

**CITY OF OAKLAND  
AGENDA REPORT**

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND  
2004 SEP 30 AM 8:04

TO: Office of the City Administrator  
ATTN: Deborah A. Edgerly  
FROM: Community and Economic Development  
DATE: October 12, 2004

RE: **ORDINANCE AUTHORIZING THE GRANTING OF AN  
ENCROACHMENT EASEMENT TO HOI LIANG PHUA  
AND LINLI LEE ON CITY PROPERTY LOCATED AT  
DAVIE TENNIS STADIUM AT 198 OAK ROAD, OAKLAND  
FOR THE APPRAISED MARKET VALUE OF \$5,350**

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**SUMMARY**

An ordinance has been prepared authorizing the City of Oakland (City) to grant an 885 square feet encroachment easement to Hoi Liang Phua and Linli Lee (owners). The owners reside at a residential property located at 141 Woodland Way in the City of Piedmont. The rear of the Woodland Way property is adjacent to Davie Tennis Stadium. This easement allows the property owners to meet the City of Piedmont setback requirements for a new deck and obtain rights from the City of Oakland in regards to the encroachment of a new concrete slab. This easement will be granted to the owners at the appraised value of \$5,350.

The City of Piedmont requires an obligation that will run with title to the land for the encroached area. An encroachment easement, granting the owners certain rights to City of Oakland property, satisfies the requirement. The easement will terminate if the structure cease to exist.

Staff recommends adoption of this ordinance.

**FISCAL IMPACTS**

The \$5,350 payment for the easement will be deposited into The General Purpose Fund, Office of Parks and Recreation-Tennis (1010.502320.45239).

**BACKGROUND**

Davie Tennis Stadium borders the Oakland hills and the City of Piedmont. The tennis courts are located in a mostly residential neighborhood. The City of Piedmont recognized that the expanded structure and setback requirements infringed on City property. The City of Piedmont required the owners to contact the City and obtain an encroachment easement.

The renovation of the owners' property included replacing an existing deck and extending the new deck to cover the pool. The owners were required to build a 3 feet wide concrete slab around the pool and enclose the pool area with a fence prior to building the new deck. The new split level deck is approximately 2,000 square feet. The total cost of the renovation is estimated at \$75,000.

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Finance and Management Committee  
October 12, 2004

The existing pool abutted the property line and was considered a legal nonconforming structure. The remodeling plans included replacing the existing deck, encasing the pool structure, and building a new deck over the pool area. Discontinuing the existing use of the structure meant the proposed use had to meet the current building codes. The new deck had to meet Piedmont Municipal Code 5.2.11 Section 705--Protection of Underside Floors ... The alteration or repair of an existing deck or balcony requires:

“The exposed underside of floors for habitable space, or uninhabitable space which supports or is attached to habitable space, shall be protected by the installation of materials approved for one-hour fire-resistant construction on the horizontal exterior side...Exceptions...(3) A balcony or deck, whether cantilevered or supported on posts, is less than one foot above grade or more than 15 feet above grade...(5) Decks constructed over noncombustible paving which extends at least 3 feet beyond the edge of the deck and permanently prevents the growth of plant material...The alteration or repair of an existing deck, or balcony shall meet the above requirements, ...”

### **KEY ISSUES AND IMPACTS**

In accordance with The City of Piedmont Municipal Code, the new deck's height and location over the existing pool structure required surrounding the pool structure with a 3 feet wide concrete slab. Ten square feet of the concrete slab encroached onto Davie Tennis Stadium. The current building codes also required a 15 feet setback from the 3 feet wide extension. The setback encroached into City property an additional 875 square feet.

The City of Piedmont will not issue a Building Certificate for the new deck without the encroachment easement.

### **PROJECT DESCRIPTION**

The purpose of this easement is to grant encroachment rights to the owners. The City of Piedmont requires that the encroachment rights run with the title to the land. The encroachment easement satisfies a City of Piedmont ordinance. The easement area is on a steep slope at the rear of Davie Tennis Stadium. Pedestrian traffic would be very light to nonexistent. The encroachment and the setback will have minimal impact on Davie Tennis Stadium. The Office of Parks and Recreation has authorized the easement. The owners cannot finalize a \$75,000 remodeling project without the encroachment easement.

The project is expected to be completed by December 2004.

### **SUSTAINABLE OPPORTUNITIES**

**Economic:** The encroachment easement is for the benefit of private property owners. The City will not sustain any economic opportunities.

**Environmental:** The easement impacts a small area of City property. The new deck will meet the City of Piedmont building code requirement for one-hour-fire-resistant materials.

**Social Equity:** Issuing an easement to satisfy a neighboring municipality building code will sustain a harmonious and reciprocal relationship between the City of Oakland and the City of Piedmont. The Office of Parks and Recreation cooperation will also enhance the Davie Tennis Stadium existent in the residential neighborhood. The easement will allow legal use of the area to the owners.

