

Council Meeting of
July 24, 2007

Council Item
COMPANION TO AGENCY ITEM 4A

Honorable Mayor and Members
of the Torrance City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: Community Development Department-City Council consideration of Ordinances describing the Redevelopment Agency's existing eminent domain program within the Skypark Redevelopment Project Plan, the Industrial Redevelopment Project Plan, and the Downtown Torrance Redevelopment Project Plan to comply with SB 53; No changes to the Plans are proposed

Expenditure: None

RECOMMENDATION

The Community Development Director recommends the adoption of Ordinances describing the Redevelopment Agency's existing eminent domain program in acquiring real property within: 1) the Skypark Redevelopment Project Plan, 2) the Industrial Redevelopment Project Plan, and 3) the Downtown Torrance Redevelopment Project Plan to comply with SB 53.

Funding

Not applicable.

BACKGROUND

SB 53 proposed by Senator Kehoe was passed into State law on September 29, 2006 and requires that all legislative bodies adopt an ordinance describing their redevelopment agency's program on the use of eminent domain in the acquisition of real property, including those that have no or limited use of eminent domain. This requirement applies to all existing redevelopment plans that were adopted prior to January 1, 2007. To comply with SB 53, Agency staff has prepared Ordinances for each active Redevelopment Plan to disclose the existing eminent domain program adopted for each. Staff's recommendation does not propose any amendments to the Agency's existing authority from what was previously adopted

in the original Redevelopment Project Plans or any amendments to the Plans that were later adopted.

It is important to note that the Skypark, Downtown and Industrial Redevelopment Project Plans have time limitations on the use of eminent domain of 12 years from the adoption of the Plans, which expired in 1988, 1991 and 1995, respectively. So, although the Plans are still active in terms of the administration of zoning requirements, the eminent domain powers have expired for all three Plans.

During the SB 53 discussions held by the Senate Local Government Committee, it was noted that eminent domain remains one of redevelopment's most controversial issues. Many homeowners and landlords fear the condemnation of their residential properties, and redevelopment opponents point to the possible use of eminent domain as a reason to distrust local officials. The Committee noted that one way to calm those fears would be for redevelopment agencies to spell out when, where and how they condemn property. Thus SB 53 requires disclosure of the Agency's eminent domain program for both existing and new redevelopment plans.

Respectfully submitted,

Jeffery W. Gibson
Community Development Director

CONCUR:

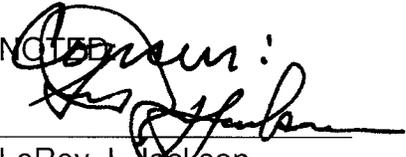


Jeffery W. Gibson
Community Development Director

By 

Ted Semaan, Manager
Redevelopment and General
Plan Divisions

NOTED:



LeRoy J. Jackson
City Manager

Attachments:

- A. Skypark Redevelopment Project Plan Ordinance
- B. Industrial Redevelopment Project Plan Ordinance
- C. Downtown Redevelopment Project Plan Ordinance

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ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF TORRANCE, CALIFORNIA, DESCRIBING
THE REDEVELOPMENT AGENCY'S EXISTING
EMINENT DOMAIN PROGRAM IN ACQUIRING REAL
PROPERTY WITHIN THE SKYPARK
REDEVELOPMENT PROJECT**

WHEREAS, the intent of this Ordinance is to comply with SB 53 [adding §33342.7 of the Health and Safety Code], which went into effect on January 1, 2007 requiring redevelopment agencies to adopt an ordinance that describes their redevelopment agency's authority to use eminent domain in the acquisition of real property. An ordinance must be adopted regardless of whether there is an authority to use eminent domain in a project area. The Skypark Redevelopment Project Plan does contain a description of the Agency's eminent domain authority which specifies when, where and how it can be used. Therefore, as required by SB 53, this Ordinance simply restates the Agency's existing authority as it was adopted by the Agency on July 16, 1976 and later amended on November 25, 1997 (Amendment No. 1) and December 14, 1999 (Amendment No. 2). This ordinance does not propose any amendments to the Agency's eminent domain authority as it was adopted on July 16, 1976 and later amended on November 25, 1997 and December 14, 1999.

