

Ordinance No. 44-2025

**By Council Members Bishop and Hairston
(by departmental request)**

AN EMERGENCY ORDINANCE

Upon vacation of old West Boulevard, to revoke the existing encroachment permit to the Tamir Rice Foundation for the Tamir Rice Memorial; authorizing the Mayor and the Commissioner of Purchases and Supplies to execute a deed of easement over the revoked encroachment permit property granting to the Tamir Rice Foundation certain easement rights to improve and maintain the Tamir Rice Memorial; granting easements to utility providers for any existing facility through or under the right-of-way of vacated old West Boulevard; and declaring that the easement rights granted are not needed for the City's public use.

WHEREAS, under Ordinance No. 883-2020, passed December 9, 2020, this Council authorized an encroachment permit (the "Encroachment Permit") to the Tamir Rice Foundation (the "Foundation") to encroach into the right-of-way of old West Boulevard alignment between Detroit Avenue and Madison Avenue to install, use, and maintain certain streetscape and landscape improvements needed to construct and maintain a portion of the Tamir Rice Memorial at Cudell Commons (the "Encroachment Permit Area"); and

WHEREAS, under Ordinance No. 247-2021, passed June 7, 2021, this Council authorized a permanent easement to the Foundation for a portion of the Tamir Rice Memorial located on Permanent Parcel No. 001-29-081 (now a portion of Permanent Parcel No. 001-29-084) (the "Existing Easement Area") which remains in place and is uneffected; and

WHEREAS, collectively, the Encroachment Permit Area and the Existing Easement Area comprise the Tamir Rice Memorial Area; and

WHEREAS, it is the intention of this Council to vacate old West Boulevard between Detroit Avenue and West 98th Street pursuant to Resolution No. 1354-2024, which was introduced December 2, 2024, and subsequent legislation; and

WHEREAS, upon vacation of old West Boulevard between Detroit Avenue and W. 98th Street, it is the intention of this Council to revoke the Encroachment Permit authorized under Ordinance No. 883-2020 and replace those portions that are currently encumbered under the Encroachment Permit with a deed of permanent easement to the Foundation (the "New Permanent Easement") thus making the entire Tamir Rice Memorial area encumbered with permanent easements; and

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WHEREAS, upon vacation of old West Boulevard between Detroit Avenue and W. 98th Street, it is also the intention of this Council to grant easements to utility providers for any existing facility located in the vacated right-of-way of old West Boulevard (“Utility Easements”); and

WHEREAS, the New Permanent Easement interest and Utility Easements interest(s) 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 upon vacation of old West Boulevard between Detroit Avenue and West 98th Street, the Encroachment Permit authorized under Ordinance No. 883-2020, passed December 9, 2020, granted to the Tamir Rice Foundation to install, use, and maintain certain streetscape and landscape improvements encroaching into the City right-of-way known as the old West Boulevard alignment between Detroit Avenue and Madison Avenue is revoked.

Section 2. That, upon revoking the Encroachment Permit authorized under Ordinance No. 883-2020, passed December 9, 2020, and 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 the New Permanent Easement interest is not needed for the City’s public use and is further described as follows:

Situated in the City of Cleveland, County of Cuyahoga and State of Ohio as known as being a portion of West Boulevard (prior to its relocation in 1977) south of Detroit Avenue and north of Madison Avenue, more fully described as follows:

Commencing at a point on the easterly line of old West Boulevard at the southwesterly corner of lands deeded to the City of Cleveland on Volume 98-12250, Page 34 Cuyahoga County Records, said point being south, along the easterly line of old West Boulevard, about 471.87 feet from the intersection of the easterly line of old West Boulevard and the southerly line of Detroit Avenue. (R/W varies).

Thence Westerly, along the Easterly line of old West Boulevard, about 5 feet to an angle point on the easterly line of old West Boulevard.

Thence Southerly, along the easterly line of old West Boulevard, about 6 feet, to a point on the northerly edge of an existing concrete sidewalk.

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Thence, leaving the Easterly line of old West Boulevard, Southwesterly, Westerly and Northwesterly, along the northerly edge of said concrete sidewalk, about 60 feet to a point on the westerly line of old West Boulevard.

Thence, Northerly, along the Westerly line of old West Boulevard, about 75 feet to a point on the westerly projection of the southerly edge of said concrete sidewalk.

Thence Easterly and Southeasterly, along the southerly edge of said concrete sidewalk, about 75 feet to a point on the Easterly line of said old West Boulevard.

Thence Southerly, along the Easterly line of said old West Boulevard, about 10 feet to the place of beginning. Being that portion Cudell Commons, within the perimeter of the above described existing concrete sidewalk.

Legal Description approved by Eric B. Westfall, Section Chief,
Plats, Surveys and House Numbering Section

Section 3. 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 permanent Utility Easements interests located through or under the right-of-way of vacated old West Boulevard may be granted to utility providers.

Section 4. That, by and at the direction of the Board of Control, the Mayor and the Commissioner of Purchases and Supplies are authorized to convey the New Permanent Easement interest to the Foundation subject to any conditions stated in this ordinance. The consideration to be paid for the easements shall not exceed \$1.00, and other valuable consideration, which is determined to be fair market value.

Section 5. That the New Permanent Easement interest and Utility Easements interest(s) shall be non-exclusive and the purpose of the easements shall be to improve and maintain the Tamir Rice Memorial at Cudell Commons.

Section 6. That the duration of the easements shall be perpetual; that the easements shall not be assignable without the consent of the Director of Public Works or Director of Parks and Recreation; that the easements shall require that the Foundation maintain any of its improvements located within its easement and that the appropriate utility provider maintain any of their improvements located within their respective easement or easements and require grantees to pay any applicable taxes and

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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 7. That the conveyances referred to above shall be made by official deeds of permanent easement prepared by the Director of Law and executed by the Director of Public Works or Director of Parks and Recreation on behalf of the City of Cleveland. The Directors of Public Works or Director Parks and Recreation 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. The deeds of permanent easement shall contain any additional terms and conditions as are required to protect the interest of the City.

Section 8. 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.

PMA:nl
1-6-2025
FOR: Director DeRosa

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REPORT
after second Reading

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READ FIRST TIME on JANUARY 6, 2025
and referred to DIRECTORS of Capital Projects,
City Planning Commission, Finance, Law;
COMMITTEES on Municipal Services and Properties,
Development Planning and Sustainability

REPORTS

CITY CLERK

READ SECOND TIME

CITY CLERK

READ THIRD TIME

PRESIDENT

CITY CLERK

APPROVED

MAYOR

Recorded Vol. **112** Page _____

Published in the City Record _____

PASSAGE RECOMMENDED BY
COMMITTEE ON
MUNICIPAL SERVICES
AND PROPERTIES

FILED WITH COMMITTEE

PASSAGE RECOMMENDED BY
COMMITTEE ON
FINANCE, DIVERSITY, EQUITY
and INCLUSION

FILED WITH COMMITTEE