

TOWN OF WEST HARTFORD, CONNECTICUT

TOWN COUNCIL PUBLIC HEARING
December 14, 2010, 7:27 p.m.,
Legislative Chambers

Re: An Order Eliminating Certain Land
Use Application Fees

JAN 03 2011



**UNITED
REPORTERS**

UNITED REPORTERS, INC., 90 Brainard Road, Suite 103, Hartford, Connecticut 06114-1687
Toll-free Phone 866-534-3383, Toll-free Fax 877-534-3383 info@unitedreporters.com www.unitedreporters.com

1 A p p e a r a n c e s:

2 Town Council Members Present:

3 MAYOR SCOTT SLIFKA

4 STEVEN I. ADLER

5 LEON DAVIDOFF

6 TIMOTHY L. BRENNAN

7 JOSEPH VERRENGIA

8 JUDY CASPERSON

9 SHARI CANTOR

10 ROB DURBIN

11 DENISE B. HALL

12

13 JOSEPH A. O'BRIEN,

14 Corporation Counsel

15

16 PATRICK ALAIR,

17 Deputy Corporation Counsel

18

19 RONALD VAN WINKLE,

20 Town Manager

21

22 ESSIE S. LABROT,

23 Town Clerk/Council Clerk

24

25

1 PRESIDENT SLIFKA: Call to --
2 just to call to order the seven o'clock
3 public hearing.

4 Mr. Brennan, can you read the
5 subject matter, please.

6 COUNCILOR BRENNAN: An
7 Ordinance Eliminating Certain Land Use
8 Application Fees.

9 PRESIDENT SLIFKA: Thank you,
10 Mr. Brennan.

11 Roll call, please, Ms. Labrot.

12 MS. LABROT: Mr. Adler.

13 COUNCILOR ADLER: Here.

14 MS. LABROT: Mr. Brennan.

15 COUNCILOR BRENNAN: Here.

16 MS. LABROT: Mrs. Cantor.

17 COUNCILOR CANTOR: Here.

18 MS. LABROT: Mrs. Casperson.

19 MS. CASPERSON: Here.

20 MS. LABROT: Mr. Davidoff.

21 COUNCILOR DAVIDOFF: Here.

22 MS. LABROT: Mr. Durbin.

23 COUNCILOR DURBIN: Here.

24 MS. LABROT: Mrs. Hall.

25 COUNCILOR HALL: Here.

1 MS. LABROT: Mr. Slifka.

2 PRESIDENT SLIFKA: Here.

3 MS. LABROT: And

4 Mr. Verrengia.

5 COUNCILOR VERRENGIA: Here.

6 PRESIDENT SLIFKA: Thank you.

7 Mr. Alair, you appear to be
8 representing the administration in this.

9 MR. ALAIR: I am. Thank you.

10 And I know that there's some activity from
11 the last hearing going on behind me, so
12 excuse me if -- if the noise continues.

13 The ordinance you have before
14 you tonight is -- is actually quite a simple
15 change, but it requires a little bit of an
16 explanation. As most of you know for many
17 years, decades in fact, West Hartford has
18 committed some traditional occupations to be
19 conducted in -- within homes. The classic
20 lawyer/doctor practicing out of their home is
21 what generated this or was the genesis of it,
22 but obviously, over the years that has
23 expanded to include a variety of activities.

24 In 1989, the Town amended the
25 ordinance regarding those home occupations.

1 Traditionally they require what is called a
2 Special Exception From Zoning Board of
3 Appeals. And the zoning board of appeals
4 will initially approve those for a time
5 period and -- and renew them on a regular
6 basis to make sure that the occupation isn't
7 creating any problems in the neighborhood.

8 In 1989, the ordinance was
9 amended to carve out the quietest, simplest,
10 easiest ones, if you will, that -- so that
11 they would not require ZBA approval. They
12 could be done by the zoning department by
13 permit. These are occupations where there
14 are no employees, no stock in trade kept, no
15 signage on the property, no customer visits.
16 I think one of them, my favorite example is
17 the gentleman who has an alarm monitoring
18 station in his home. So obviously, he sits
19 there and stares at a panel all night and
20 that's basically his job. Those only require
21 a permit from the zoning department.

22 When the ordinance was adopted
23 in 1989, the zoning office, because it's
24 staffed by the same people who staff the ZBA,
25 implemented the same process of approving

1 these subject to renewals, an annual renewal
2 process. And that process went on for many
3 years because there was really no guidance.
4 I went back and reviewed the transcript from
5 the hearing in 1989, and it was -- there was
6 no guidance in the transcript at all as to
7 what process was to be used.