WHEREAS, the Redevelopment Agency of the City of Torrance, California hereinafter referred to as the "Agency," adopted Ordinance No. 2708 on July 16, 1976 approving and adopting the Redevelopment Plan (the "Redevelopment Plan") for the Skypark Redevelopment Project (the "Project"); and

WHEREAS, the Redevelopment Agency of the City of Torrance ("Agency") is designated as the official redevelopment agency in the City of Torrance to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code §33000 et seq.) (the "Community Redevelopment Law") and to implement the Redevelopment Plan; and

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1

The Redevelopment Plan ("Plan") for the Skypark Redevelopment Project ("Project") consists of the text, the legal description of the project area boundaries, and the Redevelopment Plan Map ("Map"). This Plan has been prepared by the Torrance Redevelopment Agency ("Agency") pursuant to the Community Redevelopment Law of the State of California ("Redevelopment

Law”), the United States Constitution, the California Constitution, and all applicable local laws and ordinances. The California Community Redevelopment Law is located in the California Health and Safety Code, §33000, et. Seq.

SECTION 2

The Redevelopment Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation and revitalization of the area within the boundaries of the project (the “Project Area”). The boundaries of the Skypark Redevelopment Project area (“Project area”) are described in the “legal description of the project area boundaries,” included as part of the original adopted Plan.

SECTION 3

Except as specifically exempted herein, the Agency may acquire but is not required to acquire, any real property located in the project area by any means authorized by law.

It is in the public interest and necessary in order to eliminate the conditions requiring redevelopment and to execute the Plan, for the power of eminent domain to be employed by the Agency to acquire real property in the project area which cannot be acquired by gift, devise, exchange, purchase or any other lawful method.

No eminent domain proceeding to acquire property within the project area shall be commenced after twelve (12) years following the date of adoption of the ordinance approving and adopting the Redevelopment Plan. Such time limitation may be extended only by amendment of this Redevelopment Plan.

The Agency shall not within the Project Area acquire interests in oil, gas, or other mineral or hydrocarbon substances, nor the right to extract such substances through any opening or penetration for any purpose connected therewith more than 500 feet from the surface of any real property within the project area.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire either the entire fee or any other interest in real property less than a fee.

The Agency shall not acquire 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 1) such building requires structural alterations, improvement, modernization, or rehabilitation, or 2) the site or lot on which the building is situated requires modification in size, shape or use, or 3) it is necessary to impose upon such property any of the controls, limitations,

restrictions and requirements of this plan, and the owner fails or refuses to execute a participation agreement in accordance with the provisions of this plan.

The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the project area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibility under the participation agreement.

As part of the cost of acquisition of all property acquired in the project area, the Agency shall compensate each displaced person as provided in California Government Code, §7260, et seq.

SECTION 4

The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

SECTION 5

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City that are inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 6

Any person violating any of the provisions of this ordinance will be guilty of an infraction, and upon conviction will be subject to a fine as provided for in §36900 of the California Government Code.

SECTION 7

This ordinance shall take effect thirty (30) days after the date of its adoption. Within fifteen (15) days following adoption, this ordinance or a summary of this ordinance if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

Introduced and approved this ____ day of _____, 2007.

Adopted and passed this _____ day of _____, 2007.

FRANK SCOTTO, MAYOR

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN FELLOWS III, City Attorney

By _____
Ronald T. Pohl, Assistant City Attorney

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF TORRANCE, CALIFORNIA, DESCRIBING
THE REDEVELOPMENT AGENCY'S EXISTING
EMINENT DOMAIN PROGRAM IN ACQUIRING REAL
PROPERTY WITHIN THE TORRANCE INDUSTRIAL
REDEVELOPMENT PROJECT**

WHEREAS, the intent of this Ordinance is to comply with SB 53 [adding §33342.7 of the Health and Safety Code], which went into effect on January 1, 2007 requiring redevelopment agencies to adopt an ordinance that describes their redevelopment agency's authority to use eminent domain in the acquisition of real property. An ordinance must be adopted regardless of whether there is an authority to use eminent domain in a project area. The Torrance Industrial Redevelopment Project Plan does contain a description of the Agency's eminent domain authority which specifies when, where and how it can be used. Therefore, as required by SB 53, this Ordinance simply restates the Agency's existing authority as it was adopted by the Agency on July 12, 1983 and later amended on October 30, 1990 (Amendment No. 1) and November 25, 1997 (Amendment No. 2). This ordinance does not propose any amendments to the Agency's eminent domain authority as it was adopted on July 12, 1983 and later amended on October 30, 1990 and November 25, 1997.

