



## Text File

**Introduced:** 7/26/2011

**Bill No:** 2011-1965, **Version:** 1

**Committee:** Committee on Public Works

**Status:** Passed Finally

Resolution taking, appropriating and condemning by the City of Pittsburgh, for the purpose of investigation, design, construction, and remediation of a critical wall and slope failure, certain property in the 26<sup>th</sup> Ward of the City of Pittsburgh, owned by Richard Fleming and designated 3919 Hewitt Street, authorizing the payment of just compensation and necessary and incidental acquisition costs related thereto, and designating the Urban Redevelopment Authority of Pittsburgh as the City's acquisition agent, and providing for the payment of the cost thereof. Cost for the property not to exceed \$22,000 payable from Account 600000, Fund 6100, Organization 440000, Sub-Class PGHPR, Project/Grant 2239103, Budget Year 2010. Necessary and incidental acquisition costs related to acquisition of the property may not exceed \$3,000 payable from Account 600000, Fund 6100, Organization 440000, Sub-Class PGHPR, Project/Grant 2239103, Budget Year 2010.

**Whereas**, on June 1, 2010, the Department of Public Works, Robert Kaczorowski, Director, determined that the retaining wall supporting Portman Avenue is failing and the most cost effective method of mitigating the problem is to build a new wall in front the existing wall, and recommended that the City of Pittsburgh purchase the three houses located on Hewitt Street which connect Portman Avenue with Mairdale Avenue in the Perry North neighborhood to provide property for the new wall and access; and

**Whereas**, the failure of the Portman Avenue wall has caused Portman Avenue to subside from the almost the median to the edge, with potentially dangerous conditions for the more than fifteen homeowners residing there; and

**Whereas**, in January 2011, the City of Pittsburgh successfully purchased two of the three houses on Hewitt Street from the property owners, it has been unable in the past six months to purchase the Fleming property because the owner is not motivated to sell. Wells-Fargo Bank holds a mortgage on the property exceeding the property's appraised value. City efforts to negotiate with Wells-Fargo have proved fruitless and Wells-Fargo has alternatively placed the house under foreclosure and then removed the foreclosure at its fiat. Further, the house is subject to substantial liens by Pittsburgh Water and Sewer Authority; and

**Whereas**, the house is not owner-occupied and has been vacant for several years, with water shut-off for non-payment, making it non-habitable; and

**Whereas**, taking the Fleming property is strictly required to build a new retaining wall in front of the existing Portman Street retaining wall;

**Whereas**, 53 P.S. §1081 authorizes all municipal corporations in the Commonwealth of Pennsylvania to condemn, when deemed necessary, private lands for the construction of slopes and embankments; and

**Whereas**, the City of Pittsburgh deems it necessary to exercise the power of eminent domain invested in it for

the acquisition of the real estate hereinafter described to abate, correct and remedy the slope failure;

**Be it resolved by the Council of the City of Pittsburgh as follows:**

**Section 1.** Parcel 115-C-248 in the 26<sup>th</sup> Ward of the City of Pittsburgh, owned by Richard Fleming, shall be and the same is hereby taken for the public purpose of abating, correcting and remedying continuing landslides at Portman Avenue, said property being more fully described as follows:

All those certain lots or pieces of ground situate in the 26th Ward, City of Pittsburgh, County of Allegheny and Commonwealth of Pennsylvania, having erected thereon a two-story frame dwelling known as 3919 Hewitt Street as described as follows:

BEGINNING at a point on the Easterly side of Portman Avenue, distance 97.33 feet Southwardly from Scio Way, and at the line dividing Lots Nos. 213 and 214 in the Duquesne Park Plan of Lots as recorded in the Recorder's Office of Allegheny County, Pennsylvania, in Plan Book Volume 15, Page 156; thence Southwardly along Portman Avenue 66.32 feet to the line dividing Lots Nos. 216 and 217 in said plan; thence Easterly along said dividing line 70.00 feet to the Westerly side of Hewitt Street; thence Northwardly along Hewitt Street 24.21 feet to an angle in said Street; thence Eastwardly along the Northerly side of Hewitt Street 55.36 feet to another angle in said Street; thence continuing along the Westerly side of Hewitt Street Northwardly 51.20 feet to the line dividing Lots Nos. 213 and 214 aforesaid; and thence Westwardly along said dividing line 109.49 feet to point on the Easterly side of Portman Street at the place of beginning.

Being designated as Block and Lot 115-C-248 in the Deed Registry Office of Allegheny County, Pennsylvania.

The City of Pittsburgh does hereby elect and resolve to take, use, appropriate and condemn said real estate for public purposes.

**Section 2.** Urban Redevelopment Authority of Pittsburgh ("URA") is hereby designated as acquisition agent for the City of Pittsburgh and is authorized to file a Declaration of Taking in the name of the City, to make payment of just compensation and all necessary and incidental acquisition and relocation expenses, to acquire the property in the name of the City, and to execute sales agreements and other necessary and appropriate documents on behalf of the City.

**Section 3.** The costs incurred by the City or URA in connection with the acquisition of the real estate shall not exceed \$22,000 payable from Account 600000, Fund 6100, Organization 440000, Sub-Class PGHPR, Project/Grant 2239103, Budget Year 2010. Costs, not exceeding \$3,000 incidental to the acquisition of the real estate, but not directly part of the taking, may be paid from the same Slope Remediation fund, Account 600000, Fund 6100, Organization 440000, Sub-Class PGHPR, Project/Grant 2239103, Budget Year 2010.