

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

RESOLUTION NO. RES-08-0124

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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.

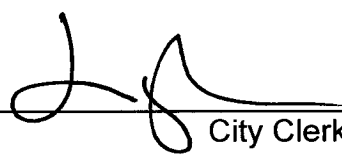
I hereby certify that the foregoing resolution was adopted by the City Council of the City of Long Beach at its meeting of October 7, 2008 by the following vote:

Ayes: Councilmembers: B. Lowenthal, S. Lowenthal, DeLong, O'Donnell, Schipske, Andrews.

Noes: Councilmembers: None.

Absent: Councilmembers: Reyes Uranga.

Abstain: Councilmembers: Gabelich, Lerch.



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.