WHEREAS, the Redevelopment Agency of the City of Torrance, California hereinafter referred to as the "Agency," adopted Ordinance No. 3063 on July 12, 1983 approving and adopting the Redevelopment Plan (the "Redevelopment Plan") for the Torrance Industrial Redevelopment Project (the "Project"); and

WHEREAS, the Redevelopment Agency of the City of Torrance ("Agency") is designated as the official redevelopment agency in the City of Torrance to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code § 33000 et seq.) (the "Community Redevelopment Law") and to implement the Redevelopment Plan; and

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1

The Redevelopment Plan ("Plan") for the Torrance Industrial Redevelopment Project ("Project") consists of the text, the legal description of the project area boundaries, and the Redevelopment Plan Map. This Plan was prepared by the Redevelopment Agency of the City of Torrance (the "Agency") pursuant to the Community Redevelopment Law of the State of California (Health and Safety

Code §33000 et seq.), the California Constitution and all applicable local laws and ordinances.

SECTION 2

The Redevelopment Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation and revitalization of the area within the boundaries of the project (the "Project Area"). The boundaries of the Torrance Industrial Project Area are described in the "legal description of the project area boundaries," (Attachment No. 1 to the Original Plan) and as shown on the "Redevelopment Plan Map," (Attachment No. 2 to the Original Plan).

SECTION 3

Except as specifically exempted herein, the Agency may acquire but is not required to acquire, any real property located inside or outside the project area by any means authorized by law.

It is in the public interest and necessary in order to eliminate the conditions requiring redevelopment and to execute the Plan, for the power of eminent domain to be employed by the Agency to acquire real property in the project area which cannot be acquired by gift, devise, exchange, purchase or any lawful means. For the same reasons stated above, the Agency may also employ the power of eminent domain to acquire real property outside the project area for purposes of redevelopment, including the acquisition of real property for low- and moderate-income housing which the Agency has determined will benefit the Project. Eminent domain proceedings, if used, must be commenced within twelve (12) years from the date the ordinance adopting the Plan went into effect.

The Agency shall not acquire interests in oil, gas, or other mineral or hydrocarbon substances, nor the right to extract such substances through any opening or penetration for any purpose connected therewith more than 500 feet from the surface of any real property within the project area.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire either the entire fee or any other interest in real property less than a fee.

The Agency shall not acquire 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 1) such building requires structural alterations, improvement, modernization, or rehabilitation, or 2) the site or lot on which the building is situated requires modification in size, shape or use, or 3) it is necessary to impose upon such property any of the controls, limitations,

restrictions and requirements of the plan, and the owner fails or refuses to execute a participation agreement in accordance with the provisions of the plan.

The Agency is not authorized to acquire real property owned by public bodies which do not consent to such acquisition. The Agency is authorized, however, to acquire public property transferred to private ownership before redevelopment of the project area is completed, unless the Agency and the private owner enter into a participation agreement and the owner completes his responsibility under the participation agreement.

The provisions of the plan, except for the non-discrimination and non-segregation provisions, shall run in perpetuity, and shall be effective, and the provisions of other documents formulated pursuant to the plan may be made effective for fifty (50) years from the date of adoption of the plan by the City Council (Adopted with Amendment No. 1 to Plan).

SECTION 4

The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

SECTION 5

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City that are inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 6

Any person violating any of the provisions of this ordinance will be guilty of an infraction, and upon conviction will be subject to a fine as provided for in §36900 of the California Government Code.

SECTION 7

This ordinance shall take effect thirty (30) days after the date of its adoption. Within fifteen (15) days following adoption, this ordinance or a summary of this ordinance if authorized by the City Council, will be published at least once in the Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

Introduced and approved this ____ day of _____, 2007.

Adopted and passed this _____ day of _____, 2007.

FRANK SCOTTO, MAYOR

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN FELLOWS III, City Attorney

By _____
Ronald T. Pohl, Assistant City Attorney

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF TORRANCE, CALIFORNIA, DESCRIBING
THE REDEVELOPMENT AGENCY'S EXISTING
EMINENT DOMAIN PROGRAM IN ACQUIRING REAL
PROPERTY WITHIN THE DOWNTOWN TORRANCE
REDEVELOPMENT PROJECT**

WHEREAS, the intent of this Ordinance is to comply with SB 53 [adding §33342.7 of the Health and Safety Code], which went into effect on January 1, 2007 requiring redevelopment agencies to adopt an ordinance that describes their redevelopment agency's authority to use eminent domain in the acquisition of property. An ordinance must be adopted regardless of whether there is an authority to use eminent domain in a project area. The Downtown Torrance Redevelopment Project Plan does contain a description of the Agency's eminent domain authority which defines when, where and how it can be used. Therefore, this Ordinance simply restates the Agency's existing authority as it was adopted by the Agency on July 17, 1979 and later amended on May 7, 1991. This ordinance does not propose any amendments to the Agency's eminent domain authority as it was adopted on July 17, 1979 and later amended on May 7, 1991.

