

## RESOLUTION NO. 68-2009

*Motion Failed June 16, 2009*

**UPHOLDING THE EXECUTIVE DIRECTOR'S DECISION TO DENY WESTERN COMMERCIAL PARTNERSHIP I, LLC'S MARCH 12, 2009 WRITTEN REQUEST TO THE AGENCY TO PAY HALF THE COST OF REPAIRS TO THE PRIVATELY OWNED WALKWAY IN FRONT OF WEBSTER TOWER & TERRACE AT 1489 WEBSTER STREET BASED ON THE AGENCY'S LACK OF AUTHORITY TO PAY FOR IMPROVEMENTS TO PRIVATE PROPERTY WITHOUT AN ADDITIONAL PUBLIC BENEFIT**

### BASIS FOR RESOLUTION

1. The Commission has asked for a hearing to discuss the Executive Director's decision to deny Western Commercial Partnership I, LLC's March 12, 2009 written request to the Redevelopment Agency of the City and County of San Francisco ("Agency") to pay half the cost of repairs to the privately owned, diagonal walkway in front of Webster Tower & Terrace at 1489 Webster Street in the former Western Addition Redevelopment Project Area A-2.
2. The diagonal walkway is owned by Mr. Kwok Hung Szeto ("Mr. Szeto"). Staff has researched the background on this issue, including when and how the walkway was originally constructed, the history of repairs and maintenance to the walkway, the entitlement history of the walkway and related development, who is responsible for maintenance/repairs, and other related issues.
3. Based on the above analysis, staff recommends upholding the Executive Director's decision to deny the request for Agency funds to pay for repairs to the privately owned walkway for the following reasons:
  - The property that Mr. Szeto purchased "As Is" from the Agency in 1985 to build Webster Tower & Terrace included the finished diagonal walkway and two plazas, which were already covered with interlocking brick pavers.
  - Mr. Szeto was legally and financially responsible for repairing and restoring any portion of the finished diagonal walkway and two plazas that were damaged during the construction of Webster Tower & Terrace.
  - Mr. Szeto has been legally and financially responsible for maintaining and repairing the diagonal walkway and two plazas since 1985.
  - The California Constitution (Article 16, Section 6) prohibits the Agency from paying for improvements to private property without an additional public benefit (i.e., no gifts of public funds). In this case, staff does not believe there is an

additional public benefit to be gained from repairing a privately owned, publicly accessible walkway more than 20 years after it was built.

4. Determining that the Agency will not pay half the cost of repairs to the privately owned walkway is not a Project as defined by the California Environmental Quality Act ("CEQA") Guidelines Section 15378(b)(5), will not independently result in a physical change in the environment, and is not subject to environmental review under CEQA.
5. Staff recommends upholding the Executive Director's decision to deny the request for Agency funds to pay for repairs to a privately owned walkway.

### RESOLUTION

**ACCORDINGLY, IT IS RESOLVED** by the Redevelopment Agency of the City and County of San Francisco that the Commission upholds the Executive Director's decision to deny Western Commercial Partnership I, LLC's March 12, 2009 written request to the Agency to pay half the cost of repairs to the privately owned walkway in front of Webster Tower & Terrace at 1489 Webster Street in the former Western Addition Redevelopment Project Area A-2 based on the Agency's lack of authority to pay for improvements to private property without an additional public benefit.

#### APPROVED AS TO FORM:

  
for James B. Morales 6/10/09  
Agency General Counsel