



# CITY OF LONG BEACH

# R-24

DEPARTMENT OF DEVELOPMENT SERVICES

333 West Ocean Blvd., 4<sup>th</sup> Floor Long Beach, CA 90802 Phone: 570.6428 Fax: 570.6205

October 7, 2008

HONORABLE MAYOR AND CITY COUNCIL  
City of Long Beach  
California

## RECOMMENDATION:

Adopt the attached Resolution adopting findings in response to written objections received from property owners on the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project;

Adopt the attached Resolution approving the Negative Declaration for the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project; and

Declare the Ordinance amending Ordinance No. C-7412 and C-7912 and approving and adopting the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project read for the first time and laid over to the next regular meeting of the City Council for final reading. (Districts 1, 3, 5, 6, 7, 8 and 9)

## DISCUSSION

On September 15, 2008, the Long Beach Redevelopment Agency (Agency) held a public hearing to listen to testimony and receive comments on the adoption of the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project (Second Amendment) and the Negative Declaration prepared for the Second Amendment.

At the close of the hearing the Agency considered and adopted the following:

- Resolution of the Redevelopment Agency of the City of Long Beach approving a Negative Declaration for the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project;
- Resolution of the Redevelopment Agency of the City of Long Beach approving and adopting the Report to the City Council on the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project, and submitting said Report and Second Amendment to the City Council; and

- Resolution of the Redevelopment Agency of the City of Long Beach approving the Second Amendment to the Redevelopment Plan for the North Long Beach Redevelopment Project.

On September 16, 2008, the City Council also held a public hearing to hear testimony and receive comments on the Second Amendment and the Negative Declaration. The Second Amendment would extend the Agency's authority to use eminent domain for another twelve years throughout the North Long Beach Redevelopment Project Area with the exclusion of the majority of Sub-Area 5, which comprises the Port of Long Beach (Port). The previous authority to acquire property by eminent domain in the North Long Beach Redevelopment Project Area expired on July 16, 2008.

As a result of the passage of Proposition 99 in June 2008, the Agency is prohibited from acquiring single-family residences that have been occupied by the owner for more than one year for the purpose of transferring that property to a private entity. In addition, as provided in Section 424 of the existing Redevelopment Plan, the Agency may issue certificates of conformance that would prohibit the Agency from acquiring property by eminent domain so long as the property is used and maintained in accordance with the Redevelopment Plan. Certificates of conformance can be issued at anytime; this includes following the adoption of the Second Amendment.

The Agency and the City Council received two letters of written objections regarding the Second Amendment from property owners in the Project Area (Exhibit A—Written Objections). Since these written objections from property owners in the Project Area were received, a response must be prepared to each objection and considered in conjunction with the Second Amendment and related actions. Responses to written objections have been prepared and are attached to the City Council resolution adopting findings in response to those written objections. With the adoption of the written responses, the City Council may continue with the other actions related to the adoption of the Second Amendment and approval of the Negative Declaration.

This letter was reviewed by Assistant City Attorney Heather A. Mahood on September 18, 2008, and by Budget Management Officer Victoria Bell on September 22, 2008.

#### TIMING CONSIDERATIONS

City Council action is requested on October 7, 2008, in order to renew the Agency's authority to acquire property through eminent domain as soon as possible. If the City Council adopts the Ordinance for the Second Amendment to the Redevelopment Plan, then on October 14, 2008, the City Council will consider the second reading of the Ordinance adopting the Second Amendment that will be the final action in the approval and adoption of the Second Amendment.

FISCAL IMPACT

There is no fiscal impact associated with this recommendation.

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



CRAIG BECK  
DIRECTOR OF DEVELOPMENT SERVICES

CB:AJB:LAF:laf  
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Attachments: Exhibit A – Letters of Written Objection  
City Council Resolutions  
City Council Ordinance

APPROVED:

  
fr \_\_\_\_\_  
PATRICK H. WEST  
CITY MANAGER

Aug 27, 2008

I Maulyn A. Avoizo and Lupe M. Avoizo do declare we own property at 241 E. Plenty St. Long Beach Ca. . We object to the amendment proposed by the Long Beach redevelopment agency to <sup>extend the ability</sup> to acquire homes in North Long Beach by the power of eminent domain. We live in our home. We are seniors and it would be a hardship on us financially as well as emotionally.

