

RESOLUTION NO. 13-

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AUTHORIZING STEPHEN FRANCIS POWER USE OF A DOCK, MOORING PILES AND SEAWALL WHICH WAS CONSTRUCTED ON PUBLIC PROPERTY LOCATED ON BARCELONA DRIVE IMMEDIATELY NORTH OF HIS RESIDENCE AT 2630 BARCELONA DRIVE, AS MORE PARTICULARLY DESCRIBED BELOW; SUBECT TO CERTAIN TERMS AND CONDITIONS; REPEALING ANY AND ALL PARTS OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Stephen Francis Power applied for a permit to use and maintain an existing marginal dock and mooring piles on public property abutting a waterway in accordance with the provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale; and

WHEREAS, the City's Marine Advisory Board on December 6, 2012 reviewed the application for dock waiver filed by Applicant and voted unanimously to approve this application;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

SECTION 1. That pursuant to Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, permission is hereby granted to Stephen Francis Power (hereinafter referred to as "Permit Holder") to use the 5'W X 20'L marginal dock and mooring piles which was constructed on public property abutting the Rio De Sota canal, such dock being located on Barcelona Drive generally Northward of the Permit Holder's residence located at 2630 Barcelona Drive and legally described as follows:

Lot 39, together with Lot 38, LESS the West one-half (1/2) thereof, Block 48, LAUDERDALE ISLES UNIT "A", according to the Plat thereof, as recorded in Plat Book 9, Page 28 of the Public Records of Broward County, Florida, together with that certain strip of land approximately ten feet (10') in width and seventy-five feet (75') in length lying on the Northerly side of said Lots between the Northerly boundary of said N.E. 3rd Street as it is now constituted, according to the Plat of SEA ISLAND UNIT FOUR, recorded in Plat Book 27, Page 50 of the Public Records

of Broward County, Florida; said lands situate, lying and being in the City of Fort Lauderdale, Broward County, Florida.

SECTION 2. The Permit herein granted by this Resolution may be revoked at any time for violation of any one or more of the provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, all of which provisions are incorporated by reference as if fully set forth herein. The following conditions of that Code Section are listed for emphasis: (1) Permit Holder shall have no authority to assign permit rights to any other individual without approval of the City Commission, except as hereinafter provided; (2) Permit Holder is prohibited from collecting rent for the dock facility; (3) the marginal dock shall not be used by any person or persons other than Permit Holder, except as may hereinafter be provided; (4) Permit Holder shall be responsible for maintaining the improvements to marginal dock, mooring piles, seawall, and for beautifying the swale area in and around the dock location (hereinafter a Dock Area), which Dock Area is the upland area North of the pavement of Barcelona Drive and bounded by the Northerly projections of the Easternmost and Westernmost boundary lines of Permit Holder's Property described above; (5) by acceptance of the use of the marginal dock, mooring piles, seawall and the Permit granted herein, Permit Holder agrees to defend, indemnify and hold City harmless for damages to property or injury to or for the death of anyone using the Dock Area; (6) Permit Holder shall be solely responsible for all governmental charges for fees in connection with the maintenance, repair and use of said Dock Area; (7) approximately fifty percent (50%) of the Dock Area shall remain open to the public at all times; (8) Permit Holder is prohibited from erecting any signs, landscaping or fencing that would restrict public access to the public swale right-of-way North of Barcelona Drive, except where permitted by City Code.

SECTION 3. The granting of this Permit is subject to the following terms and conditions:

1. The fixed period of the Permit issued for use of the Dock Area is for a period of five (5) years in accordance with City Code Section 8-144(1). The Permit is revocable at the will of the City Commission, without cause with ninety (90) days advance notice.
2. As a special condition, the City reserves the right to remove the existing Dock and existing Mooring Piles structures for replacement of the seawall in the event that this might be required during the term of the Permit as determined by the City Engineer. The sole cost of removal and replacement of the Dock and Mooring Piles shall be the responsibility of the Permit Holder. Furthermore, the Permit Holder shall be responsible for maintaining and beautifying the Dock Area and failure to do so shall be grounds for revocation of this Permit.

3. As a special condition of the Permit, the Permit Holder is prohibited from erecting any signs, landscaping or fencing to restrict public access to the Dock Area except where permitted by Code.
4. The public property abutting the waterway or Dock Area being used by the Permit Holder shall be kept open at all times as means of reasonable ingress and egress to the public, but Permit Holder shall have the right to exclude the public from the Northernmost 50% of the marginal dock.
5. All existing improvements to the Dock Area must be in accord with City Engineering design standards and in compliance with applicable building and zoning permit requirements. Copies of all construction permits must be submitted to the Supervisor of Marine Facilities upon completion and authorization by the City's Building Services Department.
6. The Permit granted herein shall not be assignable without the written approval by Resolution adopted by the City Commission.
7. Permit Holder shall not charge or collect any rent or fees from anyone using such dock constructed on public property. No signage shall be placed upon such dock indicating it is a private dock.
8. As a special condition, vessels berthed within the Dock Area are prohibited from extending beyond the maximum distance of 30% of the width of the waterway.
9. As a special condition, vessels berthed within the Dock Area must not encroach into the Northerly extensions of the Easternmost and Westernmost 10' set-backs required for the RS 4.4 zoning district for Applicant's (Permit Holder's) Property.
10. As a special condition of the Permit, in the event Permit Holder is found by the City Commission to have violated any of the above conditions or is found by the Code Enforcement Board, Special Magistrate or County Court Judge to have violated any Code sections relative to the use of the Dock Area, Dock and Mooring Piles, then the Permit granted herein may be repealed or rescinded by the City Commission upon thirty (30) days' advance notice to the Permit Holder.
11. Use of the dock is limited to the docking of a vessel owned by the Permit Holder with a copy of the documentation showing the name and registration number of all vessels provided by the Applicant to the Supervisor of Marine Facilities.

- 12. The Permit Holder is prohibited from mooring any watercraft or vessel in such a manner that it is "rafted out" from any additional vessel owned or operated by the Applicant.

SECTION 4. Permit holder shall repair, replace or maintain the adjacent seawall during the term of the Permit. The term of this Permit shall be five (5) years from the date of adoption of this Resolution, provided, however that this Permit may be revoked upon ninety (90) days advance notice upon violation of any of the conditions set forth in this Resolution or upon violation of any one or more of the provisions of Section 8-144 of the Code of Ordinances of the City of Fort Lauderdale, all of which provisions are incorporated by reference as if fully set forth herein. At the end of the five (5) year term, the Permit shall be revocable at the will of the City Commission.

SECTION 5. That by acceptance of the benefits of this Resolution, Permit Holder acknowledges that the Dock Area is part of a publicly dedicated right-of-way for Barcelona Drive and that any right, title, interest or claim of use to the Dock Area, except to the extent provided herein, is subordinate and inferior to that public dedication until such public dedication is discontinued by law.

SECTION 6. That the City Clerk is hereby directed to record a copy of this Resolution in the Public Records of Broward County, Florida and after recording to file same in the City's records.

SECTION 7. That all Resolutions or parts of Resolutions in conflict are hereby repealed.

SECTION 8. That this Resolution shall be in full force and effect upon final passage.

ADOPTED this the _____, 2013.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH