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June 21, 2017

VIA E-MAIL AND U.S. MAIL

The Honorable City Council  
Attn: Michael Espinosa  
Entertainment and Facilities Committee  
Room 395, City Hall  
200 N. Spring Street  
Los Angeles, CA 90012  
[michael.espinosa@lacity.org](mailto:michael.espinosa@lacity.org)

Re: June 23, 2017 Los Angeles City Council Agenda No. (3)  
5601 N. Figueroa Street, Los Angeles, CA  
APN: 5468-033-016  
City Council File No. 15-0545 (CD 1)

Dear Mr. Espinoza:

Our law firm represents Dr. Richard Rutgard, the prior owner of the property designated as Assessor's Parcel No. 5468-033-016 and commonly known as 5601 N. Figueroa Street, Los Angeles, California 90042 (the "Subject Property"). Reference is made to our firm's prior letter to you dated June 9, 2017 and my testimony before the Los Angeles City Council on June 16, 2017 concerning this matter. We understand that this matter is scheduled for "Ordinance Second Reading" before the Los Angeles City Council on June 23, 2017, as Agenda Item No. (3).

Please take notice that we intend to appear and object to the adoption of the City's proposed ordinance purporting to reauthorize the public use previously approved by City Ordinance No. 178867. Our prior objections to the proposed ordinance are incorporated herein as if set forth in full.

California Code of Civil Procedure § 1245.245(b) is clear in its language: if property acquired by a public entity after a resolution of necessity is not used for the public use stated in the resolution within ten (10) years of the adoption of the resolution, the prior owner must be given a right of first refusal to purchase back the property. The public entity can adopt a resolution reauthorizing the existing stated public use of the property, and avoid dealing with the prior owner, but only if it adopts the new resolution within the ten-year period pursuant to Code of Civil Procedure § 1245.245(f).

The Honorable City Council  
Attn: Michael Espinosa  
June 21, 2017  
Page 2

In this case, the City of Los Angeles admits that the property has not been used for the stated public use ["constituent service center"] and is attempting to re-authorize the use after the ten years have expired. It cannot do that under the state law.

The dates and facts are important in this matter. The original resolution of necessity was adopted on May 29, 2007. That date of adoption is clearly stated in the Ordinance, Minutes, and summary of the Verbal Motion. In fact, the Verbal Motion summary states: "Findings, Motion, & Ordinance ADOPTED May 29, 2007, Los Angeles City Council" (copy enclosed).

The word "adopted" is important here. The City is apparently asserting that the ten years do not start to run until the ordinance is "effective." However, the statute doesn't say "within 10 years of the resolution being effective." It clearly states "within 10 years of the adoption of the resolution."

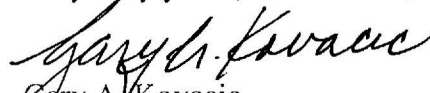
It is interesting to note that the Los Angeles City Council even approved a motion in 2015 asking the city attorney to prepare a new resolution of necessity before May 27, 2017, stating that May 27, 2017 was when the original resolution expired (copy enclosed).

Based on the City's failure to act within the statutory time frame, the City does not currently have a legal right to "reauthorize" the already expired resolution of necessity. The only action that the City may legally take and is required to take is to offer our client the opportunity to repurchase the subject property pursuant to Code of Civil Procedure Section 1245.245(f).

Further, notwithstanding the City's lack of authority under Section 1245.245, the public interest and necessity do not require the reauthorization of the proposed constituent service center use. The proposed public use is duplicative and unnecessary.

It is therefore requested that the Los Angeles City Council not proceed with adoption of the proposed illegal reauthorization ordinance and that the City instead comply with its legal obligation to offer to resell the Subject Property to our client, Dr. Rutgard.

Very truly yours,



Gary A. Kovacic

SULLIVAN, WORKMAN & DEE, LLP

cc: Dr. Richard Rutgard  
Nancy E. Wax, Deputy City Attorney





FRANK T. MARTINEZ  
City Clerk

KAREN E. KALFAYAN  
Executive Officer

When making inquiries  
relative to this matter  
refer to File No.

