

ORDINANCE NO. 003-160

AN ORDINANCE EXTENDING
TENANT'S POSSESSION OF THE
CONCESSION LOCATED AT 944 W.
FULLERTON, CHICAGO, ILLINOIS,
BETWEEN THE AUTHORITY AND
DEMON DOGS

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 had in effect a concession lease agreement for the Premises, the expiration date of which was the subject of dispute between the parties in the case of *Chicago Transit Authority v. Mary Schivarelli, et al.*, No. 03CH1909 ("Litigation"); and

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

WHEREAS, In April 2003, by ordinance 003-54, the Transit Board authorized termination of and terminated all existing leases on the Premises; and

WHEREAS, The ordinance 003-54 further authorized a 90-day extension of the Tenant's possession of the Premises; and

WHEREAS, The parties entered into a stipulation agreement whereby the parties settled the Litigation, and Tenant agreed to surrender possession of the premises to the Authority on October 31, 2003; and

WHEREAS, On July 18, 2003, the Circuit Court of Cook County entered a possession order in the Litigation granting the Authority sole and exclusive possession of the Premises as of 12:01 a.m., November 1, 2003; and

WHEREAS, Construction of the Brown Line capacity expansion project has not yet begun at the Station and is currently scheduled to begin in mid-2004; and

ORDINANCE NO. 003-160
(Continued) -2

WHEREAS, The Authority desires to minimize the vacancy period of the Premises by extending Tenant's possession until June 15, 2004, said possession to be terminable earlier at the sole discretion of the Authority upon seven days' notice to Tenant, which notice may be delivered at any time on or after April 1, 2004; and

WHEREAS, Tenant has agreed to pay the Authority two thousand five hundred dollars (\$2,500.00) per month in advance for use and occupancy of the Premises, beginning November 1, 2003, and Tenant will continue to make all utility payments required by the terms of the original stipulation agreement; now therefore:

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

SECTION 1. The President is hereby authorized to negotiate and execute an agreement with Peter and Mary Schivarelli and H. D. Stans, L.L.C., extending their possession of the Premises until June 15, 2004, subject to the right of the Authority, exercisable in its sole discretion, to terminate their possession of the Premises upon seven days' notice to Tenant which notice may be delivered at any time on or after April 1, 2004.

SECTION 2. Effective November 1, 2003, Tenant shall pay two thousand five hundred dollars (\$2,500.00) per month in advance to the Authority for use and occupancy of the Premises during the extended possession period.

SECTION 3. All other terms of the original stipulation between the parties shall remain in full force and effect, including, without limitation, the requirement that the Tenant pay all utility payments which become due with regard to the Premises.

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

APPROVED:

PASSED:

Chairman

Assistant Secretary

November 10, 2003

November 10, 2003