

(R-85-1555)

RESOLUTION NUMBER R-262451

ADOPTED ON FEBRUARY 5, 1985

WHEREAS, on November 7, 1984, the Board of Zoning Appeals considered the appeal of Paul R. and Frances J. Crouch in Case-C-18555 from the denial by the Zoning Administrator of their amended request to maintain approximately 70'3" of a maximum 6'1½" high wood fence observing a 0'0" street side yard on Collura Street where 15'0" is required and approximately 15'0" of this fence is from 0'1" to 0'3" within the public right-of-way, Lot 197, O.D. Arnolds Hazelwood Heights No. 3, Map No. 3155, at 5099 Chollas Parkway, in the R1-5000 Zone; and

WHEREAS, in arriving at their decision, the Board of Zoning Appeals reviewed the appellants' testimony, the plans submitted, the finding of facts of the Zoning Administrator, maps, papers, and visited the subject property and heard public testimony on this matter; and

WHEREAS, after discussion, the Board of Zoning Appeals moved to deny the appeal, upholding the decision of the Zoning Administrator and making his finding of facts their finding of facts, as the Board of Zoning Appeals found no unusual circumstances or hardship which would warrant the variance requested; and

WHEREAS, on February 5, 1985, the City Council considered the appeal of Paul R. and Frances J. Crouch from the decision of the Board of Zoning Appeals in denying the amended request to

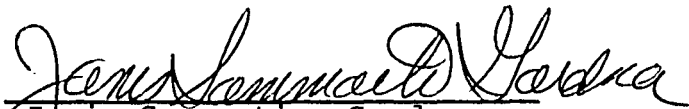
maintain approximately 70'3" of a 6'1½" high wood fence observing a 0'0" street side yard; and

WHEREAS, in arriving at its decision, the City Council reviewed the appellants' testimony and the decision of the Board of Zoning Appeals and heard public testimony on this matter; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the appeal of Paul R. and Frances J. Crouch is hereby granted and the decision of the Zoning Administrator is overturned, and a 70'3" long fence 6'1½" high observing a 0'0" street side yard on Collura Street within 0'1" to 0'3" of a public right-of-way is hereby permitted contingent upon the applicants signing an encroachment removal agreement in the standard City form, attached hereto as Exhibit A.

BE IT FURTHER RESOLVED, that the decision of the City Council shall be final.

APPROVED: John W. Witt, City Attorney

By   
Janis Sammartino Gardner  
Deputy City Attorney

JSG:ta:632  
2/25/85  
Or.Dept:Clerk  
Case-C-18555  
R-85-1555  
Form=r.none

**ENCROACHMENT REMOVAL AGREEMENT**

Appl. # \_\_\_\_\_ Coord. # \_\_\_\_\_

In accordance with the provisions of Section 62.0302 of the San Diego Municipal Code, the undersigned, the owner of \_\_\_\_\_

(LEGAL DESCRIPTION)

in the City of San Diego, County of San Diego, State of California, in consideration of the grant of permission by the City of San Diego to install and maintain \_\_\_\_\_

for the use and benefit of owner's property, over, under and across \_\_\_\_\_

covenants and agrees with the City of San Diego, as follows:

Sec. 62.0302

(a) The encroachment shall be installed and maintained in a safe and sanitary condition at the sole cost, risk and responsibility of the owner and successors in interest.

(b) The property owner shall agree to at all times indemnify and save the City free and harmless from and pay in full, any and all claims, demands, losses, damages or expenses that the City may sustain or incur in any manner resulting from the construction, maintenance, state of use, repair or presence of the structure installed hereinunder, including any loss, damage or expense arising out of (1) loss of or damage to property, and (2) injury to or death of persons; excepting any loss, damage or expense and claims for loss, damage or expense resulting in any manner from the negligent act or acts of the City, its contractors, officers, agents or employees.

(c) The property owner must remove or relocate an encroachment within 90 days after notice by the City Engineer or the City Engineer may cause such work to be done, and the costs thereof shall be a lien upon said land.

(d) For structures encroaching over or under the public right-of-way, the owner agrees to provide an alternate right-of-way and/or to relocate said City facility to a new alignment, all without cost or expense to the City, whenever it is determined by the City Engineer that the City facility cannot be economically placed, replaced, or maintained due to the presence of the encroaching structure.

(e) Whatever rights and obligations were acquired by the City with respect to the right-of-way shall remain and continue in full force and effect and shall in no way be affected by the City's grant of permission to construct and maintain the encroachment structure.

(f) The property owner shall maintain a policy of liability insurance in an amount satisfactory to the City Engineer in order to protect the City from any potential claims which may arise from the encroachments.

(FOR COUNTY RECORDER'S USE ONLY)

\_\_\_\_\_  
(DATE)

\_\_\_\_\_  
(SIGNATURES)

\_\_\_\_\_  
(PRINT NAMES)

**EXHIBIT A**

00840

R - 262451

FEB 05 1985

Passed and adopted by the Council of The City of San Diego on .....  
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksmma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

By *Charles G. Abdelnour*, Deputy.

(Seal)

Office of the City Clerk, San Diego, California

Resolution Number *R-262451* Adopted FEB 05 1985

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