

**COUNTY OF SAN DIEGO, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Subject**

The Use of the Board of Supervisors' Power of Eminent Domain on Behalf of Private Developers

**Policy  
Number**

J-33

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**Purpose**

To define and limit the circumstances in which the Board of Supervisors will use their power of eminent domain, on behalf of private developers, to acquire real property rights for public facilities.

**Background**

Frequently, property being developed as a major or minor subdivision lacks off-site real property rights to enable the development of public facilities. These facilities are needed in order to provide the public service required by or because of the developing property. The developer may be required by the County to acquire off-site real property rights as a condition of accepting the subdivision map. In those instances involving off-site owners who are unwilling to sell to the developer, the Board of Supervisors may choose to use their power of eminent domain to obtain the needed rights.

**Policy**

It is the policy of the Board of Supervisors that the power of eminent domain be used to acquire property rights required by conditions of approval of subdivisions only when:

1. The subdivider has made reasonable offers based on a fair market value appraisal report and has made every reasonable effort to acquire the property rights; and
2. Alternative locations for the public facilities have been considered and none found practical; and
3. Deletion of the off-site requirements of the subdivision is not recommended by staff; and
4. The subdivider has agreed to pay full County costs of eminent domain proceedings, including all costs to purchase the real property rights required; and
5. The Board of Supervisors has prescribed the location of the proposed acquisition.

Notwithstanding the above, non-blighted, owner-occupied, residential structures cannot be condemned for transfer to another private party for purposes of more profitable economic development.

**Procedure**

The Director, Department of Public Works, will request the Director, Department of General Services to proceed to acquire the needed rights for the County.

The Director, Department of General Services will, at the developer's cost:

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1. Prepare an agreement with the developer to acquire real property rights at the developer's expense; and
2. Review the developer's appraisal report for compliance with established appraisal standards; and
3. Advise owners of the proposed developer-County agreement and the date, time and location when it will be considered by the Board of Supervisors. Such notification shall be sent by certified mail, return receipt requested, at least ten days before the meeting. The notice shall also be posted concurrently by regular mail.
4. Upon approval of the developer/County agreement by the Board of Supervisors, the Department of General Services will, following the procedures delineated in Board of Supervisors Policy F-24 (Eminent Domain Procedure), proceed to acquire the required rights for the County.
5. Docket a hearing with the Board of Supervisors to enable the adoption of a Resolution of Necessity declaring the project to be in the public interest and the real property rights necessary to be acquired all in accordance with California Civil Code of Procedure Section 1245.210 et. seq, if unable to satisfactorily negotiate an agreement with the property owner(s).

**Sunset Date**

This policy will be reviewed for continuance by 12-31-2019.

**Board Action**

11-24-81 (52)

12-15-82 (51)

6-8-83 (15)

2-19-85 (5)

7-26-88 (43)

12-12-89 (49)

12-8-98 (53)

06-21-05 (16)

11-8-05 (1)

12-09-08 (33)

12-04-12 (13)

**CAO Reference**

1. Department of General Services