

Placed on first reading and referred to Public Safety Committee 1/22/19, second reading 2/4/19. Please substitute for the original.

Anderson, Bullock, George, Litten,  
O'Leary, O'Malley, Rader

ORDINANCE NO. 2-19

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least two thirds of the members of Council, or otherwise to take effect and be in force after the earliest period allowed by law, authorizing and directing the Director of Planning and Development or the Mayor to enter into an agreement for sale the real property located at 1468 W. 117<sup>th</sup> Street, Lakewood, Ohio (PPN 315-13-103).

WHEREAS, the City of Lakewood Land Reutilization Program was formed under the provisions of Chapter 5722 of the Ohio Revised Code, to bring nonproductive land within the City back into productivity; and

WHEREAS, Section 5722.07 of the Ohio Revised Code enables cities holding property in the name of a land reutilization program to sell that property, without competitive bidding, at such times, to such persons, and upon such terms and conditions, and subject to such restrictions and covenants as it deems necessary or appropriate to assure the land's effective reutilization; and

WHEREAS, Section 5722.07 of the Revised Code requires that such property be sold at not less than its fair market value; and

WHEREAS, the City of Lakewood Land Reutilization Program is the owner of the above listed commercially zoned property; and

WHEREAS, the purchaser wished to construct a parking lot on the parcel in order to support an abutting business; and

WHEREAS, this Council has determined it is in the best interest of the City to sell said real property and that such sale shall further the interest of the City and its residents; and

WHEREAS, as set forth in Section 2.12 of the Third Amended Charter of the City of Lakewood, this Council by a vote of at least two thirds of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that these properties should be marketed for sale as soon as is reasonably possible to recover funds invested in them; now, therefore,

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. The Director of Planning and Development ("Director") or Mayor is hereby authorized and directed, on behalf of the City of Lakewood Land Reutilization Program, to enter into an agreement with Allen Chen for the sale of real property located at 1468 W. 117<sup>th</sup> Street,

Lakewood, Ohio (PPN 315-13-103) in substantially the same form as attached at "Exhibit A" and as approved by the Director of Law, pursuant to Section 5722.07 of the Ohio Revised Code for good and valuable consideration.

Section 2. Either the Director, Mayor or the Director of Law is hereby authorized and directed to enter into agreements and execute all ancillary and related instruments for the sale of said real property.

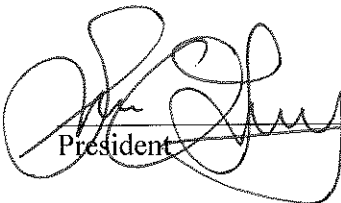
Section 3. The fair market value of the parcel of land that is the subject of this ordinance is affixed at \$20,000.00.

Section 4. Except as may be provided in the agreement attached to this ordinance, the Director shall make no representations or warranties concerning the conditions of the property, including, but not limited to the property's environmental condition, mechanical systems, dry basements, foundations, structural integrity or compliance with code, zoning or building requirements.

Section 5. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council, and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

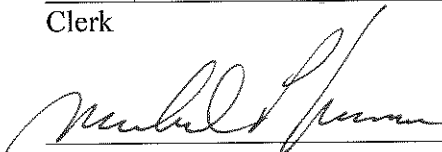
Section 6. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in the preamble to this ordinance, and provided it receives the affirmative vote of at least two thirds of the members of Council, this ordinance shall take effect and be in force immediately upon its adoption by the Council and approval by the Mayor, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: 2/4/19

  
\_\_\_\_\_  
President

Marian M. Bach  
\_\_\_\_\_  
Clerk

Approved February 6 2019

  
\_\_\_\_\_  
Mayor

**REAL ESTATE PURCHASE AGREEMENT**

1. OFFER OF PURCHASE AND SALE. ALLEN CHEN (“Buyer”) offers and agrees to buy and CITY OF LAKEWOOD LAND REUTILIZATION PROGRAM (“Seller”) agrees to sell the property described below. The “date of this Agreement” shall mean the date it has been signed by all parties.

2. THE PROPERTY.

Addresses: V/L known as 1468 W. 117<sup>th</sup> Street, Lakewood, OH 44107

Permanent Parcel No(s): 315-13-103

Check here  if a full legal description is attached hereto as an exhibit.

The “Property” shall include the land described above, and all easements, hereditaments, appurtenances, all buildings and fixtures in their present condition.

Additional items included: none.

Items excluded: none.