8 This summer, the beginning,
9 middle of July, I was in the hallway here,
10 and a person I know who does business in town
11 on a regular basis and who has a home
12 occupation permit, came down the hall. And a
13 normally rational calm individual was
14 absolutely irate that we had drastically
15 increased our fees for his home occupation.
16 And I was fairly certain we hadn't done that
17 because we hadn't done any ordinances on fee
18 increases. So I took him down to the zoning
19 department to find out what was going on, and
20 it turns out that these home occupations,
21 because they are a land-use permit as defined
22 in state law, the General Assembly passed a
23 bill in the last session that tacked a \$60
24 surcharge onto every land-use application.

25 So your \$40 permit from the

1 Town had the \$60 state surcharge attached to
2 it. And when we looked at that, obviously it
3 made no sense to us. And we also looked at
4 whether we really needed to have these
5 renewals on an annual basis. They are not a
6 big fee generator. We -- we looked at the
7 last couple of years' worth of permits, and I
8 believe we average about \$2900 a year in fee
9 generation from them. But to a small
10 business owner, a fee of what is now a
11 hundred dollars a year is significant and
12 meaningful. And it's not the time and place
13 in this economy where we should be passing on
14 that charge from the State to a resident and
15 a small-business owner if we can avoid it.

16 So we looked at the process.
17 We -- we asked ourselves whether there was
18 any real benefit being derived from that
19 annual renewal process. We looked back at
20 whether it was what the council intended in
21 the first place; came to the conclusion that
22 wasn't clear. And so, as a result, you have
23 the ordinance before you and really the only
24 change is being made to Subsection C-4 of
25 the -- of the ordinance, Section 177-49. And

1 it provides that in these limited cases the
2 zoning permit shall be a one-time zoning
3 permit and it shall be subject to renewal or
4 amendment only if there is a substantial
5 change in the nature or level of activity
6 being performed pursuant thereto.

7 So it -- it reaffirms what is
8 in essence the Council's intent, and may have
9 been all along, but that's not clear from the
10 record that you get the permit once and that
11 you don't have to come back unless you really
12 come in and say, well, I'm changing what I'm
13 doing.

14 PRESIDENT SLIFKA: Thank you,
15 Mr. Alair.

16 Mr. Verrengia.

17 COUNCILOR VERRENGIA: I know
18 we discussed this in committee. I'm pretty
19 sure it's a modest financial impact to the
20 Town that we're talking here. You want to --

21 MR. ALAIR: \$2900 a year,
22 approximately.

23 COUNCILOR VERRENGIA: Okay.
24 Thanks.

25 PRESIDENT SLIFKA:

1 Mr. Davidoff.

2 COUNCILOR DAVIDOFF: I just
3 want to get this. So on a renewal, would we
4 reinspect these premises or not? It was
5 just --

6 MR. VAN WINKLE: No, we do not
7 reinspect. We just took a permit. We just
8 took a fee, and we took no action when we
9 took that fee.

10 MR. ALAIR: I'm -- I'm not
11 sure, Counsel, if you have -- your question
12 may have been, if we go to this new process,
13 would we inspect --

14 COUNCILOR DAVIDOFF: No. I
15 want to know currently.

16 MR. ALAIR: Oh, I'm sorry.
17 Okay.

18 COUNCILOR DAVIDOFF:
19 Currently, we don't -- we don't reinspect?

20 MR. ALAIR: No.

21 COUNCILOR DAVIDOFF: Do we
22 inspect upon initial?

23 MR. ALAIR: I do believe we
24 do, yes.

25 COUNCILOR DAVIDOFF: And I'm

1 certain that the cost of the inspection upon
2 initial is greater than the \$40 to -- in
3 terms of man-hours and things like that, than
4 the cost of the permit, first of all?

5 MR. ALAIR: We -- we don't
6 have to publish these. We don't have a
7 hearing process or anything, so -- so most of
8 the cost that's associated with a land-use
9 application isn't there. It's the staff
10 review time, which may exceed \$40. It may
11 not. In these simple cases it -- it may be,
12 quite literally, a half an hour of somebody's
13 time.

14 COUNCILOR DAVIDOFF: Including
15 travel, maybe? Okay. All right.

16 MR. ALAIR: It's certainly not
17 worth the additional \$60 that we're paying to
18 the State or that the applicant is paying to
19 the State.

20 PRESIDENT SLIFKA: Ms. Hall.

21 COUNCILOR HALL: Thank you.

22 Is there going to be a -- in
23 a -- sent either a letter or a notification
24 to the people that have this permit as to --
25 and a list of which home occupation

1 categories are now in this one and not in
2 that one so that people can refer to it?

3 MR. ALAIR: We're not changing
4 the categories. So if you are subject to
5 this change, you -- and you've got your
6 permit already, we know who you are. We
7 actually have already started the process of
8 telling people we're not renewing these
9 permits. We're not making you come back in.

