

RESOLUTION NO. 2-2008

Adopted January 15, 2008

RESOLUTION OF NECESSITY FOR THE ACQUISITION OF REAL PROPERTY AT 200-214 SIXTH STREET THROUGH EMINENT DOMAIN BY THE REDEVELOPMENT AGENCY OF THE CITY AND COUNTY OF SAN FRANCISCO AND ADOPTING ENVIRONMENTAL FINDINGS PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT; SOUTH OF MARKET REDEVELOPMENT PROJECT AREA

BASIS FOR RESOLUTION

1. The property at 200-214 Sixth Street, Assessor's Block 3731, Lot 1, at the southeast corner of Sixth Street and Howard Street, in San Francisco, more particularly described in Attachment A (the "Property"), is located within the South of Market Redevelopment Project Area and is owned by the Branch Limited Partnership, an Oregon limited partnership (the "Owner").
2. The Property, an unoccupied four-story brick building is approximately 32,408 square feet (exclusive of the basement), is commonly referred to as the "Hugo" or the "Hugo Hotel," formerly used as a single-room occupancy residential hotel until some time in 1988. Agency staff believes that the interior of the Hugo was gutted and stripped to the wood studs in the early 1990s and has been continuously uninhabitable since that time.
3. Agency staff is also informed and believes that the Owner has offered the Property available for sale since the late 1990s.
4. The Redevelopment Plan for the South of Market Redevelopment Project Area (the "SOM Redevelopment Plan") as amended in 2005 requires certain conditions to be present before eminent domain may be used, including: existence of a single-room occupancy (SRO) property that has been repeatedly cited for code violations or a vacant building located along Sixth Street that exhibits at least one of conditions of blight per the Community Redevelopment Law ("CRL").
5. Per Section 33031 of the CRL, conditions of blight include: a) buildings in which it is unsafe or unhealthy for persons to live or work (these conditions can be caused by serious building code violations, dilapidation and deterioration, or similar factors) and b) vacant or abandoned buildings. These conditions are present at the Hugo.
6. Only one of the conditions needs to be present, but in the case of the Hugo more than one condition applies. The following conditions are present at the Hugo:

- A. The Hugo is on Sixth Street, a mixed-use building that was last used as an SRO hotel prior to the 1989 Loma Prieta earthquake and has been boarded up, and unutilized since that time.
 - B. The Hugo is seriously dilapidated and deteriorated and reportedly contains no plumbing, heating, ventilation or air conditioning, based on information supplied by a realtor retained by the Owner in 1994 and has been uninhabited and uninhabitable for almost twenty years.
- 7. On March 20, 2006, the South of Market Project Area Committee adopted a motion "recommend[ing] that the Redevelopment Agency move with all of the resources necessary to implement the [SOM Redevelopment] Plan Amendment with regard to the Hugo Hotel."
 - 8. On April 26, 2007, the Redevelopment Agency ("Agency") staff sent the Owner an Offer to Negotiate to Purchase prepared pursuant to Government Code Section 7267.2 ("Offer"), which Offer was rejected by the Owner.
 - 9. On August 10, 2007, Agency staff sent the Owner an Offer to Negotiate an Owner Participation Agreement letter, requesting Owner's response on or before September 28, 2007; the Owner failed to submit an owner participation proposal by the September 28, 2007 response deadline.
 - 10. On November 19, 2007, the South of Market Project Area Committee recommended that the Agency consider the adoption of a Resolution of Necessity to institute eminent domain proceedings to acquire the Property.
 - 11. On December 14, 2007, Agency staff mailed to Owner a letter notice of the January 15, 2008 hearing to consider adoption of a Resolution of Necessity to Acquire the Property (the "Hearing Notice Letter") a copy of which is attached to this Resolution as Exhibit A.
 - 12. On January 15, 2008, the Agency Commission held a public hearing to consider the adoption of this Resolution of Necessity.

CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS

- 13. The SOM Redevelopment Plan was adopted on December 16, 2005, as an amendment to the South of Market Earthquake Recovery Redevelopment Plan (the "South of Market Plan Amendment") by the Board of Supervisors' adoption of Ordinance No. 276-05, which includes findings and determinations required by the California Environmental Quality Act ("CEQA"), based on a Final Environmental Impact Report for the SOM Redevelopment Plan (the "FEIR") that was certified on January 23, 1997 by the Agency Commission and San Francisco Planning

Commission (the "Planning Commission") and a Final Supplement to such FEIR (the "FEIR Supplement") that was certified on January 13, 2005 by the Planning Commission and on January 18, 2005 by the Agency Commission, which discuss the environmental impacts of the South of Market Plan Amendment and were certified by the Agency and the Planning Commission as having been completed in compliance with CEQA.

14. The FEIR and the FEIR Supplement collectively constitute a program EIR for the SOM Redevelopment Plan (collectively the "South of Market FEIR").
15. The adoption of this Resolution of Necessity enables acquisition of the Property to eliminate blight on the Property through restoration of the Property to productive use, all in implementation of the SOM Redevelopment Plan (collectively, the "Project") and the environmental impacts of such Project are within the scope of the environmental impacts analyzed in the South of Market FEIR. Agency staff, in making the necessary findings for the Project contemplated herein, considered and reviewed the South of Market FEIR. Documents related to the Project and the South of Market FEIR have been and continue to be available for review by the Agency Commission and the public and are part of the record before the Agency Commission.
16. The South of Market FEIR and Board of Supervisors Ordinance No. 276-05 were and remain adequate, accurate and objective and are incorporated herein by reference as applicable to the Project and, pursuant to CEQA Guidelines Sections 15180 and 15168, no additional environmental review is required for the following reasons:
 - A. The Project will not change the scope of the SOM Redevelopment Plan analyzed in the South of Market FEIR and no major revisions are required due to the involvement of new significant environmental effects or a substantial increase in the severity of significant effects previously identified in the South of Market FEIR.
 - B. No substantial changes have occurred with respect to the circumstances under which the SOM Redevelopment Plan analyzed in the South of Market FEIR was and will be undertaken that would require major revisions to the South of Market FEIR due to the involvement of new significant environmental effects, or a substantial increase in the severity of effects identified in the South of Market FEIR.
 - C. No new information of substantial importance to the SOM Redevelopment Plan analyzed in the South of Market FEIR has become available that would indicate that (a) the Project will have significant effects not discussed in the South of Market FEIR; (b) significant environmental effects will be substantially more severe; (c) mitigation measures found not feasible that would reduce one or more significant effects have become feasible; or (d)

mitigation measures or alternatives that are considerably different from those in the South of Market FEIR will substantially reduce one or more significant effects on the environment.

RESOLUTION

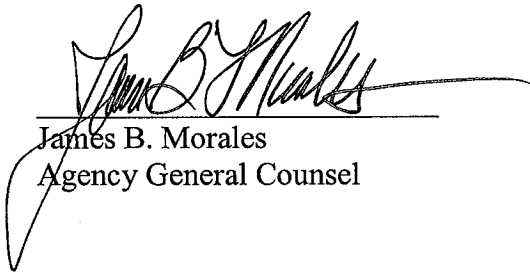
ACCORDINGLY, IT IS RESOLVED by the Redevelopment Agency of the City and County of San Francisco as follows:

1. The CEQA findings and the following findings and determinations are approved and adopted:
 - a. The public interest and necessity require the proposed Project.
 - b. The proposed Project is planned or located in a manner that will be most compatible with the greatest public good and the least private injury.
 - c. The acquisition of the Property is necessary for the proposed Project.
 - d. The offer required by Government Code Section 7267.2, together with the accompanying statement of and summary of the basis for the amount established as just compensation, was made to the Owner or owners of record on April 26, 2007, which offer and accompanying statement/summary were in a form and contained all of the factual disclosures required by Government Code Section 7267.2 (a).
 - e. The Agency has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain to acquire the Property.
 - f. The Agency has the statutory authority pursuant to California Health and Safety Code Section 33342 and is also authorized by the SOM Redevelopment Plan to acquire the Property by eminent domain.
2. This Resolution of Necessity is adopted and the Agency General Counsel is hereby authorized and empowered to take or cause the following:
 - a. To acquire in the name of the Redevelopment Agency the Property described in the Attachment A, in accordance with the provisions of the California Eminent Domain Law and the California Constitution.
 - b. To acquire the Property in fee simple absolute.
 - c. To prepare and have prepared and to prosecute or to retain counsel to prosecute such eminent domain proceedings in the name of the

Redevelopment Agency in the property court as necessary for acquisition of the Property.