Maulyn A. Avoizo  
Lupe M. Avoizo

562-9849244

September 10, 2008

Larry Herrera  
City Clerk of Long Beach  
333 W. Ocean Blvd.  
Long Beach, CA 90802

RE: Opposition to Proposed Amendment for Extension of Eminent Domain  
Power for Long Beach Redevelopment Agency.

Dear Mr. Herrera:

I am a long time resident of North Long Beach. I attended Long Beach schools as a child and teenager. I received training as a registered nurse at Long Beach City College and at California State University, Long Beach. I have spent most of my professional career working in Long Beach hospitals and medical centers. I have seen first hand what gangs, crime, and drugs can do to individuals, families, and communities.

While I applaud the efforts and mission of the Long Beach Redevelopment Agency in the North Long Beach Redevelopment Project, I am philosophically, morally, ethically, and economically opposed to extending eminent domain powers for twelve more years to the Redevelopment Agency. Living in a neighborhood of diverse ethnicities and cultural mores has enriched my life. Most of the individuals and families in the North Long Beach area are just trying to live their lives the best they can. They work hard, attend school, worship in their chosen places, pay their taxes, vote in elections, maintain their houses/properties and try to be good neighbors to each other. Yet the North Long Beach area is constantly besmirched as a blighted neighborhood as a whole.

By extending eminent domain powers, all residents (not just criminals, drug traffickers, gang members) are under the threat of losing their homes or having their homes devalued. If others are like me, their main financial investment and security is in their homes. I understand that eminent domain cannot be used to convey property to a private person. However, the letter that I received from the Long Beach Redevelopment Agency clearly stated "with that exception, all property in the Project Area is therefore subject to the possibility of acquisition by purchase or condemnation by the Agency....".

I worked hard to pay off my mortgage and improve my home and property. I always thought that if there was a life emergency, I could use my home as collateral or sell it for whatever the market would allow. Now, my property and others could potentially be "acquired" under the guise of eminent domain whenever any governmental agency or corporate entity desired it.

Eminent domain is wrong. I have always been opposed to eminent domain practices. I grew up in the fifties, when people were forced from their homes by the use of eminent domain to supposedly build freeways or shopping malls "for the public good". Yet, many of the acquired properties were never utilized by the cities that acquired them. The quality of life for many was ruined. Recent news has shown that not even churches are immune to the threat of eminent domain. Historically, property owners have been forced to relocate to areas not of their choosing and accept less than what the market will allow for compensation for their properties, even though they owned the property! How would the Redevelopment Agency staff, Major, and City Council feel if eminent domain was used to acquire their homes?

It does not take eminent domain to repair streets and sidewalks, to provide after-hour programs for children and youth, to enforce current building, health, and safety codes, drug trafficking laws and other gang and criminal ordinances or to encourage the participation of citizens to improve their neighborhoods. It takes all of us working together, not threatening citizens with the potential loss or devaluation of their homes. I say YES to redevelopment and improvement, but an adamant NO to the extension of eminent domain powers.

I had previously expressed my views by phone to staff members in the offices of Mayor Foster, Rae Gabelich, and Craig Beck. I recently underwent surgery and am recuperating, so I will not be attending the public hearings on September 15, 2008 and September 16, 2008 on this issue. According to the Notice of Public Hearings letter that I received, "any person may file in writing with the City Clerk of the City of Long Beach a statement of objections to the proposed Amendment." This is the intent of my letter. I was told by the Redevelopment Agency to send the letter to you. I received a message from you stating that I should send the letter to Craig Beck. Therefore, I am sending it to both of you.

