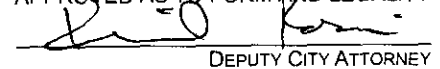


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DEPUTY CITY ATTORNEY

OAKLAND CITY COUNCIL
ORDINANCE NO. 12787 G.M.S.

**AN ORDINANCE ADOPTING THE FIRST AMENDMENT TO THE
BROADWAY/MACARTHUR/SAN PABLO REDEVELOPMENT
PLAN TO LIMIT THE REDEVELOPMENT AGENCY'S EMINENT
DOMAIN AUTHORITY OVER RESIDENTIAL PROPERTY**

WHEREAS, the City Council adopted the Redevelopment Plan for the Broadway/MacArthur/San Pablo Redevelopment Project (the "Redevelopment Plan") on July 25, 2000, as a redevelopment plan for the Broadway/MacArthur/San Pablo Project Area (the "Project Area") pursuant to the California Community Redevelopment Law (Health and Safety Code Sections 33000, et seq.); and

WHEREAS, the Redevelopment Plan includes authority for the Redevelopment Agency to acquire property through eminent domain; and

WHEREAS, the City wishes to amend the Redevelopment Plan to limit the Agency's eminent domain authority to acquire certain residential properties in the Project Area; and

WHEREAS, Health and Safety Code Section 33450, et seq., authorizes a legislative body to amend a redevelopment plan after holding a public hearing; and

WHEREAS, this proposed amendment does not propose any additional property for inclusion in the Project Area, nor does it increase or reduce the Project Area or affect the Redevelopment Agency's authority to claim tax increment revenues; and

WHEREAS, the Broadway/MacArthur/San Pablo Project Area Committee recommended adoption of the proposed amendment on July 6, 2006; and

WHEREAS, the City has provided the published and mailed notice of the hearing and this amendment as required by Health and Safety Code Section 33452; and

WHEREAS, the Redevelopment Agency and the City Council held a joint public hearing on the proposed amendment, as permitted under Health and Safety Code Section 33458, on February 20, 2007, and

WHEREAS, it can be seen with certainty that this proposed amendment to the Redevelopment Plan will have no environmental effect, pursuant Section 15063(b)(3) of the California Environmental Quality Act Guidelines, since it merely limits the authority of the Redevelopment Agency to acquire property through eminent domain; now, therefore,

The Council of the City of Oakland does ordain as follows:

SECTION 1. The first two paragraphs of Section 309 of the Redevelopment Plan for the Broadway/MacArthur/San Pablo Redevelopment Project are hereby amended to read in their entirety as follows (text additions are indicated with double underlining, and text deletions are indicated by ~~strikeout text~~):

Except as specifically exempted ~~herein~~ or limited in this Plan, the Agency may acquire, but is not required to acquire, any real property located in the Project Area by any means authorized by law, including eminent domain.

It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute this Plan for the power of eminent domain to be employed by the Agency to acquire real property in the Project Area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method. However, the Agency may not acquire any residential property with four or fewer housing units through eminent domain, unless the property has been determined to be a substandard building under the Oakland Housing Code. A "residential property" is defined herein as any real property parcel containing one or more housing units in which a person resides. However, a "residential property" does not include a mixed-use property, that is, a property that includes commercial, retail or industrial uses (other than a home occupation as defined in the Oakland Planning Code) along with housing units. A "housing unit" means a living unit, a joint living and work quarter, or a joint residential-oriented living and working quarter, as those terms are defined in the Oakland Planning Code. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the date the ordinance adopting this Plan becomes effective.

SECTION 2. The City Council finds that it is necessary and desirable to amend the Redevelopment Plan for the reasons set forth herein and in the staff report accompanying this Ordinance.

SECTION 3. The City Administrator or her designee shall cause to be filed with the County of Alameda a Notice of Exemption for this action.

SECTION 4. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

SECTION 5. This Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter, if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR 6 2007, 2007


PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND
PRESIDENT DE LA FUENTE -- 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: 
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California

Introduction Date: FEB 20 2007

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NOTICE AND DIGEST

This ordinance amends the Broadway/MacArthur/San Pablo Redevelopment Plan to limit the authority of the Redevelopment Agency to acquire certain residential property by eminent domain.