

Ordinance No. 1029-2023

By Council Members McCormack, Hairston and Griffin (by departmental request)

AN EMERGENCY ORDINANCE

Authorizing the Mayor and the Commissioner of Purchases and Supplies to acquire and re-convey properties presently owned by Erieview Holdings, LLC, and/or its designee, located at 1301 East 9th Street and 100 Erieview Street, for the purpose of entering into the chain-of-title prior to the adoption of tax increment financing legislation authorized under Section 5709.41 of the Revised Code for the Erieview Tower, Galleria and Parking Garage Project.

WHEREAS, this ordinance constitutes an emergency measure providing for the usual daily operation of a municipal department; now, therefore,

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF CLEVELAND:

Section 1. That notwithstanding and as an exception to the provisions of Chapter 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, the Mayor and the Commissioner of Purchases and Supplies are authorized to acquire from and re-convey to, Erieview Holdings, LLC, and/or its designee, for a nominal consideration of one dollar and other valuable consideration determined to be fair market value, the following property for the purpose of entering into the chain-of-title prior to the adoption of tax increment financing legislation authorized under Section 5709.41 of the Revised Code. The Real Property is more fully described below and as may subsequently be replatted, re-numbered, or revised:

Erieview Tower

Owner: Erieview Tower LLC, a Delaware limited liability company

PPNs: 101-34-301, 101-34-303, and 101-34-304

PARCEL 1 (FEE SIMPLE):

SITUATED IN THE CITY OF CLEVELAND, COUNTY OF CUYAHOGA AND STATE OF OHIO AND KNOWN AS BEING UNIT 1, UNIT 3 AND UNIT 4, RESPECTIVELY, IN THE ERIEVIEW COMMERCIAL CONDOMINIUM. WHOSE DRAWINGS ARE RECORDED IN VOLUME 156 OF CONDOMINIUM MAPS, PAGES 70-82 OF CUYAHOGA COUNTY RECORDS, AND AS FURTHER DESCRIBED BY THE DECLARATION OF CONDOMINIUM OWNERSHIP (AND THE BYLAWS ATTACHED THERETO) RECORDED MARCH 1, 2006 AS INSTRUMENT NO. 200603010282 OF CUYAHOGA COUNTY RECORDS (THE "DECLARATION"), TOGETHER WITH RESPECTIVE UNDIVIDED INTEREST IN AND TO ALL THE COMMON ELEMENTS APPURTENANT TO EACH OF SAID UNITS AS IS SET FORTH IN THE DECLARATION, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, WHICH UNDIVIDED INTERESTS SHALL AUTOMATICALLY CHANGE IN ACCORDANCE WITH THE AMENDMENTS TO THE DECLARATION AS THE SAME ARE FILED OF RECORD PURSUANT TO THE PROVISIONS OF SAID AMENDMENTS, AND WHICH UNDIVIDED INTERESTS SHALL ATTACH TO THE COMMON ELEMENTS IN THE PERCENTAGES SET FORTH IN SUCH AMENDMENTS TO THE DECLARATION, WHICH PERCENTAGES SHALL AUTOMATICALLY BE DEEMED TO BE CONVEYED EFFECTIVE ON THE RECORDING OF EACH SUCH AMENDMENT TO THE DECLARATION AS THOUGH CONVEYED HEREBY, BE THE SAME MORE OR LESS.

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PARCEL 2 (EASEMENTS):

- A. APPURTENANT EASEMENTS ESTABLISHED IN THE DEED FROM THE CITY OF CLEVELAND, TO ERIEVIEW CORPORATION, FILED FOR RECORD IN VOLUME 10671, PAGE 577 ON FEBRUARY 7, 1963 OF CUYAHOGA COUNTY RECORDS, AS MODIFIED BY EASEMENT MODIFICATION AGREEMENT FILED FOR RECORD IN VOLUME 15499, PAGE 499 ON NOVEMBER 17, 1981 OF CUYAHOGA COUNTY RECORDS.
- B. APPURTENANT EASEMENTS ESTABLISHED IN THE DEED FROM THE CITY OF CLEVELAND TO ERIEVIEW CORPORATION, FILED FOR RECORD IN VOLUME 11622, PAGE 43 ON JUNE 21, 1965 OF CUYAHOGA COUNTY RECORDS.
- C. APPURTENANT EASEMENTS ESTABLISHED IN THE MODIFICATION OF JUDGMENT ENTRY AND GRANT OF EASEMENT RIGHTS, BETWEEN ERIEVIEW ASSOCIATES, MEDICAL, MUTUAL OF CLEVELAND, INC. AND THE CITY OF CLEVELAND, FILED FOR RECORD IN VOLUME 15493, PAGE 617 ON OCTOBER 22, 1981 OF CUYAHOGA COUNTY RECORDS.