I thank you, in advance, for your assistance in having my opposition to the amendment noted at the public hearings. I trust that thoughtful consideration on this issue by the Long Beach Redevelopment Agency and the City Council will result in a denial of the proposed amendment to extend eminent domain authority. I have enclosed copies of the letters that I received from the Long Beach Redevelopment Agency.

Sincerely,



Pauline Ward  
258 East 52<sup>nd</sup> Street  
Long Beach, CA 90805

Cc: Craig Beck, Executive Director, Long Beach Redevelopment Agency

OFFICE OF THE CITY ATTORNEY  
ROBERT E. SHANNON, City Attorney  
333 West Ocean Boulevard, 11th Floor  
Long Beach, CA 90802-4664

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RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH ADOPTING FINDINGS IN RESPONSE TO WRITTEN OBJECTIONS RECEIVED FROM PROPERTY OWNERS ON THE SECOND AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE NORTH LONG BEACH REDEVELOPMENT PROJECT

WHEREAS, in accordance with the California Community Redevelopment Law (Health and Safety Code Sections 33000 et seq.), the Redevelopment Agency of the City of Long Beach (the "Agency") prepared and submitted to the City Council of the City of Long Beach (the "City Council") a proposed Second Amendment to the Redevelopment Plan (the "Amendment") for the North Long Beach Redevelopment Project (the "Project"); and

WHEREAS, on September 15, 2008, the Agency held a public hearing to consider adoption of the Amendment and the Negative Declaration related thereto; and

WHEREAS, on September 16, 2008, the City Council held a public hearing to consider adoption of the Amendment and the Negative Declaration related thereto; and

WHEREAS, the Agency and City Council have provided an opportunity for all persons to be heard, has considered all written comments received, and all evidence and testimony presented for or against any and all aspects of the Amendment; and

WHEREAS, Section 33363 of the Community Redevelopment Law provides that, before adopting the Amendment, the City Council shall make written findings in response to each written objection received from an affected taxing entity or property owner received before or at the noticed public hearing.

NOW, THEREFORE, the City Council of the City of Long Beach resolves as follows:

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Section 1. The City Council hereby adopts the written findings in response to the written objections received from Marilyn and Lupe Arvizo and Pamela Ward set forth in Exhibit "A" and incorporated herein by reference.

Section 2. This resolution shall take effect immediately upon its adoption by the City Council, and the City Clerk shall certify the vote adopting this resolution.

I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of \_\_\_\_\_, 20\_\_ by the following vote:

Ayes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Noes: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

Absent: Councilmembers: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
City Clerk



## **EXHIBIT A**

### **WRITTEN FINDINGS IN RESPONSE TO WRITTEN OBJECTIONS RECEIVED FROM PROPERTY OWNERS**

These written findings have been prepared pursuant to sections 33363 and 33364 of the Community Redevelopment Law (the "CRL") (Health and Safety Code Sections 33000 et seq.), in response to the written comments on the proposed Second Amendment to the Redevelopment Plan (the "Amendment") for the North Long Beach Redevelopment Project (the "Project").

#### **Response to August 27, 2008 letter from Marilyn Arvizo and Lupe Arvizo**

##### **Comment #1**

The commenters object to extending the ability of the Redevelopment Agency of the City of Long Beach (the "Agency") to acquire homes in North Long Beach by the power of eminent domain. The commenters state, "We live in our home. We are seniors and it would be a hardship on us financially as well as emotionally."

##### **Response**

The Agency is generally prohibited by the California State Constitution (Article I, Section 19) from acquiring by eminent domain a single family owner-occupied residence for the purpose of conveying it to a private entity. In those instances where the Agency would be authorized to use eminent domain, there are numerous procedural protections for property owners set forth in the Eminent Domain Law that the Agency would be required to follow before using its eminent domain authority. The Agency would be required to follow all procedures required by law, including making every reasonable effort to acquire the property by negotiation with the property owner. The use of eminent domain to acquire property must also be preceded by the Agency obtaining an appraisal of the property and an offer to purchase the property at its appraised fair market value. The Agency would also be required to pay relocation benefits to any occupant that would be displaced.

