

File No. 66090

October 22nd, 1936

R. E. Lee Marshall, Esq.
City Solicitor

IN RE: APPLICATION OF OWENS-ILLINOIS
CAN CO. FOR MINOR PRIVILEGE PER-
MIT TO ERECT TWO COLUMNS ON LIN-
WOOD AVENUE, SOUTH OF BOSTON ST.

Dear Mr. Marshall:

I beg to submit herewith my report in the above matter. The facts of the case are set forth in the attached memorandum, which has been submitted by the Owens-Illinois Can Co.

The question to be decided is whether or not the Board of Estimates has authority to grant the permit in question.

The power of the Board of Estimates to grant Minor Privileges is derived from Section 37 of the Charter, which authorizes the Board to grant privileges for -

"* * * columns, piers or other projections or structural ornaments of any character except so far as the same may be prohibited by law * * * or any other private purpose not prohibited by laws and not being a franchise or right requiring a formal grant by ordinance under the terms of this section".

In my opinion, Section 8 of the Charter, which prohibits the granting of a franchise for the erection of "awning poles, posts, hitching posts, barber poles", etc., does not constitute a prohibition of the granting of the privilege in question.

It is apparent to me that the word "posts" as used in Section 8 of the Charter was not intended to be analogous to the columns under consideration. However, I might state that I do not agree with the contention of counsel for the Owens-Illinois Can Company that the prohibitions contained in Section 8 refer only to franchises grantable by ordinance, since awning poles and barber poles, if grantable at all, are grantable only as Minor Privileges.

I find no other statutes which would prohibit the erection of the columns in question. Also, since the neighboring property is owned by the Owens-Illinois Can Co., the granting of the privilege could not cause special injury to