

ORDINANCE NO. 2008-13

**ORDINANCE OF THE BOROUGH OF RED BANK, COUNTY OF MONMOUTH,
NEW JERSEY AUTHORIZING THE CONVEYANCE OF A LICENSE TO INTRUDE ON THE
BOROUGH'S RIGHT OF WAY TO STUART PAER ENTERPRISES, L.L.C. UPON CERTAIN
PORTIONS OF THE BOROUGH OWNED RIGHT OF WAY ADJACENT TO
25 BROAD STREET, BLOCK 28, LOT 7**

WHEREAS, Stuart Paer Enterprises, L.L.C. (hereinafter, "Paer Enterprises") seeks a License upon certain portions of the Borough owned rights of way adjacent to 25 Broad Street, Block 28, Lot 7, for the purpose of maintaining pre-existing awnings, fire escapes and a building overhang that will intrude upon the air rights above that right of way; and

WHEREAS, Paer Enterprises shall submit a form of agreement acceptable to the Borough Attorney and shall pay the required consideration of \$2,000.00;

NOW, THEREFORE, BE IT ORDAINED by the Governing Body of the Borough of Red Bank as follows:

SECTION ONE:

- a. The Borough of Red Bank shall grant to Stuart Paer Enterprises, L.L.C. a License to intrude upon certain portions of the Borough owned right of way along Broad and Mechanic Streets, adjacent to 25 Broad Street, Block 28, Lot 7, for the purpose of maintaining pre-existing awnings, fire escapes and a building overhang that will intrude upon the air rights above that right of way, as shown on the survey prepared by Harvey L LaTerre, P.L.S., dated July 25, 2003;
- b. This agreement shall not authorize any supporting poles or structures that shall be attached to the ground.
- c. Any property, structures, or parts thereof, intruding upon the right of way, as authorized herein, shall be removed at the landowner's expense if they are a hazard to any persons, or if their removal is reasonably necessary to accommodate any improvements within the Borough's right of way;
- d. Paer Enterprises, its successors and assigns, shall designate the Borough as a named insured upon a policy of general liability insurance with limits approved by the Borough Administrator and the Borough Attorney with respect to all property and structures subject to the license approved herein. Paer Enterprises shall also execute a hold harmless agreement to the Borough subject to approval by the Borough Attorney; and
- e. The agreement authorized herein, together with the consideration paid for same, shall be held in escrow by the Borough Attorney and shall be released upon the final approval of this Ordinance and execution of the license agreement by the Mayor and the Clerk.

SECTION TWO: Any ordinances or portions thereof which are inconsistent with the provisions of this Ordinance are hereby repealed as of the effective date of this Ordinance.

SECTION THREE: If any provision of this Ordinance or the application of such provision to any person or circumstance is declared invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect, and to this end, the provisions of this Ordinance are declared to be severable.

SECTION FOUR: This Ordinance shall take effect immediately upon its passage and adoption according to law.

First Reading: June 23, 2008

Final Reading: July 14, 2008