



# CITY COUNCIL AGENDA REPORT

MEETING DATE: JUNE 19, 2007

ITEM NUMBER:

**SUBJECT: SECOND READING OF ORDINANCE NO. 07-13 IN COMPLIANCE WITH SB 53**

**DATE: JUNE 6, 2007**

**FROM: DEVELOPMENT SERVICES DEPARTMENT**

**PRESENTATION BY: DONALD D. LAMM, AICP DEPUTY CITY MGR./DEV. SVS. DIRECTOR**

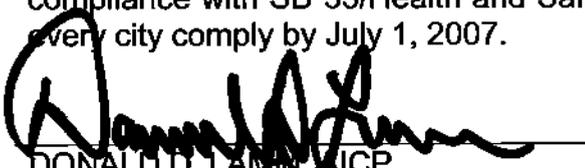
**FOR FURTHER INFORMATION CONTACT: HILDA VETURIS (714) 754-5608**

## RECOMMENDATION:

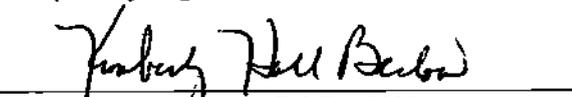
Give second reading to Ordinance 07-13 confirming Costa Mesa Redevelopment Agency's prohibition on acquiring real property by eminent domain.

## BACKGROUND:

On June 5, 2007, Council took action to adopt an ordinance confirming that the Costa Mesa Redevelopment Agency does not have the power of eminent domain. This is in compliance with SB 53/Health and Safety Code Section 33342.7, which mandates that every city comply by July 1, 2007.

  
DONALD D. LAMM, AICP  
Dep. City Mgr. - Dev. Svs. Director

  
HILDA VETURIS  
Management Analyst

  
KIMBERLY HALL BARLOW  
City Attorney

**DISTRIBUTION:** City Manager  
Asst. City Manager  
City Attorney  
Deputy City Manager – Dev. Svs. Dir.  
Public Services Director  
City Clerk (2)  
Staff (4)  
File (2)

**ATTACHMENTS: 1 Ordinance No. 07-13**

File Name: 061907Ord07132ndRead	Date: 060707	Time: 8:30 a.m.
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**ORDINANCE NO. 07-13**

**AN ORDINANCE OF THE CITY COUNCIL 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 the City of Costa Mesa, and it will take effect thirty (30) days after its final passage.

PASSED AND ADOPTED this 19<sup>th</sup> day of June, 2007.

\_\_\_\_\_  
Allan R. Mansoor, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Julie Folcik, City Clerk

\_\_\_\_\_  
Kimberly Hall Barlow, City Attorney

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

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing Ordinance No. 07-13 was duly introduced for first reading at a regular meeting of the City Council held on the 5<sup>th</sup> day of June, 2007, and that thereafter, said Ordinance was duly passed and adopted at a regular meeting of the City Council held on the 19<sup>th</sup> day of June, 2007, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this 20<sup>th</sup> day of June, 2007.

\_\_\_\_\_  
JULIE FOLCIK, CITY CLERK

(SEAL)

I hereby certify that the above and foregoing is the original of Ordinance No. 07-13 duly passed and adopted by the Costa Mesa City Council at the regular meeting held June 19, 2007, and that Summaries of the Ordinance were published in the Newport Beach-Costa Mesa Daily Pilot on June \_\_\_\_ and \_\_\_\_, 2007.

\_\_\_\_\_  
JULIE FOLCIK, CITY CLERK

(SEAL)

## **“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.