



CITY COUNCIL AGENDA REPORT

MEETING DATE: JUNE 5, 2007

ITEM NUMBER:

SUBJECT: SB 53 COMPLIANCE ORDINANCE FOR THE REDEVELOPMENT AGENCY

DATE: MAY 14, 2007

FROM: DEVELOPMENT SERVICES DEPARTMENT

**PRESENTATION BY: DONALD D. LAMM, DEPUTY CITY MGR./DEV. SVS. DIRECTOR; AND
EXECUTIVE DIRECTOR OF THE REDEVELOPMENT AGENCY**

FOR FURTHER INFORMATION CONTACT: HILDA VETURIS (714) 754-5608

RECOMMENDATION:

Conduct first reading of an ordinance confirming Costa Mesa Redevelopment Agency's prohibition on acquiring real property by eminent domain.

BACKGROUND:

In 2006, the California Legislature adopted Senate Bill 53 (codified as Health and Safety Code Section 33342.7) which became law on January 1, 2007 (see attached). While SB 53 is somewhat confusing, staff believes it requires a city council that adopted a redevelopment plan containing eminent domain authority before January 1, 2007, to adopt an ordinance on or before July 1, 2007, containing a current description of the agency's authority. While the Costa Mesa Redevelopment Agency does not have the power of eminent domain and this ordinance appears meaningless, the California Redevelopment Association is advising all its member Agencies to still adopt confirming ordinances.

ANALYSIS:

The Costa Mesa Redevelopment Agency (RDA) and Downtown Project Area were established in 1973. As stated in that redevelopment plan, the RDA did have eminent domain authority in the 1980s, to facilitate development of the Courtyards and Triangle Square Shopping Centers. Through these efforts, and several other redevelopment projects in the area, the Downtown Project Area was significantly improved.

On December 15, 1986, City Council adopted Ordinance No. 86-24 establishing limitations on the Agency's use of eminent domain in the Downtown Project Area. Section 1. (C) of that ordinance states, "No eminent domain proceeding to acquire property within the Redevelopment Project area shall be commenced after twelve (12) years following the effective date of this ordinance." Therefore, the Agency's eminent domain authority expired on January 14, 1999. While the Redevelopment Agency has not had the power of eminent domain for eight years, staff believes Senate Bill 53 still requires City Council, by July 1, 2007, to adopt an ordinance confirming our agency may not exercise the power of eminent domain.

FISCAL REVIEW:

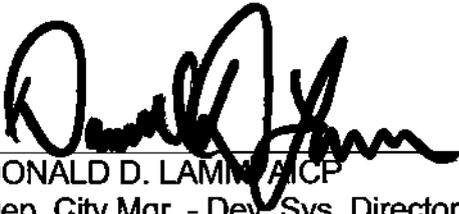
This draft ordinance does not require any fiscal review.

LEGAL REVIEW:

The attached ordinance was prepared by the City Attorney's Office and approved as to form.

CONCLUSION:

While it appears meaningless to adopt an ordinance "confirming" that the Costa Mesa Redevelopment Agency does not have the power of eminent domain, SB 53/Health and Safety Code Section 33342.7 appears to mandate every city comply by July 1, 2007. Therefore, attached is an ordinance confirming the Agency does not have the power of eminent domain. Additionally, after forty-one years, the Downtown Project Area will cease to exist in 2014.



DONALD D. LAMIN AICP
Dep. City Mgr. - Dev. Svs. Director



HILDA VETURIS
Management Analyst

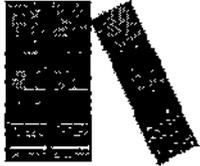


KIMBERLY HALL BARLOW
City Attorney

DISTRIBUTION: City Manager
Asst. City Manager
City Clerk (2)
Staff (4)
File (2)

ATTACHMENTS: 1 SB 53 Compliance Ordinance

File Name: 060507SB53RDA	Date: 052307	Time: 4:00 p.m.
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CALIFORNIA LAW

CALIFORNIA HEALTH AND SAFETY CODE

CHAPTER 4. REDEVELOPMENT PROCEDURES AND ACTIVITIES
Article 4. Preparation and Adoption of Redevelopment
Plans by the Agency 33330-
33354.6

33342.7. (a) A legislative body that adopted a final redevelopment plan before January 1, 2007, shall adopt an ordinance on or before July 1, 2007, that contains a description of the agency's program to acquire real property by eminent domain. The plan may prohibit the agency from acquiring by eminent domain specified types of real property, including, but not limited to, owner-occupied residences, single-family residences, or any residential property. The plan may prohibit the agency from acquiring by eminent domain real property in specified locations within the project area.



