



## Legislation Text

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**File #:** ID 19-0694, **Version:** 1

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Resolution Authorizing City Attorney to Institute Proceedings to Condemn a Portion of the Property of Hun Keong Goh or his estate is Located at 1006 W. Bessemer Avenue in Connection with the W. Bessemer Avenue Sidewalk Project

Council Priority: Maintain Infrastructure and Provide Sustainable Growth Opportunities

Department: Legal

Council District: 3

Public Hearing: NA

Advertising Date/By: NA

Contact 1 and Phone: Kenny McDowell, Engineering Director, ext. 4578

Contact 2 and Phone: John P. Roseboro, Deputy City Attorney, ext. 2320

**PURPOSE:** The City seeks to acquire a proposed Temporary Construction Easement (TCE) of 708 square feet and a proposed right of way consisting of 295 square feet of the property owned by the estate of Hun Keong Goh located at 1006 W. Bessemer Avenue, designated as Parcel No. 0004231 in the Morehead/ Gilmer Township for the W. Bessemer Avenue 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 \$2,800.00 for the property. The appraised value was based on appraisals of similar properties completed by McNairy and Associates, LLC. 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 to the property owner on January 29, 2019. 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 them 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 W. Bessemer Avenue Sidewalk Project is needed to provide pedestrians with a safe walking route along W. Bessemer Avenue; connecting existing sidewalks to Grecale Street.

The acquisition necessary for this property is a proposed Temporary Construction Easement (TCE) of 708 square feet and a proposed rights of way of 295 square feet of the property located at 1006 W. Bessemer Avenue. The property is zoned R-5 (Residential Single-family 5).

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 471-4502-15.6012 Activity #A 11171. A minimum of \$2,800.00 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 Hun Keong Goh or the estate thereof in connection with the W. Bessemer Avenue Sidewalk Project.