3. PURCHASE PRICE. The price shall be Twenty Thousand Dollars (\$20,000) (the “Purchase Price”), to be paid to Seller in ready funds at Closing.

4. FINANCING CONTINGENCY. (Reserved.)

5. CONDITION OF THE PROPERTY; DISCLOSURES.

A. Purchase of the Property “As-Is”. Except as provided to the contrary in this Agreement, Buyer and Seller agree that the property is being purchased and sold in its present condition, “AS IS,” without any warranties or representations.

B. State of Ohio Residential Property Disclosure Form. (Check one)

Seller has delivered a copy of the Disclosure Form to Buyer.

Seller shall deliver a copy of the Disclosure Form to Buyer within 3 days following the date of this Agreement.

This transaction is exempt from the Disclosure Form requirements.

Seller shall promptly provide Buyer with an amended Disclosure Form if Seller becomes aware of any inaccuracy, omission or change of condition of the Property.

C. Lead Based Paint. (Check One)

The property is vacant land, has no structures and a lead based paint warning is not required.

The property was constructed in or after 1978 and a lead based paint warning is not required.

The property was constructed prior to 1978 and the Seller has provided to the Buyer a lead based paint warning statement and pamphlet as required by Federal Law.

- D. Private Inspection. Buyer shall have 10 days following the date of this Agreement (the "Inspection Deadline"): (1) to cause the Property to be inspected by one or more qualified inspectors or contractors of Buyer's choosing (the "Private Inspection") and (2) to notify Seller in writing of any deficiencies disclosed by such inspection(s). If the residence on the Property was built before 1978, such inspection(s) shall include, at Buyer's option, a risk assessment or inspection for the presence of lead-based paint and/or lead-based paint hazards. Seller agrees to cooperate with such inspection(s). If Buyer does not notify Seller of any deficiencies prior to the Inspection Deadline, then Buyer shall be deemed to accept the Property in its present, AS-IS condition. If Buyer gives timely notice, specifying such deficiencies, then unless Buyer and Seller otherwise agree in writing, this Agreement shall terminate 5 days after Seller's receipt of Buyer's notice.
- E. Pre-Closing Walk-Through. (Reserved.)
- F. Government Requirements. If any governmental notices of violations are received prior to the Closing Date but after the date of this agreement, Seller will immediately advise Buyer.
- G. Lead Warning Statement. If the residential dwelling was built prior to 1978 Addendum A must be completed by the parties.
6. DAMAGE. Seller shall bear the risk of loss and shall maintain adequate insurance until title transfer. If any portion of the Property is damaged or destroyed prior to Closing, Seller shall promptly provide written notification to Buyer of such damage and the cost of repair. If the amount of damage as determined by the insurance adjuster or, if none, by a contractor selected by mutual agreement, exceeds 10% of the Purchase Price then Buyer shall have the option, to be exercised by written notice to Seller not later than 5 days after notice from Seller, to: (a) complete the transaction and receive the proceeds of any insurance payable for damage to the Property plus a credit at Closing equal to the amount of the "deductible," or (b) terminate this Agreement. The failure of Buyer to timely exercise its option shall be deemed an election to complete this transaction. If the amount of the damage is 10% or less of the Purchase Price Buyer shall receive a credit at Closing for the agreed cost to repair such damage.
7. TITLE.
- A. Seller shall convey title to the Property to Buyer or Buyer's nominee, by quitclaim deed (the "Deed"). Buyer may purchase a policy of title insurance at Buyer's own expense up to the amount of the Purchase Price.
- B. The Buyer(s) agree to take title in the name of \_\_\_\_\_ and subject to the following conditions: Plans for the new parking lot on the Property and improvements to the abutting shopping center located at 1516 W. 117<sup>th</sup> Street, Lakewood, Ohio, constituting parcel Nos. 315-14-006, 315-14-007, and 315-14-008 ("Affiliated Property"), must be approved by the City of Lakewood's Architectural Board of Review, Board of Zoning Appeals and Planning Commission, as required, no later than December 31, 2019. Further, both parties agree that the parking lot on the Property and improvements to the Affiliated Property shall be completed, in compliance with all applicable laws, rules and regulations no later than September 31, 2020, unless otherwise mutually agreed to in writing by the Seller and Buyer. These conditions shall run with the land and be recorded as deed restrictions on the Property, and failure to fulfill the conditions in a timely manner shall cause the reversion of the Property to Seller.
8. CLOSING AND DELIVERY OF POSSESSION. The Seller at its cost shall file the Deed for record (the "Closing") and complete this transaction in accordance with the provisions of this Agreement on

or before January 31, 2019, or on such other date as Buyer and Seller may agree in writing (the "Closing Date"), provided that the Seller has received all funds and documents required to be deposited with it for the Closing. Seller shall pay up to one-half of all closing costs. Seller shall deliver possession of the Property to Buyer at 6:00 p.m. on the Closing Date, unless the parties otherwise agree in writing.