California Redevelopment Association
Redevelopment. Building Better Communities.

CRA MEMBER ALERT – WHAT IS NEEDED TO COMPLY WITH 2006 LEGISLATION AND SB 1809

Two deadlines are coming up this year for redevelopment agencies due to new laws that became effective Januar

I. An Eminent Domain Process Ordinance must be Adopted by July 1, 2007

Legislative bodies need to adopt an ordinance by July 1, 2007 that describes their redevelopment agency's progra the use of eminent domain in the acquisition of property per SB 53. This requirement applies to all existing redev adopted prior to January 1, 2007, including those that have no or limited use of eminent domain. For all redevelop adopted after January 1, 2007, a description of the agency's program to acquire real property by eminent domain included in the plan.

Once an agency's eminent domain program is adopted, either as part of a new plan or in connection with the ado required for existing plans, the program may be changed only by amending the redevelopment plan following the amendment process.

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF COSTA MESA, CALIFORNIA
CONFORMING TO HEALTH AND SAFETY CODE SECTION 33342.7,
CONTAINING A DESCRIPTION OF THE COSTA MESA REDEVELOPMENT
AGENCY'S PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN IN
THE COSTA MESA DOWNTOWN REDEVELOPMENT PROJECT AREA**

WHEREAS, the City Council of the City of Costa Mesa, California ("City Council") adopted Ordinance No. 86-24 on December 15, 1986, approving and adopting the Redevelopment Plan for the City of Costa Mesa Downtown Redevelopment Project (the "Redevelopment Plan"); and

WHEREAS, the Redevelopment Agency of the City of Costa Mesa ("Agency") has been designated as the official redevelopment agency in the City of Costa Mesa to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, Section 9.3 (Time Limit on Acquisition of Property by Eminent Domain) of the Redevelopment Plan sets forth the Agency's time period for authority to acquire property by eminent domain; and

WHEREAS, said time period for the acquisition of property by Eminent Domain within the Redevelopment Project Area expired on January 14, 1999 and has not been extended; and

WHEREAS, Section 33342.7 of the Health and Safety Code, which was added by Senate Bill 53 ("SB 53"), which took effect on January 1, 2007, requires a legislative body that adopted a redevelopment plan containing eminent domain authority before January 1, 2007, to adopt an ordinance on or before July 1, 2007, containing a description of the agency's program to acquire real property by eminent domain.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA,
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Pursuant to Section 33342.7 of the Health and Safety Code, a description of the Agency's program to acquire real property by eminent domain is set forth in Exhibit A, attached hereto and incorporated herein by this reference. The Agency's program to acquire real property by eminent domain may be amended only by amending the Redevelopment Plan pursuant to Article 12 of the Community Redevelopment Law (commencing with Health and Safety Code Section 33450).

Section 2. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 3. 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 City Council hereby declares that it would have passed the remainder of this Ordinance if such invalid portion thereof had been deleted.

Section 4. The City Clerk will certify to the passage of this Ordinance by the City Council, and cause the same to be published once in the Daily Pilot, a newspaper of general circulation, published and circulated in _____, and it will take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this _____ day of June, 2007.

MAYOR OF THE CITY OF COSTA MESA

ATTEST:

City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 07-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2007, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2007, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2007.

City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

“EXHIBIT A”

Pursuant to Section 33342.7 of the Health and Safety Code, a description of the Agency's program to acquire real property by eminent domain is herein set forth.

The City Council of the City of Costa Mesa adopted Ordinance No. 86-24, (copy attached) on December 15, 1986. This Ordinance established certain limitations for the Redevelopment Plan for the City of Costa Mesa Downtown Redevelopment Project as required by California Health and Safety Code Section 33333.4. Section 1. (C.) states, “No eminent domain proceeding to acquire property within the Redevelopment Project area shall be commenced after twelve (12) years following the effective date of this Ordinance. Such time limitation may be extended only by amendment of the Redevelopment Plan in the manner required by law.”

Given the Ordinance adoption date of December 15, 1986, which took full force and effect thirty (30) days from passage on January 14, 1987, and with no eminent domain proceeding to acquire property within the Redevelopment Project area to commence after twelve (12) years following the effective date of the Ordinance, the authority to acquire property through the use of eminent domain in the Costa Mesa Downtown Project Area expired or sunset on January 14, 1999.

Furthermore, it should be noted that there have been no additional amendments to the Downtown Redevelopment Plan that could have extended any time limitation, since this last amendment stated In Ordinance No. 86-24. Therefore, the City of Costa Mesa's authority to acquire property via eminent domain ended on January 14, 1999.