

INFORMATIONAL MEMORANDUM

TO: Agency Commissioners
FROM: Fred Blackwell, Executive Director
SUBJECT: Judgment in Condemnation pursuant to eminent domain for 200-214 Sixth Street; South of Market Redevelopment Project Area

EXECUTIVE SUMMARY

The Hugo Hotel property (the “Hugo” or the “Property”) is located at 200-214 Sixth Street on the southwest corner of Sixth and Howard Streets in the South of Market Redevelopment Project Area. The Hugo is a four-story building plus a basement that has been vacant since approximately 1988; its interior has been gutted since the early 1990s. According to San Francisco tax assessment roll, the Hugo is owned by the I.M. & S.I. Patel Living Trust (the “Owner”).

On January 15, 2008, the Commission authorized a Resolution of Necessity to acquire the Property through eminent domain. The Commission Memorandum is attached. Since that time, Agency staff continued to follow the strategy as authorized by the Commission which included both continued negotiations with the Owner to reach a negotiated acquisition of the Property, as well as pursuing acquisition through eminent domain. In order to comply with legal timelines, a Complaint in Eminent Domain was filed in Superior Court on June 2, 2008. Based on an independent appraisal, the Agency made a deposit of just compensation in the amount of \$3,090,000 to the State of California’s State Condemnation Deposits Fund on August 20, 2008. This deposit established August 20, 2008, as the date of valuation in the eminent domain action.

After continuing informal attempts to reach a negotiated settlement were unsuccessful, two formal attempts to settle occurred. First, a private mediation with Justice Gary E. Strankman at JAMS occurred on June 23, 2009. Second, a mandatory settlement conference with Judge John Stewart occurred on July 15, 2009. Neither of these settlement attempts reached a mutually acceptable price.

As a result, a jury trial was required in the State of California Superior Court. The firm of Erickson, Beasley & Hewitt, LLP, represented the Agency. The trial commenced on August 31, 2009, and the jury reached a verdict on September 11, 2009. The trial was to determine the fair market value of the Hugo; the Owner did not dispute the Agency’s right to take the Property by eminent domain. For the trial, each party engaged an appraiser to determine the fair market value as of August 20, 2008. The Agency’s appraisal indicated a fair market value of \$3,675,000. The Owner’s appraisal indicated a

fair market value of \$5,600,000. The verdict reached by the jury set the fair market value at \$4,600,000.

The Resolution of Necessity adopted by the Commission on January 15, 2008 authorized staff to accept the trial's outcome. In particular, the Resolution of Necessity states that "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." Since the Agency has already deposited \$3,090,000, staff will make payment of an additional \$1,510,000 for a total fair market value of \$4,600,000 set by the jury. The Judgment in Condemnation will then be executed and title will be transferred to the Agency.

Next Steps

Affordable housing with ground-floor commercial will be constructed on the site. Staff will confer with the South of Market Project Area Committee regarding the specific housing type and will prepare an informational memorandum to the Commission prior to initiating a Request for Proposals process to return the site to productive use. Prior to the site's development, Agency property management staff will ensure the property is secured and adequately maintained until the start of construction of a new building.

Originated by Jeff White, Development Specialist

Fred Blackwell, Executive Director

- Attachments: 1. [Commission Memorandum for the meeting of January 15, 2008](#)
2. Resolution of Necessity No. 2-2008