##### **Finding**

The City Council hereby finds and determines that the above information adequately responds to the comments and objections presented by the commenters. In addition, the City Council finds and determines that adequate

provisions have been made for the payment of just compensation for property to be acquired and for relocation benefits, as provided by law.

### **Response to September 10, 2008 letter from Pauline Ward**

#### **Comment #1**

By extending the Agency's eminent domain powers, all residents are under the threat of losing their homes or having their homes devalued.

#### **Response**

The Agency is generally prohibited by the California State Constitution (Article I, Section 19) from acquiring by eminent domain a single family owner-occupied residence for the purpose of conveying it to a private entity. Other property owner protections are contained in the Eminent Domain Law and Relocation Assistance Act.

#### **Finding**

Based upon the information contained in the above response, the City Council finds that adequate provisions have been made for the protection of the interests of property owners.

#### **Comment #2**

The commenter's property and others could potentially be acquired under the guise of eminent domain whenever any governmental agency or corporate entity desired it.

#### **Response**

The Agency is generally prohibited by the California State Constitution (Article I, Section 19) from acquiring by eminent domain a single family owner-occupied residence for the purpose of conveying it to a private entity. Additionally, there are numerous procedural requirements set forth in the Eminent Domain Law that the Agency would be required to follow before using its eminent domain authority, including negotiations with the property owner, noticed public hearing and adoption of findings. The use of eminent domain to acquire property must also be preceded by the Agency obtaining an appraisal of the property and an offer to purchase the property being made to the property owner at the appraised fair market value.

Based upon the information contained in the above response, the City Council finds that the City and Agency have complied with all of the procedural steps required under the CRL in order to adopt the redevelopment plan amendment to extend the Agency's eminent domain authority. Additionally, the City Council finds that adequate provisions have been made for compliance with the procedural requirements related to the exercise of eminent domain and the payment of just compensation for property to be acquired and for relocation benefits, as provided by law.

### **Comment #3**

Historically, the use of eminent domain has forced property owners to relocate to areas not of their choosing and accept less than market value for their properties.

#### **Response**

As discussed above, if the Agency did decide to acquire property through eminent domain, the Agency would be required to offer the full amount of the Agency's approved fair market value appraisal and would be required to pay relocation benefits to any occupant who would be displaced.

#### **Finding**

Based upon the information contained in the above response, the City Council finds that no specific instances of abuse of either the Agency's or the City's eminent domain power have been alleged, that the City and Agency have complied with all of the procedural steps required under the CRL in order to adopt the redevelopment plan amendment to extend the Agency's eminent domain authority, and that adequate provisions have been made for the payment of just compensation for property to be acquired and for relocation benefits, as provided by law.

#### **Comment #4**

Eminent domain is not necessary to undertake many redevelopment actions and other improvements, such as street and sidewalk repair, after-hour programs for children, enforcement of laws and ordinances, including building, health and safety codes, and encouraging citizen participation in neighborhood improvement.

#### **Response**

Acquisition of real property within the Project Area can be a highly effective tool to supplement other efforts by the City and Agency, such as those identified by the commenter. The Redevelopment Plan, as originally adopted in 1996, specifically provided that granting the Agency the authority to exercise eminent domain to acquire real property in the Project Area that cannot be acquired by gift, devise, exchange, purchase or any other lawful method was in the public interest and was necessary in order to eliminate the conditions requiring redevelopment and in order to execute the Redevelopment Plan. The use of eminent domain is sometimes required for street and sidewalk repair. The Agency is generally not authorized to pay for services such as after-hours programs for children. Enforcement of building, health and safety codes is carried out by the City not the Agency.

#### **Finding**

Based upon the information contained in the above response, the City Council finds that the condemnation of real property, as provided for in the Amendment, is necessary to the effective implementation of the Redevelopment Plan and that this power should be extended for an additional twelve years.