9. NOTICE. All notices given pursuant to this Agreement shall be communicated in writing by: (a) hand delivery; (b) U.S. Mail; (c) facsimile; or (d) electronic mail; and shall be deemed given upon actual receipt.
10. TERMINATION. If a party has performed its obligations under this Agreement and, being entitled to do so, that party has elected to terminate this Agreement, then that party shall give the other party written notice of the termination within 3 days following the date on which the right to terminate arose (or such other date as specified herein). Except as otherwise specified in this Agreement, upon any such permitted termination, the parties shall sign a Mutual Release and return all funds and documents to the party which provided them, whereupon Seller and Buyer shall be relieved of liability hereunder, except that Seller shall be liable for the title examination charges, if any, incurred prior to the termination.
11. TIME. Time is of the essence of this Agreement. Wherever any period of time is specified in this Agreement for the taking of any action or the giving of any notice or notification, said period shall be computed by excluding the day upon which said period is specified to commence and including the last day of the period specified. In the event the last day of a specified period falls on a weekend or banking holiday the next business day shall be deemed to be the last day of the specified period. For purposes of this Agreement, the term "business day" shall be deemed any day of the week which is not a Saturday, Sunday or nationally recognized holiday.
12. BUYER DEFAULT; REMEDIES. If Buyer fails to pay the Purchase Price promptly when the same shall become due, or defaults in the performance of any covenant or agreement herein contained, and such failure or default continues for 5 days following written notice from Seller, then Seller may terminate this Agreement. Upon such termination:
  - A. the parties shall sign a mutual release and Buyer shall reimburse Seller the amount of \$60 for its expenses in undertaking this transaction; or
  - B. Seller shall pursue any legal or equitable remedies available for the breach.
13. SELLER DEFAULT, REMEDIES. If Seller fails to perform any obligation imposed by this Agreement, and such failure continues for 5 days following written notice from Buyer, then Buyer may elect to terminate this Agreement. Buyer thereafter shall be entitled to and Buyer may also pursue thereafter any other legal or equitable remedies as a result of the breach.
14. ENTIRE AGREEMENT. This Agreement, including any addenda, constitutes the entire agreement between the parties. No other conditions, representations, warranties or agreements, expressed or implied, have been made or relied upon by Buyer or Seller. The representations, warranties and agreements contained in this Agreement shall survive the transfer of title. Any modifications to this agreement shall be in writing signed by both parties.
15. PARTIES BOUND AND BENEFITED. This Agreement shall bind and benefit the parties hereto and their respective heirs, personal representatives, successors and assigns.

16. REAL ESTATE BROKER. No real estate broker is owed a commission in connection with the sale of the Property. Each party represents and warrants to the other that it did not engage the services of any real estate broker or agent in connection with this transaction, except as specifically provided herein.

17. ADDITIONAL PROVISIONS. Attached hereto and made a part of this Agreement is (are) no Addendum (Addenda), setting forth additional and/or alternative provisions of this Agreement.

THIS AGREEMENT IS A LEGALLY BINDING CONTRACT. IF YOU HAVE ANY QUESTIONS OF LAW, CONSULT YOUR ATTORNEY.

*(The signature page follows.)*

BUYER:

SELLER:

Address: ALLEN CHEN  
P.O. Box 26377  
Fairview Park, OH 44126

Address: CITY OF LAKEWOOD LAND  
REUTILIZATION PROGRAM  
By Micheal P. Summers, Mayor  
12650 Detroit Avenue  
Lakewood, OH 44107

Date:  
Phone: (216) 507-3010  
Email: Allenchen.99@yahoo.com

Date:  
Phone: (216) 529-6600  
Email: law@lakewoodoh.net

Approved as to Legal Form:

Jennifer L. Swallow  
Chief Assistant Law Director

**Exhibit A**  
**Legal Description**

Situated in the City of Lakewood, County of Cuyahoga, State of Ohio, and described as follows:

*[to be provided]*

(Permanent parcel no. 315-13-103; property address: V/L known as 1468 W. 117<sup>th</sup> Street, Lakewood, Ohio 44107)