

IN THE SUPREME COURT OF OHIO

CLEVELAND CONSTRUCTION, INC.,	:	CASE NO. 2007-0114
	:	
Plaintiff-Appellee,	:	APPEAL NO. C050749
	:	APPEAL NO. C050779
vs.	:	APPEAL NO. C050888
	:	(Consolidated)
	:	
CITY OF CINCINNATI,	:	COURT OF APPEALS
	:	FIRST APPELLATE DISTRICT
Defendant-Appellant.	:	TRIAL COURT NO. A-0402638
	:	

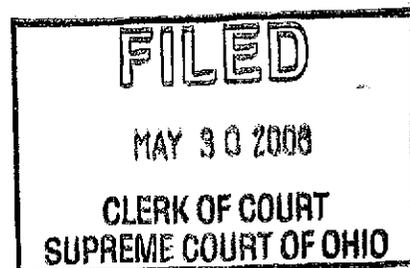
MOTION OF APPELLEE CLEVELAND CONSTRUCTION, INC., FOR
CLARIFICATION OF THE COURT'S MAY 21, 2008 DECISION, OR, IN THE
ALTERNATIVE, FOR RECONSIDERATION

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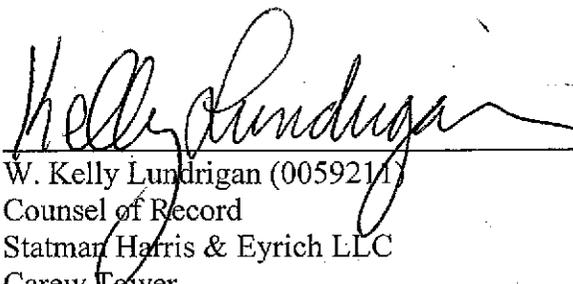
*Counsel for Defendant-Appellant City
of Cincinnati*



MOTION

Appellee Cleveland Construction, Inc. ("Appellee") moves this Court to clarify its May 21, 2008 Judgment for the reasons explained below. In the alternative, Appellee requests that the Court reconsider its decision pursuant to Ohio Supreme Court Rule of Practice XI, Section 2.

Respectfully submitted,



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MEMORANDUM

In an apparent oversight, the Judgment contained in the Court's Opinion of May 21, 2008 would seem, on its face, to reverse the judgment of the Ohio First District Court of Appeals ("the First District") dated December 8, 2006 in its entirety and to enter judgment in favor of Appellant City of Cincinnati ("Appellant") on all of Appellee's claims. However, this Court accepted jurisdiction only over that portion of the First District's decision relating to Appellee's Due Process claims, but did not accept jurisdiction over the portion of the First District's

Judgment relating to Plaintiff's claims for Equal Protection violations, which the First District remanded for a new trial on issues of liability and damages under 42 U.S.C. § 1983. (December 8, 2006 Decision of First District, p. 21, sustaining Appellant's (Cleveland's) Fourth and Sixth Assignments of Error, and p. 26). In fact, this Court denied not one, but also a second attempt by Appellant to specifically have the Equal Protection portion of the case reviewed by this Court.

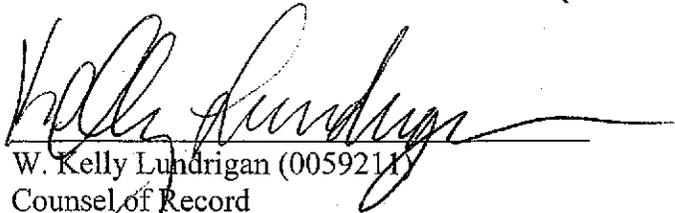
The Judgment of this Court should, therefore, reflect that the Judgment of the First District is reversed in part, that Judgment for the Appellant is entered on Appellee's Due Process claims, and that the case is remanded to the Hamilton County Court of Common Pleas for further proceedings in accordance with this Court's Judgment and the portion of the Judgment of the First District which relates to Appellee's claims for Equal Protection violations.

In the event that the Court does not consider the wording of its Judgment to be an erroneous oversight as to this point, Appellee would respectfully request that the Court reconsider its Judgment as the Equal Protection portion of this case has never been accepted for review by this Court and is therefore not properly before the Court for decision. Appellee would request briefing and a hearing on the Equal Protection portion of the case prior to any decision on that portion of the case by this Court.

Appellee respectfully requests that this Court clarify its Opinion and Judgment of May 21, 2008 to reflect that the Judgment of the Ohio First District Court of Appeals is reversed in part, that Judgment for the Appellant is entered only as to Appellee's claims of Due Process violations with regard to Appellee's claims to a constitutionally protected property interest in the contract at issue, and that the case is remanded to the Hamilton County Court of Common Pleas for further proceedings in accordance with this Court's Judgment and the portion of the

Judgment of the First District which relates to Appellee's claims for Equal Protection violations which were not accepted for review by this Court.

Respectfully submitted,

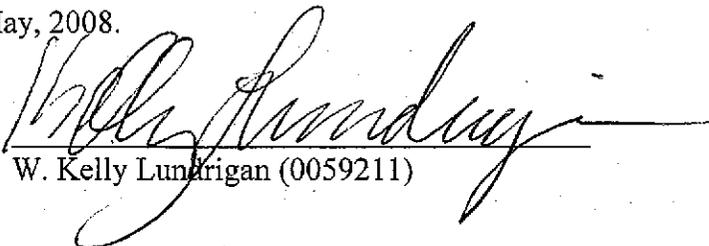


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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Motion to Clarify and, in the alternative, for Reconsideration, is being mailed to all parties entitled to service under XIV of the Ohio Supreme Court Rules of Practice on the 29th day of May, 2008.



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