



BOARD OF SUPERVISORS
AGENDA LETTER

Agenda Number:

Clerk of the Board of Supervisors
105 E. Anapamu Street, Suite 407
Santa Barbara, CA 93101
(805) 568-2240

Department Name: County Executive Office
Department No.: 990
For Agenda Of: May 22 and June 6, 2007
Placement: Departmental
Estimated Tme: 15 mins
Continued Item: No
If Yes, date from:
Vote Required: Yes

TO: Board of Supervisors
FROM: Department Michael F. Brown, Executive Director, Redevelopment Agency
Director(s)
Contact Info: Terri Maus-Nisich, Assistant County Executive Officer
Jamie Goldstein, Deputy Director, Redevelopment Agency (x 8050)
SUBJECT: County Redevelopment Agency Compliance with SB 53 and SB 1809

County Counsel Concurrence

As to form: Yes

Auditor-Controller Concurrence

As to form: Yes

Recommended Actions:

That the Board of Supervisors:

- a) Approve the Notice of Exemption for the proposed ordinance described below pursuant to Section 15061(b)(3) of the California Environmental Quality Act (CEQA) Guidelines.[Attachment B]
- b) Consider the introduction (first reading) of an ordinance containing a description the Santa Barbara County Redevelopment Agency's Program concerning the use of eminent domain to acquire real property in the Isla Vista Redevelopment Project Area and describing that the Agency is not authorized to acquire real property by eminent domain. [Attachment A]

Summary Text:

This item is before the Board to comply with recent legislation regarding the use of eminent domain and redevelopment. Senate Bill 53, which was passed last year, requires the County, prior to July 1, 2007, to adopt an ordinance that contains a description of the redevelopment agency's program for the acquisition of real property using eminent domain. This requirement applies to all jurisdictions with redevelopment agencies, even those with redevelopment plans like Santa Barbara County's, that do not contain eminent domain authority.

This new requirement is codified in Health and Safety Codes Section 33342.7. SB 53 also provides that after adoption of the ordinance, a redevelopment agency can only amend the program for acquisition of real property by use of eminent domain that is set forth in the ordinance by amending its redevelopment

plan in accordance with the procedures and requirements of the California Community Redevelopment Law.

The Santa Barbara County Redevelopment Agency had the power of eminent domain when the Isla Vista Redevelopment Plans was originally adopted in 1990. However, that power expired in 2000 and was not renewed. There are no plans to reinstate the power of eminent domain. Thus, the Plan currently does not allow the Agency to acquire property by the use of eminent domain and the proposed Ordinance does not change the provisions of the Plan with regards to the power of eminent domain.

Because the power expired by operation of law and the current text concerning property acquisition was never changed, the redevelopment plan still states in one paragraph that the Agency has the power of eminent domain. The Agency is considering a redevelopment plan amendment to change the language of that section of the redevelopment plan to clarify that the Agency no longer has the authority to use eminent domain. This proposed plan amendment will be presented to your Board as part of the Isla Vista Master Plan project hearings along with some other minor proposed amendments to the redevelopment plan. The Isla Vista Project Area Committee has already considered and recommended approval of the proposed amendments. The proposed plan amendments concerning eminent domain are as follows:

“The Agency may acquire real property by any means authorized by law, including by gift, grant, exchange, purchase, cooperative negotiations, lease or any other means authorized by law ~~including~~ excluding eminent domain.

...

~~Except as otherwise provided herein, or otherwise provided by law, no eminent domain proceeding to acquire property within the Project Area shall be commenced after ten (10) years following the date of adoption of the ordinance approving and adopting this Plan. Such time limitation may be extended only by amendment of this Plan.”~~

The attached Ordinance includes a description of the Agency’s current real property acquisition program as set forth in the Plan that only allows the Agency to acquire property if the owner voluntarily agrees to sell it. The Ordinance simply describes the redevelopment and does not modify the Agency’s powers as currently set forth in the Plan.

Eminent domain is the authority of a government agency to acquire property for public purposes through a compulsory process. The public purposes can include, but are not limited to developing public buildings, creating or expanding infrastructure such as roadways or sewer systems, establishing parks, and supporting economic development. While fair market value of the property to be used for the public purpose must be paid, sale is compulsory; thus eminent domain is also known as condemnation.

In response to the recent US Supreme Court decision affirming the City of New London’s use of eminent domain in the economic development context (Kelo v. City of New London, 545 U.S. 460 (2005)), the State Legislature passed two bills in the last legislative session relating to redevelopment agencies' power of eminent domain. Under one of these bills, SB 53, cities or counties with redevelopment plans adopted prior to January 1, 2007 are required to adopt, on or before July 1, 2007, an ordinance that contains a description of the agency’s program for the acquisition of real property using eminent domain. There are no specific redevelopment law requirements for adoption of the

Ordinance. The Board of Supervisors may adopt the proposed Ordinances in accordance with the normal procedures for the enactment of ordinances.

Under the other bill, SB 1809, a redevelopment agency with an existing redevelopment plan that authorizes the use of eminent domain is required to record on all properties within the Project Area a new Statement of Institution no later than December 31, 2007. Since the Isla Vista Redevelopment Plan does not contain eminent domain powers, this is not required of Santa Barbara County.

Fiscal Analysis:

There are no costs associated with this item.

Special Instructions:

Please forward a copy of the minute order to Jamie Goldstein, Redevelopment Agency.

Attachments:

Attachment A: Notice of Exemption

Attachment B: Ordinance regarding Santa Barbara County Redevelopment Agency's use of Eminent Domain to Acquire Real Property

Exhibit A: Isla Vista Redevelopment Project Area Map

Exhibit B: Isla Vista Redevelopment Project Area Description

Exhibit C: Property Acquisition by Eminent Domain Policy Description

Authored by:

Abigail Nugent, Redevelopment Specialist

cc:

Mary McMaster, County Counsel

Jeff Lindgren, Redevelopment Agency