

Ordinance No. 247-2021

**By Council Members Mooney, Spencer,
Bishop, Brancatelli and Kelley
(by departmental request)**

AN EMERGENCY ORDINANCE

Authorizing the Director of Public Works to execute a deed of easement granting to the Tamir Rice Foundation certain easement rights in property located at Cudell Commons, and declaring that the easement rights granted are not needed for the City's public use.

WHEREAS, the Tamir Rice Foundation (the "Foundation") has requested the Director of Public Works to convey certain easement rights in property located at Cudell Commons; and

WHEREAS, the Foundation requires an easement to construct and maintain a portion of the Tamir Rice Memorial at Cudell Commons; and

WHEREAS, the easement rights to be granted are not needed for the City's public use; and

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 Chapters 181 and 183 of the Codified Ordinances of Cleveland, Ohio, 1976, it is found and determined that an easement interest in the following described property is not needed for the City's public use:

Portion of PPN 001-29-081

Situated in the City of Cleveland, County of Cuyahoga, State of Ohio, being part of Original Brooklyn Township Lot No. 12, part of Lot 10 in F.R. Elliot Subdivision as recorded in Plat Volume 2, Page 3 of Cuyahoga County Map Records, part of Sublots 20 and 21 of Schmidt and Fleidner Subdivision, unrecorded, part of a 1.403 deed acre parcel (deed Parcel A) now or formerly owned by the City of Cleveland as recorded in Volume 1042, Page 513 of Cuyahoga County Deed Records, and part of a 0.4034 deed acre parcel of land now or formerly owned by the City of Cleveland as recorded in Volume 94-08200, Page 24 of Cuyahoga County Deed Records, being more completely described as follows:

Commencing for Reference at the center-line intersection of West 98th Street (60 feet wide) and Madison Avenue (60 feet wide), witnessed by a drill hole in stone in a monument box found 0.15 feet south; thence North 00°-12'-38" West, coincident with the center-line of said West 98th Street, 521.26 feet; thence South 89°-47'-22" West, 30.00 feet to the west right-of-way of said West 98th Street and the southeast corner of Sublot 10 in said Schmidt and Fleidner Subdivision and the southeast corner of a parcel of land now or formerly owned by the Board of Education of the Cleveland City School District as recorded in Volume 13154, Page 315 of Cuyahoga County Deed Records; thence South 89°-47'-22" West, coincident with the south line of said Sublot 10 and said Board of Education of the Cleveland City School District parcel, 119.94 feet to a southeast corner of a parcel of land now or formerly owned by the City of Cleveland as recorded in Volume 4510, Page 491 of Cuyahoga County Deed Records and an iron pin set; thence South 89°-47'-22" West, coincident with the south line of a parcel of land now or formerly owned by the City of Cleveland as recorded in Volume 4510, Page 491 of Cuyahoga County Deed records, 99.42 feet to the PLACE OF BEGINNING for the parcel herein described:

Course No. 1: thence South 44°-02'-54" West, along the easterly prolongation and the easterly line of a sidewalk, 21.63 feet to a west line of said 0.4034 deed acre parcel, and an east line of West Boulevard (Width Varies);

Course No. 2: thence North 01°-58'-46" West, coincident with a west line of said 0.4034 deed acre parcel and an east line of said West Boulevard, 15.50 feet to an iron pin set;

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Course No. 3: thence North 89°-47'-22" East, coincident with the north line of said 0.4034 deed acre parcel, a south line of said West Boulevard, and a south line of a parcel of land now or formerly owned by the City of Cleveland as recorded in Volume 4510, Page 491 of Cuyahoga County Deed records, 15.58 feet to the PLACE OF BEGINNING, passing over a drill hole in a crow's foot set at 13.51 feet, containing 0.0028 acres, more or less, but subject to all highways, covenants, and easements of legal record as surveyed in January 2021 by Kyle R. Danals, Registered Professional Land Surveyor No. 8704 on behalf of McSteen Land Surveyors under Project No. 20-197.

Bearing are based on the Ohio State Plane Coordinates System, North Zone(3401), NAD83 (2011), 2010.0 Epoch, as derived from GNSS Observations per the ODOT CORS/VRS Real Time Network. Distances are given in feet and decimal parts thereof. All iron pins shown as set are 30" long 5/8" rebar with an identification cap stamped "McSTEEN CA 02236".

Section 2. That, by and at the direction of the Board of Control, the Commissioner of Purchases and Supplies is authorized to convey the above-described easement interest to the Foundation subject to any conditions stated in this ordinance. The consideration to be paid for this property shall not exceed \$1.00, and other valuable consideration, determined to be fair market value.

Section 3. That the easement shall be non-exclusive and the purpose of the easement shall be to construct and maintain a portion of the Tamir Rice Memorial at Cudell Commons.

Section 4. That the duration of the easement shall be perpetual; that the easement shall not be assignable without the consent of the Director of Public Works; that the easement shall require that the Foundation maintain any Foundation improvements located within the easement and to pay any applicable taxes and assessments; and shall contain such other terms and conditions that the Director of Law determines to be necessary to protect and benefit the City.

Section 5. That the conveyance referenced above shall be made by official deed of easement prepared by the Director of Law and executed by the Director of Public Works on behalf of the City of Cleveland. The Directors of Public Works and Law are authorized to execute any other documents, including without limitation, contracts for right of entry, as may be necessary to effect this ordinance.

Section 6. 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.

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REPORT after second Reading

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READ FIRST TIME on APRIL 12, 2021
and referred to DIRECTORS of Public Works,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability, Finance

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

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PASSAGE RECOMMENDED BY
COMMITTEE ON
**MUNICIPAL SERVICES
AND PROPERTIES**

FILED WITH COMMITTEE

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COMMITTEE ON
**DEVELOPMENT, PLANNING AND
SUSTAINABILITY**

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PASSAGE RECOMMENDED BY
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