10 And as they come in for
11 renewal, we will send out -- because they --
12 they don't all renew on July 1, like you
13 know, some permits. We will send out letters
14 to people saying, you don't need to come in
15 and get a renewal. You're -- you're done
16 until you make a physical change to your use.

17 COUNCILOR CANTOR: Thank you.

18 PRESIDENT SLIFKA: Okay.

19 Anything else?

20 (No response.)

21 PRESIDENT SLIFKA: Mr. Alair,
22 can I trouble you to get the sign-up sheet?

23 MR. ALAIR: It's blank.

24 PRESIDENT SLIFKA: Is there
25 anyone who did not sign up who wished to

1 speak to the subject matter of this hearing?

2 Mr. Milne.

3 MR. MILNE: Robert Milne, 3
4 Osage Road.

5 And I think you all recall
6 that I spoke specifically about this issue.
7 I'm one of the small business owner/operators
8 who paid this fee nine years in a row, and my
9 house was inspected every year.

10 And I ask you whether or not
11 you are going to return the money, just as a
12 courtesy. There's also a person sitting up
13 here who runs a small business out of his
14 home that never even filed these forms, so I
15 don't understand how you apply these rules.

16 I was told by a member of the
17 TP and Z that there was never any kind of
18 authority for any of this. So how do you
19 explain to me or anyone nine years of fees,
20 inspections, reports? The cost of processing
21 this stuff more exceeded the \$40 and then to
22 send \$60 off to the State. Can someone here
23 explain to me what the disparity is between
24 what I'm saying and what the attorney just --
25 anybody want to offer anything? Anyone

1 remember what I said to you? Do you remember
2 I reported this? You want to raise a hand?
3 It's nine years.

4 PRESIDENT SLIFKA: Mr. Milne,
5 does that conclude your remarks?

6 MR. MILNE: I'm waiting for an
7 answer.

8 PRESIDENT SLIFKA: Well,
9 this is -- we're taking your testimony, it's
10 part of the public hearing. It's not really
11 a dialogue, and I can't -- the Council
12 members appear to be inclined not to respond,
13 so that's the response.

14 MR. MILNE: Well, that's --
15 that's not customary. I'd like you to do
16 something about it. There's a big
17 discrepancy between what I've reported and
18 what Mr. Alair has reported. And this thing
19 didn't start until I had reported to you the
20 individual sitting up here that never filed
21 the forms at all. He was billing the Town
22 for the services as an independent contractor
23 to this Town. Please explain that to me.

24 As usual. You're dead wrong.

25 PRESIDENT SLIFKA: Is there

1 anyone else who did not sign up who wishes to
2 speak to the subject matter of this public
3 hearing?

4 (No response.)

5 PRESIDENT SLIFKA: Okay.

6 Hearing none, is there anyone else to comment
7 from Council?

8 (No response.)

9 PRESIDENT SLIFKA: Okay. With
10 that, we will close the public hearing.

11 (Whereupon the above
12 proceedings were adjourned at 7:39 p.m.)

13

14

15

16

17

18

19

20

21

22

23

24

25

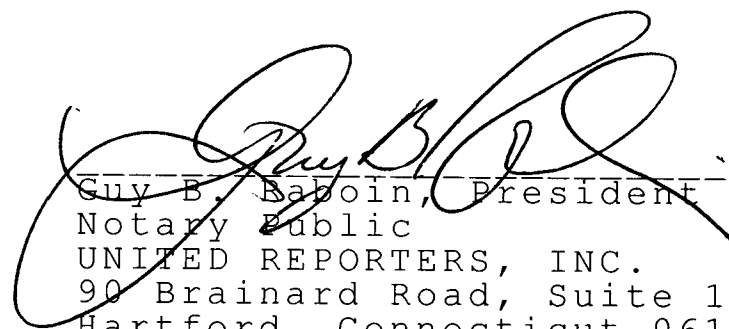
1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

CERTIFICATE

I hereby certify that the foregoing 14 pages are a complete and accurate transcription of a digital sound recording taken of the Public Hearing in Re: An Order Eliminating Certain Land Use Application Fees, held before the West Hartford Town Council, Town Hall, 50 South Main Street, Room 314, West Hartford, Connecticut, on December 14, 2010.

I further certify that the digital sound recording was transcribed by the word processing department employees of United Reporters, Inc., under my direction.

APPROVED AT JANUARY 11, 2011 TOWN COUNCIL MEETING


Guy B. Baboin, President
Notary Public
UNITED REPORTERS, INC.
90 Brainard Road, Suite 103
Hartford, Connecticut 06114