

Council Meeting
August 7, 2007

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

Members of the Council:

SUBJECT: SECOND AND FINAL READING OF ORDINANCE 3696

RECOMMENDATION:

Second and Final Reading of **ORDINANCE NO. 3696** describing the Redevelopment Agency's eminent domain program in acquiring real property within the Torrance Industrial Redevelopment Project.

BACKGROUND:

At the regular meeting of the City Council held on the 24th day of July, 2007, this Ordinance was introduced and approved for its first reading by the following roll call vote:

AYES:	COUNCILMEMBERS:	Barnett, Brewer, Drevno, Nowatka, Sutherland, Witkowsky, and Mayor Scotto.
NOES:	COUNCILMEMBERS:	None.
ABSTAIN:	COUNCILMEMBERS:	None.
ABSENT:	COUNCILMEMBERS:	None.

Respectfully submitted,


Sue Herbers, City Clerk

NOTED:


LeRoy J. Jackson, City Manager

Attachment	A:	Ordinance 3696
	B:	Ordinance summary

ORDINANCE NO. 3696**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 24th day of July, 2007.

Adopted and passed this _____ day of August, 2007.

APPROVED AS TO FORM:
JOHN FELLOWS III, City Attorney

Mayor Frank Scotto
ATTEST:

by _____
Ronald T. Pohl, Assistant City Attorney

Sue Herbers, City Clerk

Ordinance Summary**TORRANCE CITY COUNCIL ORDINANCE NO. 3696**

On _____, the City Council of the City of Torrance adopted Ordinance No. 3696, describing when, where and how the Redevelopment Agency could use its existing eminent domain program for the acquisition of real property within the Industrial Redevelopment Project Plan in compliance with SB 53.

The Ordinance does not propose any amendments to the Agency's eminent domain authority as provided within the Industrial Redevelopment Project Plan as it was previously adopted by the City Council on July 12, 1983.