

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Eminent Domain Procedure

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Purpose

To provide guidance to staff in the professionally complex field of acquiring real property interests for public purposes where the power of eminent domain may be utilized. This statement does not encompass the planning and engineering process leading to a determination to proceed with a project, but is rather restricted to the real property and legal functions of ownership identification, appraisal, negotiation and condemnation.

Background

The Board of Supervisors budgets public projects requiring the acquisition of several hundred ownership interests each year. Typically, two to three million dollars will be expended annually. In securing such rights, the acceptance within the community of a program of such substantial size is dependent upon a fair-minded, professional approach by agents conducting the County's business. Often individuals' life savings are committed in properties affected by such programs. With the power of eminent domain goes the responsibility for a fair administrative process, reducing to a minimum the cases tried in Superior Court.

The rapid evolution of law in the field in recent years dictates that the existing practice of staff be periodically reviewed with basic principles documented as Board policy.

Policy

It is the policy of the Board of Supervisors that:

1. All property owners be dealt with fairly and equitably in the acquisition of lands or interests therein required by the County.
2. Settlements will be based on the concept of fair market value supported by current appraisal practices.
3. Negotiations will continue in good faith for as long as reasonable hope of settlement exists.
4. Condemnation will be utilized when negotiations have broken down or if required to meet time restraints imposed by funding sources or construction schedule.
5. The Relocation Assistance Program will be fairly administered to insure that all owners receive any benefits to which they are entitled.

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6. It is permissible to accept donations of real property interests from owners willing to forego payment therefore.
7. Eminent domain power shall not be used to condemn non-blighted, owner-occupied residential structures for conveyance to another private property owner for purposes of more profitable economic development.

Procedure

1. Owners shall be advised of the commencement of the appraisal and shall be afforded the opportunity to present any evidence deemed pertinent to their property value and such evidence shall be duly considered by the appraiser in arriving at the estimate of fair market value.
2. An appraisal varying in scope of completeness, depending upon the complexity of the assignment, will be completed as the basis for negotiation for the acquisition of each property interest sought.
3. The appraiser shall employ recognized appraisal techniques to insure that the valuation is unbiased and is fair and equitable to both parties.
4. The negotiator, who in no instance shall be the same individual who appraised the property, shall provide the owners with a written statement and summary of the basis for the amount estimated as just compensation.
5. The County's offer at first contact shall be the full estimate of market value supported by appraisal with no portion withheld for further concession. The desired result is to produce a settlement based on market value without requiring the property owner to seek expert assistance.
6. At the time of the County's offer, advise Owner of their right under Code of Civil Procedure section 1263.025, to obtain an independent appraisal of the real property interests sought by the County, for which County is required to reimburse Owner for the cost of the appraisal up to \$5,000.
7. Negotiations shall continue until either a settlement is effected or an impasse is reached and in an effort to achieve the former, any data which may come to light which was not known or considered by the appraiser shall be examined to determine its effect on the fairness of the appraisal. If justified, adjustments in the appraisal shall be made.

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8. The condemnation process shall not be used as a coercive tactic, but only when negotiations have been deadlocked or to insure that project construction may proceed on schedule or to meet time restraints imposed by funding sources.
9. Negotiated settlements will not be concluded at unjustified values merely to avoid litigation.
10. The County shall, at all times, endeavor to effect a negotiated settlement, even during the condemnation process.
11. The Relocation Assistance Program will be fairly administered to insure that all owners and tenants receive any benefits to which they are entitled.
12. Nothing contained herein shall preclude the County from acquiring donations from willing owners to real property interests required for County projects, provided such donations are consistent with the requirements of State or Federal funding agencies.

Sunset Date

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

Board Action

- 1-17-73 (2)
- 11-13-84 (10)
- 6-20-89 (63)
- 12-5-95 (36)
- 01-28-03 (16)
- 11-8-05 (1)
- 12-09-08 (33)
- 12-04-12 (13)

CAO Reference

1. Department of General Services