**DISABILITY AND SENIOR CITIZEN ACCESS**

Adoption of this Ordinance will have no direct impact on disabled and senior citizen access because it is not a public project. The purpose of the easement is to satisfy a zoning requirement for a private owner improvement.

**RECOMMENDATION(S) AND RATIONALE**

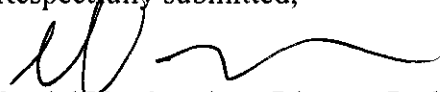
Staff recommends granting the proposed easement to Hoi Liang Phua and Linli Lee to give the owners the required documentation for a final inspection.

The City of Piedmont will not issue a building certificate without the easement.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff recommends that the City Council approve the ordinance authorizing the granting of an easement at fair market value to Hoi Liang Phua and Linli Lee.

Respectfully submitted,



Daniel Vanderprien, Director Redevelopment  
Housing and Economic Development Divisions  
Community and Economic Development Agency

Reviewed by: Frank Fanelli, Manager  
Real Estate Services

Prepared by: Ava M. Jourdain, Real Estate Agent  
Real Estate Services

APPROVED AND FORWARDED TO THE  
FINANCE AND MANAGEMENT COMMITTEE

  
\_\_\_\_\_  
OFFICE OF THE CITY ADMINISTRATOR



OFFICE CITY CLERK  
OAKLAND

INTRODUCED BY CONCILMEMBER \_\_\_\_\_

2004 SEP 30 AM 8:06

**ORDINANCE NO. \_\_\_\_\_ C. M. S.**

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**ORDINANCE AUTHORIZING THE GRANTING OF AN ENCROACHMENT EASEMENT OF 885 SQUARE FEET TO HOI LIANG PHUA AND LINLI LEE ON CITY PROPERTY LOCATED AT DAVIE TENNIS STADIUM AT 198 OAK ROAD, OAKLAND FOR THE APPRASIED MARKET VALUE OF \$5,350**

**WHEREAS**, the City of Oakland (City) is the owner of a parcel of land, commonly known as Davie Tennis Stadium (Stadium) located 198 Oak Road, Oakland, APN 051-4736-008, and

**WHEREAS**, Hoi Liang Phua and Linli Lee are property owners located at 141 Woodland Way, Piedmont, APN 051-4745-001, which is adjacent to 198 Oak Road, the City property identified as the Stadium, and

**WHEREAS**, Hoi Liang Phua and Linli Lee submitted plans to the City of Piedmont to demolish an existing deck, close off a pool structure, and build a new deck that extends over the pool area, and

**WHEREAS**, the proposed construction of the new deck required the property owners to meet a City of Piedmont Municipal Code 5.2.11 Section 705—Protection of Underside Floors (Code), and

**WHEREAS**, the Code required a 3 feet wide concrete slab around the pool structure, and

**WHEREAS**, the City of Piedmont also required an additional 15 feet setback for the new deck, and

**WHEREAS**, the concrete slab and setback requirement encroach on and into the Stadium for a total of 885 square feet, and

**WHEREAS**, the City of Piedmont required the property owners to obtain an obligation from the City that will run with the title of the land, and

**WHEREAS**, the Real Estate Division determined that an encroachment easement will allow the property owners to meet the City of Piedmont requirements, and

**WHEREAS**, the Office of Parks and Recreation authorized the Real Estate Division to process the encroachment easement; **now therefore be it**

**RESOLVED:** That the City hereby finds and declares that the requirements to issue an encroachment easement has been satisfied; and be it

**FURTHER RESOLVED:** That the City hereby authorizes and directs the City Administrator to execute a Grant of Easement for Liang Hoi Phua and Linli Lee for the property located at 141 Woodland Way, Piedmont, Ca; and be it

**FURTHER RESOLVED:** That the \$1,097 processing fee for the easement are available from Fund 1010, Org. 88639, Account 45519, Project P47010; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized and directed to take any and all actions necessary to grant the easement; and be it

**FURTHER RESOLVED:** That the City Administrator or her designee is authorized to take all actions necessary to carry out the intent of this Ordinance and to complete the transaction; and be it

**FURTHER RESOLVED:** That the City Attorney shall review and approve as to form and legality all documents and agreements necessary to grant the easement.

**IN AGENCY, OAKLAND, CALIFORNIA PASSED BY THE FOLLOWING  
VOTE:**

AYES- BROOKS, BRUNNER, CHANG, NADEL, REID, QUAN, WAN, AND  
CHAIR PERSON DE LA FUENTE

NOES-  
ABSENT-  
ABSTENTION-

ATTEST:

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CEDA FLOYD  
Secretary to the City Council of the  
City of Oakland, California

**NOTICE AND DIGEST**

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This Ordinance provides for the granting of a minor encroachment and set back easement consisting of approximately 885 square feet of City of Oakland property located at the Davie Tennis Stadium. The easement is being granted to permit Hoi Liang Phua and Linli Lee to complete reconstruction of a pool deck in accordance with City of Piedmont setback requirements.