07-1205

CD 1

June 15, 2007

Councilmember Reyes  
Councilmember Huizar  
Board of Public Works  
Office of the Mayor  
City Administrative Officer  
City Attorney (w/blue sheet)  
Chief Legislative Analyst  
Bureau of Engineering  
Department of General Services

# CITY OF LOS ANGELES

CALIFORNIA



ANTONIO R. VILLARAIGOSA  
MAYOR

Office of the  
**CITY CLERK**  
Council and Public Services  
Room 395, City Hall  
Los Angeles, CA 90012  
Council File Information - (213) 978-1043  
General Information - (213) 978-1133  
Fax: (213) 978-1040

CLAUDIA M. DUNN  
Chief, Council and Public Services Division  
[www.cityclerk.lacity.org](http://www.cityclerk.lacity.org)

RE: AUTHORIZING THE CONDEMNATION OF THE PROPERTY AND IMPROVEMENTS LOCATED AT  
5601 NORTH FIGUEROA STREET

At the meeting of the Council held May 29, 2007, the following action was taken:

Attached motion (Reyes - Huizar) adopted.....	X
Attached resolution adopted .....	
Mayor concurred .....	
To the Mayor FORTHWITH .....	
Motion adopted to approve communication recommendation(s) .....	
Motion adopted to approve committee report recommendation(s) .....	
<u>Ordinance adopted</u> .....	X
Ordinance number .....	178867
Posted date .....	06/14/07
Effective date .....	07/24/07
Mayor approved .....	06/08/07
Categorical exemption approved .....	X
Findings adopted .....	X

*Frank T. Martinez*

City Clerk  
kc

**ORDINANCE NO. 178867**

An ordinance of the City of Los Angeles finding that the public interest and necessity require the condemnation of property and improvements located at 5601 North Figueroa Street, Los Angeles (APN 5468-033-016), for a constituent service center, a public use.

**THE PEOPLE OF THE CITY OF LOS ANGELES  
DO ORDAIN AS FOLLOWS:**

Section 1. The Council of the City of Los Angeles resolves, finds, and determines that the public interest and necessity require the condemnation of property located at 5601 North Figueroa Street, Los Angeles, for a constituent service center; that the project is planned and located in a manner that will be most compatible with the greatest public good and the least private injury; that the property described in this ordinance is necessary for the project; and that an offer required by Government Code §7267.2 has been made to the owners of record.

Sec. 2. The property is to be acquired for public purposes under the authority of the California Constitution, Article 1, §19; Government Code §37350.5; and Code of Civil Procedure §§1240.010 through 1240.050.

Sec. 3. The property to be acquired is located in the City of Los Angeles, County of Los Angeles, State of California. The interests to be acquired is title in fee simple absolute to property and improvements fully described and depicted in a map in Exhibit A to this ordinance. The property is also identified as Assessor's Parcel Number 5468-033-016.

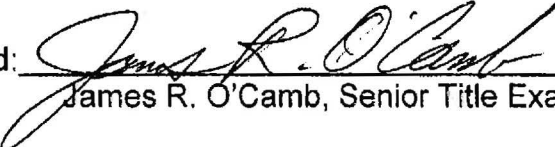
Sec. 4. At least 15 days written notice has been given by first class mail to each person whose property is to be acquired by eminent domain. The notice advised each of these persons of the intent of the Council to adopt this ordinance and of the right to appear and be heard by the Council. Each owner who so requested was given an opportunity to appear and be heard by the Council.

Sec. 5. The City Attorney is authorized to commence an action in eminent domain to acquire the property and improvements. The City Attorney is also authorized to obtain the necessary court order granting the City possession prior to judgment.

Sec. 6. The City has taken reasonable efforts to acquire the property and improvements by negotiation, but has been unsuccessful.

Legal Description

See Exhibit A attached

Description Approved:   
James R. O'Camb, Senior Title Examiner


Reginald Byron Jones-Sawyer, Sr., Director  
Asset Management Division  
General Services Department

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Sec. 7. The City Clerk shall certify to the passage of this ordinance and have it published in accordance with Council policy, either in a daily newspaper circulated in the City of Los Angeles or by posting for ten days in three public places in the City of Los Angeles: one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; and one copy on the bulletin board located at the Temple Street entrance to the Los Angeles County Hall of Records.

I hereby certify that this ordinance was passed by the Council of the City of Los Angeles, **by a vote of not less than two-thirds** of all of its members, at its meeting of MAY 29 2007.

FRANK T. MARTINEZ, City Clerk


By   
Deputy

Approved JUN 08 2007

  
Mayor

Approved as to Form and Legality

ROCKARD J. DELGADILLO, City Attorney

By   
NANCY E. WAX  
Deputy City Attorney

Date April 12, 2007

File No. 07-1205



**EXHIBIT "A"**

**LEGAL DESCRIPTION**

Lot 9 and the Southwesterly two and one-half feet, front and rear, of Lot 10, in Block 13, of the Subdivision of certain lots in Highland Park Tract, in the City of Los Angeles, County of Los Angeles, State of California, as per map recorded in Book 6, Pages 392 and 393 of Miscellaneous Records, in the Office of the County Recorder of said County.

Excepting therefrom the Northwesterly 86 feet thereof.

Also excepting therefrom that portion included within the lines of Pasadena Avenue (now Figueroa Street) as widened.

DECLARATION OF POSTING ORDINANCE

I, MARIA C. RICO, state as follows: I am, and was at all times hereinafter mentioned, a resident of the State of California, over the age of eighteen years, and a Deputy City Clerk of the City of Los Angeles, California.

