



# City of Blaine Anoka County, Minnesota

Blaine City Hall  
10801 Town Sq Dr NE  
Blaine MN 55449

## Legislation Details (With Text)

<b>File #:</b>	RES 22-005	<b>Version:</b>	1	<b>Name:</b>	Tamblyn Litigation
<b>Type:</b>	Resolution	<b>Status:</b>	Passed		
<b>File created:</b>	1/3/2022	<b>In control:</b>	City Council		
<b>On agenda:</b>	1/3/2022	<b>Final action:</b>	1/3/2022		
<b>Title:</b>	Resolution Approving the Use of Eminent Domain to Acquire Private Property Located at 12730 Lever Street NE as Required for Improvement Project No. 17-07, Lever Street from 125th Avenue NE to 132nd Avenue NE Alignment				
<b>Sponsors:</b>	Michelle Wolfe				
<b>Indexes:</b>					
<b>Code sections:</b>					
<b>Attachments:</b>					

Date	Ver.	Action By	Action	Result
1/3/2022	1	City Council	Adopted	Pass

**Administration** - Michelle Wolfe, City Manager

### Title

**Resolution Approving the Use of Eminent Domain to Acquire Private Property Located at 12730 Lever Street NE as Required for Improvement Project No. 17-07, Lever Street from 125th Avenue NE to 132<sup>nd</sup> Avenue NE Alignment**

### Background

As part of the Lever Street Improvement Project (17-07), the City needs to acquire certain permanent and temporary easements over the property located at 12730 Lever Street NE, PID 01-31-23-31-0003. The City authorized the City Attorney to commence the pre-condemnation process for acquisition, which required the City to obtain an appraisal and engage in good faith negotiations with the property owner, Irene Tamblyn, to acquire the easements. The City has proceeded with the pre-condemnation process, obtained an appraisal, provided its appraisal to the property owner, and engaged in good faith negotiations to acquire the easements. At this time, the parties are at an impasse in negotiations. The City Attorney issued a final written offer to the property owner, which the property owner may accept. If the property owner does not accept the final written offer, the City will need to commence condemnation proceedings to acquire the easements. By approving the attached resolution, the City Council is authorizing the City Attorney to commence a condemnation proceeding to acquire the easements. The City Attorney recommends adoption of the attached resolution.

### Strategic Plan Relationship

N/A

### Board/Commission Review

n/a

### Financial Impact

There are ongoing legal costs related to this case, and once resolved, the city will need to compensate the land owners for the acquired easements.

### Public Outreach/Input

n/a

### Staff Recommendation

By motion, approving the resolution for use of eminent domain.

### Attachment List

None

**WHEREAS**, the City of Blaine commenced Improvement Project No. 17-07, Lever Street From 125<sup>th</sup> Avenue NE to 132<sup>nd</sup> Avenue NE Alignment, for public improvements to Lever Street NE located within the City (the “Project”); and

**WHEREAS**, the Project was initiated by petition dated February 27, 2017 for public improvements, signed by property owners representing 63% of the frontage of the real property along Lever Street; and

**WHEREAS**, the Project proposed to improve trunk sanitary sewer, trunk water main, storm sewer, and upgrade to an urban collector street section, as Lever Street NE was previously designated as a State Aid route on the City’s roadway system; and

**WHEREAS**, these improvements will allow and already have allowed for the future development of adjacent parcels; and

**WHEREAS**, successful completion of the Project requires permanent public street, utility, and drainage easements and required temporary construction easements on property located at 12730 Lever Street NE, Property ID 01-31-23-31-0003; and

**WHEREAS**, the extent of the acquisition is such that it utilizes a portion of the property which will be rendered useless, thereby requiring the partial taking of property legally described in Exhibit A (the “Property”); and

**WHEREAS**, the Project began in 2018 and the Property was effectively acquired as of July 1, 2018; and

**WHEREAS**, the City hired Certified General Appraiser Julie Jeffrey Schwartz of Lake State Realty Services, Inc. to complete an inspection and appraisal of the Property; and

**WHEREAS**, in September 2021, the City received an updated appraisal using the legal description in Exhibit A with an effective date of July 1, 2018; and

**WHEREAS**, the City Appraiser’s approved appraisal of value of the affected Landowner is shown in Exhibit B; and

**WHEREAS**, in 2006, the State of Minnesota enacted various eminent domain reforms

including an amendment to Minn. Stat §117.036 which: a) requires the City to provide the property owner with a copy of the City's appraisal and inform the property owner of the right to obtain an appraisal and receive reimbursement of the appraisal costs, b) requires reimbursement of a property owner's appraisal costs of up to \$1,500 for single family and two-family residential property and c) requires good faith negotiations which include a good faith attempt to negotiate personally with the property owner; and

**WHEREAS**, the City has complied with the statutory appraisal copy disclosure, notice of property owner appraisal rights, offer of appraisal cost reimbursement, and good faith negotiation requirements; and

**WHEREAS**, as of January 3, 2022, the City Attorney has attempted multiple times to engage Landowners and has been unable to reach a settlement with the affected Landowner; and

**WHEREAS**, the City has authority to acquire private property for the Project by eminent domain pursuant to the authority under Minn. Stat. Chapter 117 and City of Blaine Charter Chapter 9; and

**WHEREAS**, the City has provided a last final written offer of just compensation pursuant to Minn. Stat. 117.031 to the Landowner and provided the Landowner until January 26, 2022 to accept it; and

**WHEREAS**, if Landowner does not accept the final written offer, the City desires the ability to gain title and possession through the use of the eminent domain process; and

**WHEREAS**, City staff recommends that the Blaine City Council authorize the use of the City's power of eminent domain for the acquisition of the parcel shown in Exhibit A as required for the Project.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL FOR THE CITY OF BLAINE THAT THE CITY DECLARES AND ORDERS AS FOLLOWS:**

1. That the acquisition of the Property legally described in Exhibit A by exercise of eminent domain in the manner provided by Minn. Stat. Chapter 117 serves a public interest and is deemed to be necessary.
2. That the City Council hereby authorizes the use of eminent domain for the acquisition of the parcel shown in Exhibit A as required for the Project.
3. That the City Council approves the appraised value of the acquisition listed in Exhibit B.

That the City Attorney is authorized to continue to negotiate with the Landowner listed in Exhibit A for the purchase of the Property, subject to ratification by the City Council, and is further authorized to initiate a condemnation proceeding if unable to reach an agreement for purchase of the Property with the Landowner

**PASSED** by the City Council of the City of Blaine this 3<sup>rd</sup> day of January 2022.