

ORDINANCE NO. 1362

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ARCATA DESCRIBING THE ARCATA COMMUNITY DEVELOPMENT AGENCY'S EMINENT DOMAIN PROGRAM

The City Council of the City of Arcata does ordain as follows:

Section 1. The City Council of the City of Arcata finds and determines that:

1. The City Council of the City of Arcata, California ("City Council"), adopted Ordinance No. 1036 on November 29, 1983, approving and adopting the Redevelopment Plan for the Arcata Community Development Project Area, amended by Ordinance No. 1245, adopted November 15, 1995 (the "Redevelopment Plan"); and,
2. The Arcata Community Development Agency ("Agency") has been designated as the official redevelopment agency in the City of Arcata 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,
3. Chapter V, Section B of the Redevelopment Plan contains Agency authority to acquire real property by eminent domain, including a description of when such power may not be exercised; and,
4. Section 33342.7 of the Health and Safety Code, which was added by Senate Bill 53 and 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.

Section 2. Based on the above findings, the purpose and intent of the City Council with respect to this Ordinance is as follows:

1. To comply with Health and Safety Code Section 33342.7; and,
2. To adopt by ordinance existing provisions of the Redevelopment Plan limiting the use of eminent domain powers without alteration or amendment to the Redevelopment Plan.

Section 3. 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* ("Eminent Domain Program") 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 4. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 5. 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.

DATE: June 20, 2007

ATTEST:

/s/ Michael Hackett
City Clerk, City of Arcata

APPROVED:

/s/ Harmony Groves
Mayor, City of Arcata

Clerk's Certificate

I hereby certify that the foregoing is a true and correct copy of Ordinance No. 1362, passed and adopted at a regular meeting of the City Council of the City of Arcata, Humboldt County, California on the 20th day of June, 2007, by the following vote:

AYES: GROVES, WHEETLEY, MACHI, PITINO, STILLMAN

NOES: NONE

ABSENT: NONE

ABSTENTIONS: NONE

/s/ Michael Hackett
City Clerk, City of Arcata

Exhibit A

ARCATA COMMUNITY DEVELOPMENT AGENCY PROGRAM TO ACQUIRE REAL PROPERTY BY EMINENT DOMAIN IN THE ARCATA COMMUNITY DEVELOPMENT PROJECT AREA

Property Acquisition.

As presented in the Goals of the Agency's Redevelopment Plan dated November 29, 1983, and amended by Ordinance No. 1036 on November 15, 1995, the Agency will always first work with the property owner to assure that the specific property is improved in conformance with this Plan and the General Plan of the City.

1. Acquisition of Real Property. Except as specifically exempted herein, the Agency may, but is not required to, acquire or obtain options to acquire real property located in the Project Area, by gift, devise, exchange, purchase, eminent domain or any other lawful method whatsoever. The Agency may also acquire any other interest in real property less than fee interest. Since it is in the public interest and is necessary for the elimination of those conditions requiring redevelopment, the power of eminent domain may be employed by the Agency in some instances to acquire real property in the Project Area. However, said power of eminent domain will not be exercised when:

- a)** the property in question is improved with a structure and the Agency has determined by resolution that the rehabilitation of the structure and its proposed use is consistent with the objectives of the Plan and that such rehabilitation is in the best interest of the project and the owner has thereafter entered into an owner participation agreement with the Agency and is faithfully performing under the terms of the agreement.
- b)** the property in question is improved by a structure and the Agency has determined by resolution that said structure and its use is consistent with the objectives of the Plan and that no owner participation agreement is necessary so long as the structure is adequately maintained and properly landscaped.
- c)** the property in question is owned by a public body, unless prior consent is obtained from that public body. Prior to any acquisition through eminent domain, the Agency shall adopt a resolution declaring a need to acquire any specific property and authorizing the acquisition by such a method.