Ordinance No. 178867 - The City of Los Angeles finding that the public interest and necessity require the condemnation of property and improvements located at 5601 North Figueroa Street, L.A. (APN 5468-033-016), for a constituent service center, a public use - a copy of which is hereto attached, was finally adopted by the Los Angeles City Council on May 29, 2007, and under the direction of said City Council and the City Clerk, pursuant to Section 251 of the Charter of the City of Los Angeles and Ordinance No. 172959, on June 14, 2007 I posted a true copy of said ordinance at each of three public places located in the City of Los Angeles, California, as follows: 1) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall; 2) one copy on the bulletin board located at the Main Street entrance to the Los Angeles City Hall East; 3) one copy on the bulletin board located at the Temple Street entrance to the Hall of Records of the County of Los Angeles.

Copies of said ordinance were posted conspicuously beginning on June 14, 2007 and will be continuously posted for ten or more days.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 14th day of June 2007 at Los Angeles, California.

  
Maria C. Rico, Deputy City Clerk

Ordinance Effective Date: July 24, 2007

Council File No. 07-1205

**VERBAL MOTION**

I HEREBY MOVE that Council ADOPT the following recommendations of the City Attorney (Item No. 1, Council file 07-1205) relative to acquisition of real property at 5601 North Figueroa Street for he "CONSTITUENT SERVICE CENTER," SUBJECT TO THE APPROVAL OF THE MAYOR:

1. FIND that the project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) under State CEQA Guidelines Section 15331.
2. FIND this project is in substantial conformance with the General Plan, pursuant to Section 556 of the City Charter.
3. PRESENT and ADOPT the accompanying ORDINANCE authorizing the condemnation of the property and improvements located at 5601 North Figueroa Street.
4. AUTHORIZE the City Attorney to take all actions necessary to authorize payment for the acquisition of the property and improvements located at 5601 North Figueroa Street from CEIP Fund No. 100/54.
5. AUTHORIZE the City Attorney to take all actions necessary to authorize payment for pre-acquisition costs including litigation guarantees for the acquisition of the property and improvements located at 5601 North Figueroa Street from CEIP Fund No. 100/54.
6. AUTHORIZE the City Attorney to make the necessary deposit of probable just compensation and see an order from the Court to obtain pre-judgement possession of the property.
7. AUTHORIZE the Department of General Services to continue attempting to acquire title to the property in fee simple absolute through a negotiated purchase and, if successful, to execute all documents necessary to accomplish the transfer of this interest to the City.

PRESENTED BY \_\_\_\_\_

ED REYES  
Councilmember, 1<sup>st</sup> District

SECONDED BY \_\_\_\_\_

JOSE HUIZAR  
Councilmember, 14<sup>th</sup> District

May 29, 2007  
CF 07-1205

*Findings, Motion & Ordinance*  
**ADOPTED**

**MAY 29 2007**

**LOS ANGELES CITY COUNCIL**

*Cat Exempt Approved*



## MOTION

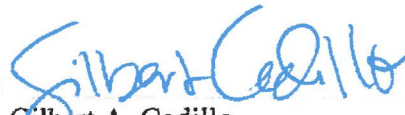
On May 27, 2007, the Council approved Ordinance Number 178867 authorizing the condemnation of real property located at 5601 North Figueroa Street ("the Subject Property") to establish the Highland Park Neighborhood City Hall/Constituent Service Center and provide office space for the staff of Council District 1 and various other City departments. The Subject Property consists of a two-story brick and concrete structure built in 1923 and is City Historical Monument No. LA-575, Security Trust and Savings Bank.

The City purchased the Subject Property through eminent domain in 2007 and took possession in September 2008. State law governing the eminent domain process requires that the property subject to the condemnation be used for the stated public purpose within ten years of the date of the Resolution. If not put to the stated public purpose, the property must be offered back to the original owner. The date of the expiration of this Resolution is May 27, 2017.

Funding sources have not yet been secured to cover the entire cost of improving the building, currently estimated at approximately \$16.5 million. Once funding has been secured, the estimated timeframe for design and construction is approximately four years. Since this timeframe would put occupation of the Subject Property for public use past the date authorized by the Resolution of Necessity, an additional resolution is required to extend the deadline for another ten years.

I THEREFORE MOVE that the City Council request the City Attorney, in consultation with the Office of the Chief Legislative Analyst, to prepare and present a Resolution of Necessity to extend the deadline for putting 5601 North Figueroa Street (APN No. 5468-033-016) to the stated public purpose by an additional ten years.

PRESENTED BY:

  
Gilbert A. Cedillo  
Councilmember, 1<sup>st</sup> District

SECONDED BY:



ORIGINAL

MWM

MAY 1 2015

