAS, Section 19.09 of the Proposed Amended Lease states that if the Authority requires possession of the Premises for transit purposes, it must, among other things, adopt an ordinance authorizing termination of the lease; and

WHEREAS, In the Fall of 2002, Tenant notified the Authority that it intended to remain on the Premises after the February 28, 2003, expiration of the Amended Lease, alleging that the Transit Board had in fact extended Tenant's lease until 2013; and

WHEREAS, The Authority has denied and continues to deny that the Proposed Amended Lease is effective and denies that the Tenant can remain on the Premises beyond February 28, 2003; and

WHEREAS, The Authority has determined that the Premises are desired for transportation purposes and required for transit purposes in conjunction with the Brown Line capacity expansion project; and

WHEREAS, While the Authority denies that the notice set forth in Section 19.09 of the Proposed Amended Lease is necessary or required, prudent business judgment dictates that it adopt an ordinance notifying Tenant that the Premises are required for transit purposes and that it must yield possession; now, therefore:

**BE IT ORDAINED BY THE CHICAGO TRANSIT BOARD  
OF THE CHICAGO TRANSIT AUTHORITY:**

SECTION 1. Having provided Tenant with 30 days' prior written notice of the Board meeting wherein this ordinance was considered by the Board, the Authority hereby authorizes the termination and terminates any lease existing for the Premises because the Premises is desired for transportation purposes within the contemplation of the Amended Lease and is required for transit purposes within the contemplation of the Proposed Amended Lease.

SECTION 2. The 120-day notice period shall commence effective April 2, 2003, and end on July 31, 2003, at which time Tenant shall immediately thereafter yield up possession of the Premises to the Authority.

SECTION 3. The General Counsel is hereby directed to provide a copy of this ordinance to Peter and Mary Schivarelli and H.D. Stans, L.L.C. The General Counsel is authorized to execute an extension of the tenancy with Peter and Mary Schivarelli and/or H.D. Stans, L.L.C., to begin after July 31, 2003, but not to exceed 90 days.

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SECTION 4. This ordinance will be in full force and effect from and after its passage.

APPROVED:

PASSED:

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Chairman

April 2, 2003

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Assistant Secretary

April 2, 2003