City of Culver City, California

City Council Agenda Item Report

Meeting Date: 5/14/07	Item Number: A-7
AGENDA ITEM: Introduction of an Ordinance Pursuant to Section 33342.7 of the California Health and Safety Code, Pertaining to the Culver City Redevelopment Agency's Existing Program to Acquire Property by Eminent Domain.	
Contact Person/Dept.: John Fisanotti	Phone Number: (310) 253-5767
Fiscal Impact: Yes [] No [X]	General Fund: Yes [] No []
Public Hearing: [] Action Item: [X]	Attachments: [X]
Public Notification: Master Notification List (05/09/07).	
Department Approval: Todd Tipton (04/24/07)	City Attorney Approval: Carol Schwab (by H. Iker) (05/02/07)
City Controller Approval: Marlee Chang (05/02/07)	City Manager Approval: Jerry B. Fulwood (05/09/07)

RECOMMENDATION:

Staff recommends the City Council introduce the Ordinance, included as Attachment No. 1, pursuant to Section 33342.7 of the California Health and Safety Code.

BACKGROUND:

In *Kelo v. the City of New London*, (2005) 125 S. Ct. 2655, the United States Supreme Court ruled that it was not a violation of the federal constitution for a local government entity in Connecticut to take private property by eminent domain for "economic development" purposes. Even though redevelopment agencies have no such powers in California, where redevelopment eminent domain is strictly limited to the elimination of blight, the California Legislature nevertheless felt compelled to react to this ruling by adopting AB 773, AB 782, AB 1893, SB 53, SB 1206, SB 1210, SB 1650, and SB 1809 to prevent a perceived misuse of eminent domain and redevelopment powers by local government entities. These bills were signed by Governor Schwarzenegger on September 29, 2006 and took effect on January 1, 2007. While all of these bills may, at some point, impact the Culver City Redevelopment Project, SB 53 has a July 1, 2007 deadline for compliance. This deadline is discussed in more detail, below.

DISCUSSION:

SB 53 added Health & Safety Code section 33342.7, which requires **a legislative body** (the City Council, in Culver City's case) that adopted a final redevelopment plan before January 1, 2007 to 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 attached Program Ordinance is intended to comply with this new statutory requirement. The Program Ordinance does not alter, modify, add to, or extend the Agency's existing eminent domain powers under the Redevelopment Plan. The Program Ordinance merely contains a description of the Agency's existing program to acquire property by eminent domain. Any amendments to the Agency's eminent domain powers must be accomplished through a plan amendment procedure.

California Health and Safety Code section 33391 authorizes a redevelopment agency to acquire by gift, purchase, lease, or condemnation all or part of the real property within a redevelopment project area. Under this authority, the City Council adopted final redevelopment plans for the Slauson-Sepulveda Redevelopment Project, Project No. 1 ("Project Area No.1"), the Overland-Jefferson Redevelopment Project No. 2 ("Project Area No. 2"), and the Washington-Culver Redevelopment Project No. 3 ("Project Area No. 3"). Project Area Nos. 1, 2, and 3 were later merged into the Culver City Redevelopment Area (as Component Areas Nos. 1, 2, and 3, respectively), and the final Redevelopment Plan for Culver City Redevelopment Project (the "Plan") was adopted pursuant to Ordinance No. 98-014 on November 23, 1998. The City Council also added Component Area No. 4 to the Culver City Redevelopment Project Area by adopting Ordinance No. 98-015, on the same date.

The general authorization for the Culver City Redevelopment Agency's ("Agency's") use of eminent domain powers within the Culver City Redevelopment Project Area is set forth in the Plan under Section 303 of Component Area Nos. 1, 2, and 3 and Section 321 of Component Area No. 4, as follows:

Except as specifically exempted herein, the Agency may acquire but is not required to acquire, all real property located in the Project area, by gift, devise, exchange, purchase, eminent domain, or any other lawful method. It is in the public interest and is necessary in order to eliminate the conditions requiring redevelopment and in order to execute the Plan, for the power of eminent domain to be employed by the Agency to acquire real property in the Project area. The limitations on the Agency's use of eminent domain powers within the Culver City Redevelopment Project Area are set forth in the Plan under Section 303 of Component Area Nos. 1, 2, and 3 and Section 321 of Component Area No. 4, as follows:

The Agency shall not have authority to acquire, by eminent domain, property on which any persons lawfully reside.
For Component Area Nos. 1, 2, and 3, eminent domain proceedings, if used, must be commenced within twelve (12) years from the effective date of City Ordinance No. 98-014 (December 23, 1998).

For Component Area No. 4, eminent domain proceedings, if used, must be commenced within twelve (12) years from the effective date of City Ordinance No. 98-015, which date was thirty (30) days from the adoption of City Ordinance No. 98-015. Such time limit only may be extended by further amendments to the Plan. Section 321 of the Plan, pertaining to Component Area No. 4, specifically provides that properties that may not be acquired by eminent domain include the following:

a) Real Property on which any persons lawfully reside;

b) Real Property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire Real Property devoted to public use; or,

c) Real Property on which an existing building is to be continued on its present site and in its present form and use without the consent of the owner unless: (i) the building requires structural alterations, improvements, modernization or rehabilitation; (ii) the site or lot on which the building is situated requires modification in size, shape or use; or (iii) it is necessary to impose upon such Real Property any of the standards, restrictions or controls of this Plan, and the owner fails or refuses to participate in this Project by executing an owner participation agreement.

FISCAL ANALYSIS:

There is no fiscal impact associate with the introduction of an Ordinance. .

ATTACHMENTS:

1. Proposed Ordinance

MOTION:

That the City Council:

> Introduce an Ordinance pertaining to the Culver City Redevelopment Agency's program to acquire property by eminent domain within the Culver City Redevelopment Project Area pursuant to California Health And Safety Code Section 33342.7(a).