- d. To deposit the probable amount of compensation based on an appraisal, and to apply to the court for an order permitting the Agency to take immediate possession and use of the Property for the public uses and purposes provided by the SOM Redevelopment Plan.

APPROVED AS TO FORM:



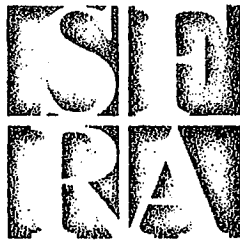
James B. Morales
Agency General Counsel

EXHIBIT A

San Francisco
Redevelopment Agency

One South Van Ness Avenue
San Francisco, CA 94103

415.749.2400



GAVIN NEWSOM, Mayor

Richard H. Peterson, Jr., President
Frances Covington, Vice President
London Breed
Linda A. Cheu
Leroy King
Ramon E. Romero
Darshan Singh

Fred Blackwell, Executive Director

December 14, 2007

103-09507-005

Certified mail to:

Branch Limited Partnership and
I.M. & S.I. Patel Living Trust
c/o Icharambhai Madhav Patel and Shantaben I. Patel
2620 Skyfarm Drive
Hillsborough, CA 94010

RE: NOTICE OF A JANUARY 15, 2008 HEARING ON THE PROPOSED ADOPTION OF
A RESOLUTION OF NECESSITY TO ACQUIRE PROPERTY AT 200-214 SIXTH
STREET BY EMINENT DOMAIN (California Code of Civil Procedure §1245.235)

Dear Mr. and Mrs. Patel:

1. **Notice of January 15, 2008 Hearing on a Resolution of Necessity.** This letter is sent to you as the owner of the property at 200-214 Sixth Street in San Francisco, California, more particularly described in Attachment A (the "Property"), listed as the Branch Limited Partnership in a recent preliminary title report and listed as the I.M. & S.I. Patel Living Trust on the last equalized San Francisco assessment roll (collectively "Owner"). **PLEASE TAKE NOTICE THAT THE REDEVELOPMENT AGENCY, ACTING THROUGH ITS MEMBERS (THE "REDEVELOPMENT AGENCY COMMISSION"), AT ITS REGULAR MEETING ON TUESDAY, JANUARY 15, 2008, AT 4 P.M. (OR AS SOON THEREAFTER AS THE MATTER MAY BE HEARD), WILL HOLD A HEARING TO CONSIDER ADOPTION OF A RESOLUTION OF NECESSITY TO INITIATE EMINENT DOMAIN PROCEEDINGS TO ACQUIRE THE PROPERTY. THE HEARING WILL BE HELD AT THE FOLLOWING LOCATION.**

**City Hall, Room 416
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102**

The hearing to consider adoption of a Resolution of Necessity is required by California Code of Civil Procedure §1245.220 before the commencement of an eminent domain proceeding to acquire the Property more particularly described in Attachment A.

2. **Source of Eminent Domain Authority.** Section 33391 of the California Health and Safety Code and Section 4.3.2 of the South of Market Redevelopment Plan, adopted December 6, 2005 by the Board of Supervisors of the City and County of San Francisco, pursuant to

Notice of Hearing re Resolution of Necessity Hearing
Page 2 of 6 (including Attachments A & B)

Ordinance No. 276-05 authorize the Redevelopment Agency to acquire certain property by eminent domain to implement the South of Market Redevelopment Plan ("Redevelopment Plan"). The Redevelopment Plan authorizes the use of eminent domain in a number of situations, including the use of eminent domain to acquire a property located on Sixth Street that exhibits one or more conditions of blight. In addition, as required by Redevelopment Plan, the Redevelopment Agency staff has conferred with the South of Market Project Area Committee ("SOMPAC") and the SOMPAC has adopted a motion recommending the acquisition of the Property by eminent domain at its meeting held on November 19, 2007.

3. **Your Right to Be Heard at the Hearing.** If you desire to be heard at the public hearing, you must attend the January 15, 2008 hearing, scheduled to start at 4 p.m. at the location indicated in Section 1 of this letter.

