
DEPUTY CITY ATTORNEY

2007 APR 25 AM 10:34

OAKLAND CITY COUNCIL
ORDINANCE NO. 12794 C.M.S.

AN ORDINANCE DESCRIBING THE EMINENT DOMAIN PROGRAM FOR THE BROADWAY/MACARTHUR/SAN PABLO REDEVELOPMENT PROJECT

WHEREAS, the City Council adopted the Broadway/MacArthur/San Pablo Redevelopment Plan (the "Redevelopment Plan") on July 25, 2000; and

WHEREAS, the Redevelopment Plan as amended contains provisions on the acquisition of real property by eminent domain; and

WHEREAS, Health and Safety Code Section 33342.7(a) requires the legislative body to adopt an ordinance that contains a description of the redevelopment agency's program to acquire real property by eminent domain; now, therefore

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

SECTION 1. The Redevelopment Agency of the City of Oakland's program for acquiring real property by eminent domain for the Broadway/MacArthur/San Pablo Redevelopment Project, as set forth in the current Redevelopment Plan, is as follows:

Except as specifically exempted or limited in the Redevelopment Plan, the Agency may acquire, but is not required to acquire, any real property located in the Broadway/MacArthur/San Pablo Project Area by any means authorized by law, including eminent domain. 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 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 the Redevelopment Plan became effective, that is, by July 25, 2012.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is authorized to acquire either the entire fee or any other interest in real property less than a fee.

The Agency shall not acquire real property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner unless: (a) such building requires structural alteration, improvement, modernization or rehabilitation; (b) the site, or lot on which the building is situated, requires modification in size, shape or use; or (c) it is necessary to impose upon such property any of the controls, limitations, restrictions and requirements of the Redevelopment Plan, and the owner fails or refuses to execute a participation agreement in accordance with the provisions of the Redevelopment Plan.

The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the Broadway/MacArthur/San Pablo Project Area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his or her responsibilities under the participation agreement.

Generally, personal property shall not be acquired. However, where necessary in the execution of the Redevelopment Plan, the Agency is authorized to acquire personal property in the Broadway/MacArthur/San Pablo Project Area by any lawful means, including eminent domain.

SECTION 2. 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.

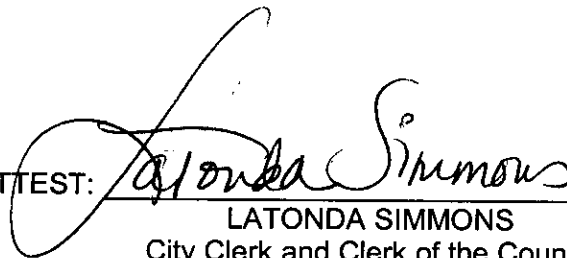
IN COUNCIL, OAKLAND, CALIFORNIA, JUN 5 2007, 2007

PASSED BY THE FOLLOWING VOTE:

AYES-	BROOKS, BRUNNER, CHANG, KERNIGHAN, NADEL, QUAN, REID, AND PRESIDENT DE LA FUENTE - 8
NOES-	<u>0</u>
ABSENT-	<u>0</u>
ABSTENTION-	<u>0</u>

Introduction Date: **MAY 15 2007**

ATTEST:



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



**AN ORDINANCE DESCRIBING THE EMINENT DOMAIN
PROGRAM FOR THE BROADWAY/MACARTHUR/SAN PABLO
REDEVELOPMENT PROJECT**

NOTICE AND DIGEST

This ordinance describes the eminent domain program for the Broadway/MacArthur/San Pablo Redevelopment Project as required by California Health and Safety Code Section 33342.7(a). This description conforms to the eminent domain provisions contained in the current Redevelopment Plan for the Broadway/MacArthur/San Pablo Project Area, as amended.