WHEREAS, the Redevelopment Agency of the City of Torrance, California hereinafter referred to as the "Agency," adopted Ordinance No. 2912 on July 17, 1979 approving and adopting the Redevelopment Plan (the "Redevelopment Plan") for the Torrance Downtown Redevelopment Project (the "Project"); and

WHEREAS, the Redevelopment Agency of the City of Torrance ("Agency") is designated as the official redevelopment agency in the City of Torrance 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.) (the "Community Redevelopment Law") and to implement the Redevelopment Plan; and

THE CITY COUNCIL OF THE CITY OF TORRANCE DOES HEREBY ORDAIN
AS FOLLOWS:

SECTION 1

The Redevelopment Plan ("Plan") for the Downtown Torrance Redevelopment Project ("Project") consists of the text, the legal description of the project area boundaries, and the Redevelopment Plan Map ("Map"). This Plan has been prepared by the Torrance Redevelopment Agency ("Agency") pursuant to the Community Redevelopment Law of the State of California ("Redevelopment Law"), the United States Constitution, the California Constitution, and all

applicable local laws and ordinances. The California Community Redevelopment Law is located in the California Health and Safety Code, Section 33000, et. Seq.

SECTION 2

The Redevelopment Plan provides the Agency with powers, duties and obligations to implement and further the program generally formulated in this Plan for the redevelopment, rehabilitation and revitalization of the area within the boundaries of the project (the "Project Area"). The boundaries of the Downtown Torrance Redevelopment Project area ("Project area") are described in the "legal description of the project area boundaries," included as part of the original adopted Plan.

SECTION 3

Except as specifically exempted herein, the Agency may acquire but is not required to acquire, any 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.

No eminent domain proceeding to acquire property within the project area shall be commenced after twelve (12) years following the date of adoption of the ordinance approving and adopting the Redevelopment Plan. Such time limitation may be extended only by amendment of this Redevelopment Plan.

To the extent permitted and in the manner required by law, the Agency may declare specific property within the project area to be exempt from acquisition by eminent domain under this plan. The Agency shall have no power of eminent domain as to property so designated, unless this plan is thereafter amended to expressly make this property subject to acquisition by eminent domain.

The Agency shall not acquire interests in oil, gas, or other mineral or hydrocarbon substances of any kind or character within the project area, except to preclude the right to explore for, produce or extract such substances through any opening or penetration for any purpose connected therewith within 500 feet from the surface of any property in the project area.

The Agency shall not acquire real property to be retained by an owner pursuant to a participation agreement if the owner fully performs under the agreement. The Agency is authorized to acquire structures without acquiring the land upon which those structures are located. The Agency is also authorized to acquire any other interest in real property less than a fee.

The Agency shall not acquire 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 1) such building requires structural alterations, improvement, modernization, or rehabilitation, or 2) the site or lot on which the building is situated requires modification in size, shape or use, or 3) it is necessary to impose upon such property any of the standards, restrictions and controls of the plan and the owner fails or refuses to participate in the plan by executing a participation agreement.

Except when property is acquired for public improvements, the Agency shall attempt to the greatest extent feasible, to obtain an Owner Participation Agreement or Disposition and Development Agreement before acquiring property for redevelopment.

SECTION 4

The Agency's program to acquire real property 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 5

The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

SECTION 6

Any provisions of the Torrance Municipal Code or its appendices, or any other ordinances of the City that are inconsistent with this ordinance to the extent of the inconsistencies and no further, are repealed.

If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, the decision will not affect the validity of the remaining portions of the ordinance. The City Council declares that it would have passed this ordinance and each section, subsection, sentence, clause and phrase irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases are declared invalid or unconstitutional.

SECTION 7

Any person violating any of the provisions of this ordinance will be guilty of an infraction, and upon conviction will be subject to a fine as provided for in Section 36900 of the California Government Code.

SECTION 8

This ordinance shall take effect thirty (30) days after the date of its adoption. Within fifteen (15) days following adoption, this ordinance or a summary of this ordinance if authorized by the City Council, will be published at least once in the

Daily Breeze, a newspaper of general circulation, published and circulated in the City of Torrance.

Introduced and approved this ____ day of _____, 2007.

Adopted and passed this _____ day of _____, 2007.

FRANK SCOTTO, MAYOR

ATTEST:

Sue Herbers, City Clerk

APPROVED AS TO FORM:

JOHN FELLOWS III, City Attorney

By _____
Ronald T. Pohl, Assistant City Attorney