4. **Effect of Your Failure to Object at the January 15, 2008 Hearing.** If you do not appear and speak at the January 15, 2008 hearing, you may be foreclosed from raising in a court of law the hearing issues listed in Section 5 of this letter. **If you elect not to appear and be heard, you will not waive your right to claim greater compensation in a court of law.**

5. **Matters to be Heard at the January 15, 2008 Hearing.** You have a right to appear and be heard before the Redevelopment Agency Commission at its January 15, 2008 hearing on the following matters and issues, and to have the Redevelopment Agency Commission consider your testimony before deciding whether or not to adopt a Resolution of Necessity. The matters that the Agency Commission will consider at the hearing are whether:

- a. The public interest and necessity require the proposed project.
- b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The property described in the [Resolution of Necessity] is necessary for the proposed project.
- d. The offer required by Section 7267.2 of the Government Code has been made to the owner or owners of record or the offer has not been made because the owner cannot be located with reasonable diligence.

6. **Compensation Amount and Opportunity for Further Negotiations.** The amount of the compensation to be paid for the acquisition of the Property is not a matter or issue to be heard by Redevelopment Agency Commission at the January 15, 2008 hearing and your nonappearance at the January 15, 2008 hearing will not prevent you from claiming greater compensation, in and as determined by a court of law in accordance with the laws of the State of California. In addition, this Notice is not intended to foreclose future negotiations between you and the representatives of the Redevelopment Agency on the amount of compensation to be paid for your Property.

Notice of Hearing re Resolution of Necessity Hearing
Page 3 of 6 (including Attachments A & B)

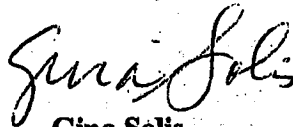
7. **Availability of the Proposed Resolution of Necessity.** A copy of the proposed Resolution of Necessity will be available for inspection at the office of Gina Solis, the Redevelopment Agency Commission Secretary at 1 South Van Ness Avenue, 5th floor, San Francisco, CA 91034 on and after January 4, 2008 and at the place of the January 15, 2008 hearing at the date of the hearing.

If the Redevelopment Agency Commission elects to adopt the Resolution of Necessity, then within six months thereafter, the Redevelopment Agency will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

In addition, as previously stated, this Notice does not foreclose the continuation of negotiations between you and the representatives of the Redevelopment Agency.

Dated and mailed on December 14, 2007

Sincerely,



Gina Solis
Commission Secretary

Copy: Varsha Patel- Certified Mail
San Francisco Redevelopment Agency Commission Members
Fred Blackwell, Executive Director
Olson Lee, Deputy Executive Director – Housing

Attachments:

- A: Legal Description
- B: Government Code section 7267.2(a)

N:\...Notice of Hearing on Resolution of Necessity-FINAL

**ATTACHMENT A:
LEGAL DESCRIPTION**

The following real property located in San Francisco, California:

Beginning at the point of intersection of the Southwesterly line of Sixth Street and the Southeasterly line of Howard Street; running thence Southwesterly and along said line of Howard Street 80 feet; thence at a right angle Southeasterly 125 feet; thence at a right angle Northeasterly 80 feet to the Southwesterly line of Sixth Street; thence at a right angle Northwesterly along said line of Sixth Street 125 feet to the point of beginning.

Being part of 100 Vara Block No. 395.

Assessor's Parcel Number: Lot 1, Block 3731

ATTACHMENT B:
GOVERNMENT CODE §7267.2(A)

“Prior to adopting a resolution of necessity pursuant to section 1245.230 and initiating negotiations for the acquisition of real property, the public entity shall establish an amount which it believes to be just compensation therefor, and shall make an offer to the Owner or Owners of record to acquire the property for the full amount so established, unless the Owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body’s ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. In no event shall the amount be less than the public entity’s approved appraisal of the fair market value of the property. Any decrease or increase of the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the Owner or occupant, shall be disregarded in determining the compensation for the property. The public entity shall provide the Owner of real property to be acquired with a written statement of and summary of the basis for the amount it established as just compensation. Where the property involved is Owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. Where appropriate, the just compensation for the real property acquired and for damages to the remaining property shall be separately stated.”