

REPORT TO CITY COUNCIL AND REDEVELOPMENT AGENCY

DATE: JUNE 13, 2007

TO: HONORABLE MAYOR/CHAIR AND MEMBERS OF THE CITY COUNCIL/REDEVELOPMENT AGENCY

FROM: GREG RAMIREZ, CITY MANAGER/EXECUTIVE DIRECTOR

BY: NATHAN HAMBURGER, ASSISTANT CITY MANAGER/ASSISTANT EXECUTIVE DIRECTOR

SUBJECT: INTRODUCTION OF ORDINANCE NO. 07-346; DESCRIBING THE EMINENT DOMAIN POWERS WITHIN THE REDEVELOPMENT AGENCY

As part of the requirements in the language of Senate Bill No. 53, which took effect on January 1, 2007 and is codified at Health & Safety Code Section 33342.7, the Redevelopment Agency is required to adopt an ordinance that describes the Redevelopment Agency's program to acquire real property by eminent domain. Section 33342.7 applies to all redevelopment plans adopted before January 1, 2007, even those plans that never authorized, or no longer authorize, the Agency to acquire real property by eminent domain. The ordinance must be adopted by July 1, 2007.

On July 15, 1992, the City Council adopted Ordinance No. 92-213, approving and adopting the Redevelopment Plan for the Agoura Hills Redevelopment Project Area ("Redevelopment Plan"), thereby creating the Agoura Hills Redevelopment Project Area ("Project Area"). Accordingly, the Redevelopment Plan must comply with the new law outlined above. The proposed ordinance does not amend or change the Redevelopment Plan in any way. The ordinance only summarizes the Agency's existing eminent domain program under the Redevelopment Plan.

The new law (Section 33342.7) by its terms only applies to eminent domain programs of redevelopment agencies, and does not apply to other legislative bodies that may have the power of eminent domain, such as cities or housing authorities. Therefore, the City is not required to adopt an ordinance describing any program to acquire real property by eminent domain with respect to any legislative bodies other than the Agency.

Under the Redevelopment Plan, as amended by Ordinance No. 05-329, adopted by the City Council on February 9, 2005, the Agency has authority to acquire real property and real property interests (collectively "real property") by eminent domain.

The proposed ordinance recites pertinent adoption information and amendments to the Redevelopment Plan along with applicable laws, rules, regulations, guidelines and policies. The ordinance comprises the Agency's program to acquire real property by eminent domain under the Redevelopment Plan, as amended. In addition, the proposed ordinance describes the Agency's existing program for the Project Area, as set forth in the Redevelopment Plan, as

amended. The proposed ordinance does not change the Agency's existing eminent domain program under the Redevelopment Plan, as amended, or add to it, and the proposed ordinance does not amend the Redevelopment Plan, as amended, in any manner.

Section 1 of the ordinance describes the Agency's existing program to acquire real property by eminent domain under the Redevelopment Plan, as amended. Section 1(a) of the ordinance describes limitations on the use of eminent domain that are set forth in the Redevelopment Plan, as amended. These limitations include the Agency's obligation to comply with all legal requirements applicable to the proposed acquisition, the time limit on the Agency's use of eminent domain, the requirement that the proposed acquisition be in accordance with the Redevelopment Plan, as amended, and necessary to its execution. Sections 1(b) and 1(c) of the ordinance spells out the obligations of the Agency whenever it is engaged in redevelopment projects in a project area, including when the Agency seeks to acquire real property by eminent domain under the Redevelopment Plan, as amended, and that the ordinance does not amend the Redevelopment Plan, as amended.

Section 2 of the proposed ordinance explains that the ordinance is adopted pursuant to Health & Safety Code Section 33342.7, that it describes the Agency's program to acquire real property by eminent domain, as required by that statute, and that it does not amend the Redevelopment Plan, as amended.

Section 3 of the proposed ordinance explains that the ordinance has been reviewed with respect to CEQA and that the City has determined that the ordinance is not a "project" for purposes of CEQA and sets forth the applicable CEQA Guidelines allowing for the conclusion that the ordinance is not subject to CEQA.

It should be noted that in the event the City wishes to amend the eminent domain program described in Ordinance No. 07-346, the new law requires that the City amend the Redevelopment Plan, as amended. With this in mind, the proposed ordinance has been drafted to incorporate any future changes to the Agency's Owner Participation Rules and Relocation Rules, and as a result, if any of those rules are themselves amended, the City will not be required to amend the Redevelopment Plan itself. However, if some other substantive change to the Agency's eminent domain program is contemplated, an amendment to the Plan would be required.

As set forth above, because the Redevelopment Plan was adopted prior to January 1, 2007 and the Agency has authority under the Redevelopment Plan, as amended, to acquire certain real property by eminent domain, the proposed ordinance ensures the City's compliance with Section 33342.7 of the Health & Safety Code.

RECOMMENDATION

Staff respectfully recommends the City Council introduce, read by title only, and waive further reading of Ordinance No. 07-346, which describes the Agoura Hills Redevelopment Agency's program to acquire real property by eminent domain in the Agoura Hills Redevelopment Project Area, as mandated by recently enacted Health & Safety Code Section 33342.7.

Attachment: Ordinance No. 07-346