

# FCR 7

Office of the President  
September 16, 2022

Members, Board of Trustees:

## APPROVAL TO ACQUIRE PROPERTY THROUGH EMINENT DOMAIN

Recommendation: that the Board of Trustees, acting pursuant to its statutory authority under Kentucky Revised Statutes (KRS) Sections 164.260 and 164.410 and the Eminent Domain Act of Kentucky, authorize and direct the acquisition through condemnation proceedings of property located at 136 State Street in Lexington, Kentucky. This property is essential to the University's purpose and mission in providing healthcare through a new Cancer Treatment Center/ Ambulatory Surgery Center Capital Project, for which the Board approved design work for on May 4, 2021.

Background: To accommodate expansion of UK HealthCare, including the new cancer center/ambulatory surgery center, the university needs to acquire 41 residential parcels most of which are located in the 100 block of Conn Terrace, State Street, University Avenue and Waller Avenue. To date, the university has acquired 23 of these parcels. To comply with the cancer center construction schedule, the university needs possession of all 41 properties by December 31, 2022.

Acting in good faith, the university initially notified the 41 parcel owners of its need to acquire their properties in April 2021. KRS §164A.575(6) states, in part, "Upon the approval of the secretary of the Finance and Administration Cabinet, the governing board may purchase or otherwise acquire all real property determined to be needed for the institution's use. The amount paid shall not exceed the fair market value as determined by a qualified appraiser or the value set by the eminent domain procedure."

The property listed above (136 State Street) is a rental property. The university has obtained appraisals of the property by two appraisers on Kentucky's prequalified appraiser list. The university has offered to purchase the property for fair market value based on those appraisals. The property owner has rejected this offer and made a counteroffer at a price that the secretary of the Finance and Administration Cabinet will not approve without a supporting appraisal.

The university has explained the requirements of KRS §164A.575(6) to the parcel owner. The university encouraged the parcel owner to get its own appraisal(s) from an appraiser licensed or certified in Kentucky that could be considered when determining an acceptable fair market value. The parcel owner, through counsel, has stated that it does not intend to get such an appraisal.

KRS §164.260 states in the relevant part that "When unable to contract with the owner

of land or other property or material necessary for the purposes of the university, it may acquire the same by condemnation proceedings in the manner provided in the Eminent Domain Act of Kentucky.” Because the parcel owner has refused to negotiate in the manner required by KRS §164A.575(6), the eminent domain procedure will be required to determine the value.

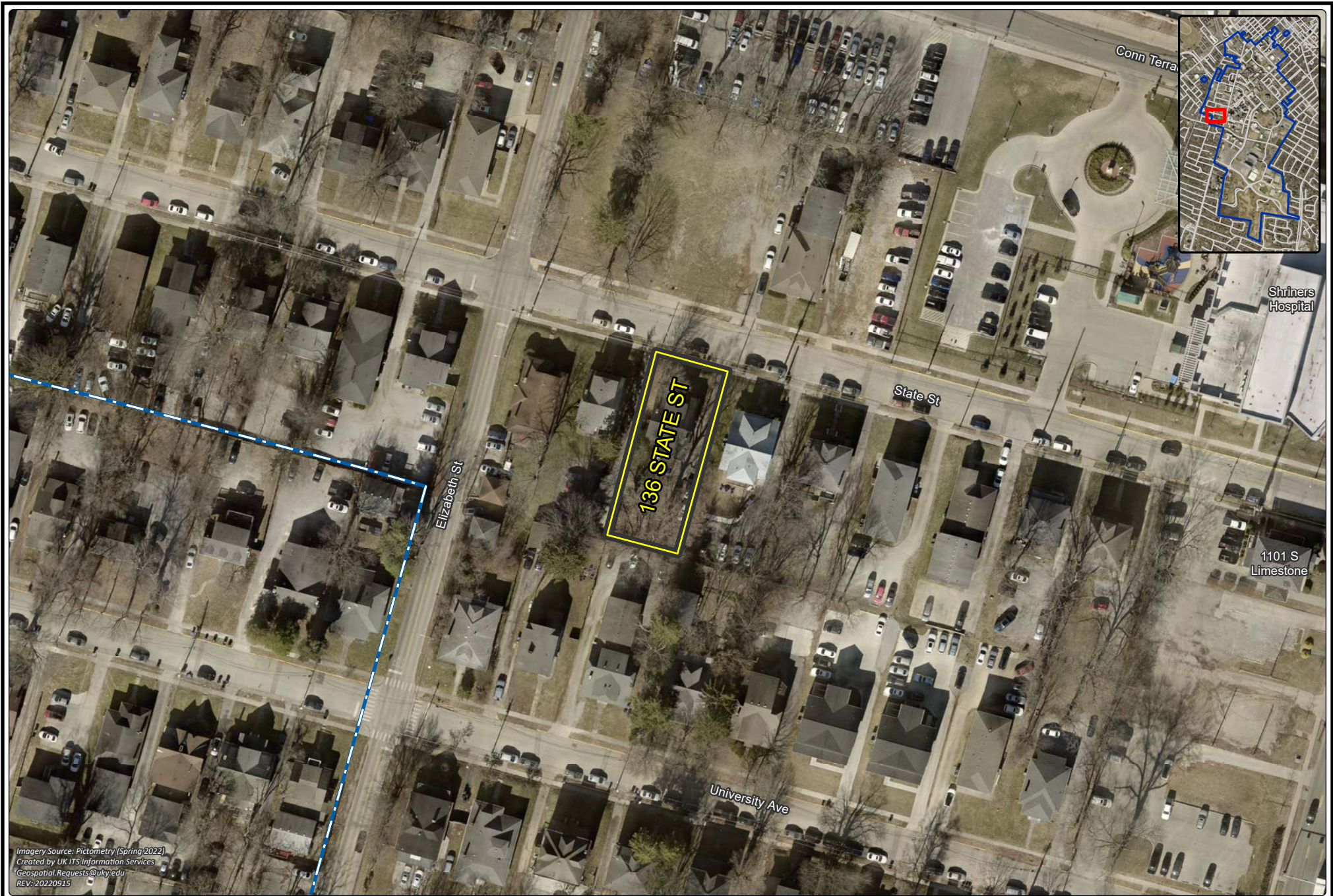
The university has informed the owner, through counsel, that if the parties are unable to reach an agreement on a fair market value purchase price for the property, the university will request authorization to condemn the property from its Board of Trustees. Given this property is crucial to this project and the proposed schedule for construction, and the good faith efforts of the university to this point, the University administration recommends that the Board of Trustees authorize condemnation. Additional efforts will be made to reach an agreement with the property owner prior to filing the formal condemnation proceedings.

The acquisition of these parcels has been authorized by the 2022 Session of the Kentucky General Assembly as part of the Acquire Land (Land Acquisition Pool).

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Action taken:  Approved     Disapproved     Other \_\_\_\_\_





Imagery Source: Pictometry (Spring 2022)  
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