



Legislation Text

File #: ID 19-0337, **Version:** 1

Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Arlene Herbin Located at 1208 N English Street in Connection with the English Street Sidewalk Project

Department: Legal
Council District: 1

Public Hearing: NA
Advertising Date/By: NA

Contact 1 and Phone: Kenny McDowell, Ext. 4578
Contact 2 and Phone: John P. Roseboro, Ext. 2320

PURPOSE:

The City seeks to acquire a Proposed Margin tract of 422 square feet and a Proposed Temporary Construction Easement (TCE) of 478 square feet of the property owned by Arlene Herbin located at 1208 North English Street, designated as Parcel No. 0019900 in the Morehead Township for the English Street Sidewalk Project. The Property Management Section of the Engineering and Inspections Department (PM) requests Council to authorize the initiation of condemnation proceedings because it has been unable to negotiate a purchase price with the property owner.

BACKGROUND:

PM attempted to negotiate a purchase within the total appraised value of \$1,125.00 for the property. An independent appraiser, Lynn Ritchy, Certified General Real Estate Appraiser, A2814, calculated the value of the property for the City. The appraiser used generally accepted appraisal methods and calculated the value based upon the nature of the taking and the square footage taken. PM sent an initial written Offer to Purchase the property on July 14, 2017. PM made several attempts to purchase the property within the appraised amount, but its efforts were not successful. Therefore, PM recommends that the City Council adopt a resolution authorizing the City Attorney to institute proceedings to condemn the required property. Following City Council's approval, the Legal Department will send a letter to the owner giving him or her at least thirty (30) days' notice of the City's intent to file an eminent domain lawsuit. After the lawsuit is filed and discovery is completed, a mediation or Commissioner's Hearing, or both, are held to try to resolve the matter with the property owner before trial. Additionally, the parties are free to continue negotiations through the date of trial.

The English Street Sidewalk Project is needed to provide pedestrians with a safe walking route along English Street, from Phillips Avenue to Florida Street where none exists.

The acquisition necessary for this property is a Proposed Margin Tract of 422 square feet and a Proposed Temporary Construction Easement (TCE) of 478 square feet for the property located at 1208 N English Street. The property is zoned RS 9.

City staff further recommends that the City Council authorize payment of the estimated amount of the value of the property to the Clerk of Superior Court for disbursement to the owner. This will allow the City to take possession, which is required before work for this Project can commence on the property.

BUDGET IMPACT:

The funding for this eminent domain action is budgeted in Account Number 401-4546-01.6012 and Activity Number A15138. A minimum of \$1,125.00 will be expended to acquire this property, in addition to any litigation costs and/or settlement agreements.

RECOMMENDATION / ACTION REQUESTED:

City Council approval of a resolution authorizing the City Attorney to institute proceedings to condemn a portion of the property of Arlene Herbin in connection with the English Street Sidewalk Project.