



# **NOTICES TO PROPERTY OWNERS – Eminent Domain**

**Economic Development and  
Housing Committee**

**February 20, 2007**



# PURPOSE

- Respond to council questions concerning notices to property owners during the acquisition/eminent domain process
- Outline current notice procedures; and
- Open discussion regarding notices to property owners

# OVERVIEW OF THE CITY ACQUISITION PROCESS

- Project is initiated within a department pursuant to the bond program, state or federal project or city council request
- Land needed for project is identified either by the department or Real Estate Division (site selections for libraries and fire stations)
- Real Estate
  - is asked to acquire needed land
  - does due diligence (appraisals, title work, environmental site assessments, surveys)
  - makes an administrative offer, subject to council approval, to the property owner in writing
  - takes an item to council requesting approval to acquire the property by purchase or eminent domain
    - Negotiations with the property owners continue throughout the process until the property is acquired
- If necessary, City Attorney is requested to initiate eminent domain proceedings

# NOTICES

- When the City acquires property, the following notices may be sent:
  - Public meetings to discuss project impact
    - All property owners are invited and any member of the public may attend
    - Could be 3-4 years before construction commences
  - Individual meetings with property owners at any time during the process
  - After federal/state approval, additional community meetings may be held with affected neighborhoods

# NOTICES

- Street Alignment Process for arterials and thoroughfares
  - Property owners are notified of the Council meeting when the alignment is considered
- Assessment process associated with street improvements
  - Property owners are notified of the assessment at a community meeting called for this purpose
  - Property owners are notified of the public hearing when Council considers the assessment ordinance

Note: Most of these notices occur prior to or concurrently with the acquisition process

# Notices

- Informational Notice Letters to property owners prior to Council approval regarding
  - Intent to acquire property
  - Requests for rights-of-entry
  - Contact from appraiser
- Item scheduled for City Council agenda
  - No notice to property owner of these meetings
  - City Council meetings are open to the public, agendas are posted
- Official written offer to purchase the property after approval by the Council

# SUMMARY

- The property owner is not formally notified in writing of the council action for purchase or eminent domain proceedings
- By the time the action to acquire the property is placed on an agenda, council has already approved the project
- Property owners receive numerous notices of projects requiring acquisition of their property
- Most properties, which come to council for purchase or eminent domain, are acquired amicably

# POTENTIAL PROBLEMS

- If it is required that property owners are notified of the Council Action:
  - Public debate may negatively influence the position of the City in eminent domain litigation regarding public necessity and value
  - Property values would be argued before the city council rather than a panel of their peers at the commissioners' hearing
  - Council members could be subpoenaed to testify at the trial regarding any discussion during council meetings



# RECOMMENDATIONS

- Add notice in all letters to property owners that eminent domain is a possibility
- Property values be discussed in closed session rather than a public forum
- Retention of current procedures regarding notification of property owners