The Galleria

Owner: Erieview Galleria LLC, a Delaware limited liability company

PPNs: 101-34-302

PARCEL 1 (FEE SIMPLE):

SITUATED IN THE CITY OF CLEVELAND, COUNTY OF CUYAHOGA, AND STATE OF OHIO AND KNOWN AS BEING UNIT NO. 2A IN THE ERIEVIEW COMMERCIAL CONDOMINIUM, WHOSE DRAWINGS ARE RECORDED IN VOLUME 156 OF CONDOMINIUM MAPS, PAGES 70-82 OF CUYAHOGA COUNTY RECORDS AND AMENDED IN VOLUME 167 OF CONDOMINIUM MAPS, PAGES 66 THROUGH 70 OF CUYAHOGA COUNTY RECORDS, AND AS FURTHER DESCRIBED BY THE DECLARATION OF CONDOMINIUM OWNERSHIP (AND THE BYLAWS ATTACHED THERETO) RECORDED MARCH 1, 2006 AS INSTRUMENT NO. 200603010282 OF CUYAHOGA COUNTY RECORDS AS AMENDED BY THE FIRST AMENDMENT TO DECLARATION OF CONDOMINIUM OWNERSHIP FOR THE ERIEVIEW COMMERCIAL CONDOMINIUM RECORDED FEBRUARY 23, 2015 AS INSTRUMENT NO. 201502230141 OF CUYAHOGA COUNTY RECORDS (THE "DECLARATION"), TOGETHER WITH RESPECTIVE UNDIVIDED INTEREST IN AND TO ALL THE COMMON ELEMENTS APPURTENANT TO EACH OF SAID UNITS AS IS SET FORTH IN THE DECLARATION, AS THE SAME MAY BE AMENDED FROM TIME TO TIME, WHICH UNDIVIDED INTERESTS SHALL AUTOMATICALLY CHANGE IN ACCORDANCE WITH THE AMENDMENTS TO THE DECLARATION AS THE SAME ARE FILED OF RECORD PURSUANT TO THE PROVISIONS OF SAID AMENDMENTS, AND WHICH UNDIVIDED INTERESTS SHALL ATTACH TO THE COMMON ELEMENTS IN THE PERCENTAGES SET FORTH IN SUCH AMENDMENTS TO THE DECLARATION, WHICH PERCENTAGES SHALL AUTOMATICALLY BE DEEMED TO BE CONVEYED EFFECTIVE ON THE RECORDING OF EACH SUCH AMENDMENT TO THE DECLARATION AS THOUGH CONVEYED HEREBY, BE THE SAME MORE OR LESS.

PARCEL 2 (EASEMENTS):

- A. APPURTENANT EASEMENTS ESTABLISHED IN THE DEED FROM THE CITY OF CLEVELAND, TO ERIEVIEW CORPORATION, FILED FOR RECORD IN VOLUME 10671, PAGE 577 ON FEBRUARY 7, 1963 OF CUYAHOGA COUNTY RECORDS, AS MODIFIED BY EASEMENT MODIFICATION AGREEMENT FILED FOR RECORD IN VOLUME 15499, PAGE 499 ON NOVEMBER 17, 1981 OF CUYAHOGA COUNTY RECORDS.
- B. APPURTENANT EASEMENTS ESTABLISHED IN THE DEED FROM THE CITY OF CLEVELAND TO ERIEVIEW CORPORATION, FILED FOR RECORD IN VOLUME 11622, PAGE 43 ON JUNE 21, 1965 OF CUYAHOGA COUNTY RECORDS.
- C. APPURTENANT EASEMENTS ESTABLISHED IN THE MODIFICATION OF JUDGMENT ENTRY AND GRANT OF EASEMENT RIGHTS, BETWEEN ERIEVIEW ASSOCIATES, MEDICAL MUTUAL OF CLEVELAND, INC., AND THE CITY OF CLEVELAND, FILED FOR RECORD IN VOLUME 15493, PAGE 617 ON OCTOBER 22, 1981 OF CUYAHOGA COUNTY RECORDS.

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Section 2. That the Director of Economic Development is authorized to execute on behalf of the City of Cleveland all necessary documents to acquire and to convey the property and to cause Erieview Holdings, LLC, and/or its designee, to employ, and to pay all fees for, title companies, surveys, escrows, appraisers, environmental audits, and all other costs necessary for the acquisition and sale of the property.

Section 3. That this Council finds the conveyances are in compliance with Section 5709.41(B)(1) of the Revised Code and the proposed improvements constitute and are declared a public purpose under said section and the subject property is located in a blighted area of an impacted City as required by Section 5709.41 of the Revised Code.

Section 4. That the conveyances shall be made by official deed prepared by the Director of Law and executed by the Mayor and the Commissioner of Purchases and Supplies on behalf of the City of Cleveland.

Section 5. That this ordinance is declared to be an emergency measure and, provided it receives the affirmative vote of two-thirds of all the members elected to Council, it shall take effect and be in force immediately upon its passage and approval by the Mayor; otherwise it shall take effect and be in force from and after the earliest period allowed by law.

SMA:nl
9-18-2023
FOR: Director Hamilton Brown

