

ORDINANCE NO. 07-03

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ALBANY,
CALIFORNIA CONTAINING A DESCRIPTION OF THE ALBANY
COMMUNITY REIVESTMENT AGENCY'S AGREEMENT TO FORGO
THE POWER OF EMINENT DOMAIN IN THE ACQUISITON
OF REAL PROPERTY IN THE CLEVELAND AVENUE/EASTSHORE
HIGHWAY REDEVELOPMENT PLAN AREA**

WHEREAS, the City Council of the City of Albany of Alameda County, California ("City Council") adopted Ordinance No. 98-04 on June 15, 1998, approving and adopting the Redevelopment Plan for the Cleveland Avenue/Eastshore Highway Redevelopment Plan Area; and

WHEREAS, the Albany Community Reinvestment Agency of the City of Albany ("Agency") has been designated as the official redevelopment agency in the City of Albany to carry out the functions and requirements of the Community Redevelopment Law of the State of California (Health and Safety Code Section 33000 et seq.) and to implement the Redevelopment Plan; and

WHEREAS, Section 306 of the Redevelopment Plan contains Agency authority to acquire property by eminent domain; and

WHEREAS, a stipulated judgment was issued November 1, 2001 in which paragraph 6 states: *Section 306 of the Plan shall be deemed to eliminate the power of eminent domain form the entire Plan Area, and the City and/or Agency shall not exercise the power of eminent domain under the Plan with respect to any privately-owned property within the Project Area.*

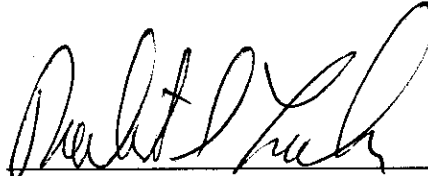
**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ALBANY,
CALIFORNIA, DOES HEREBY ORDAIN AS FOLLOWS:**

Section 1. Pursuant to Section 33342.7 of the Health and Safety Code, a copy of the stipulated judgment to eliminate the power of eminent domain from the Redevelopment Plan is set forth in Exhibit A, attached hereto and incorporated herein by this reference.

Section 2. The City Clerk is hereby directed to send a certified copy of this Ordinance to the Agency.

Section 3. If any part of this Ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portion of this Ordinance, and this City Council hereby declares that it would have passed the remainder of his Ordinance if such invalid portion thereof had been deleted.

Section 4. The City Clerk will certify to the passage of this Ordinance by the City Council, and cause the same to be published once in the West County Times, a newspaper of general circulation and it will take effect thirty days (30) days after its final passage.



ROBERT S. LIEBER
MAYOR

JUDGMENT

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Good cause appearing from the foregoing stipulation of the parties, it is hereby ordered and adjudged as follows:

1. The Court previously entered Judgment in this case on February 28, 2000 requiring the City and Agency to reconsider adoption of the Cleveland Avenue/Eastshore Highway Redevelopment Plan (the "Plan") in light of Petitioners' objections and evidence and retaining jurisdiction to review further actions of the City and Agency.

2. The City and Agency have reconsidered their actions with respect to adoption of the Plan in light of Petitioners' objections and concluded that the Plan should be implemented without use of eminent domain authority.

3. The Judgment previously entered in this action dated February 28, 2000, as well as the Writ of Mandate dated March 1, 2000, are hereby vacated and replaced with this Judgment.

4. As modified by this Judgment, the Plan as adopted by Ordinance No. 98-04 of the City Council is hereby adjudged and determined to be a valid redevelopment plan under the Community Redevelopment Law.

5. Ordinance No. 00-03 of the City Council adopted pursuant to the previously issued Writ and Judgment in this action shall be null and void and of no force and effect in light of the vacation of that Judgment and Writ.

6. Section 306 of the Plan shall be deemed to eliminate the power of eminent domain from the entire Plan Area, and the City and/or Agency shall not exercise the power of eminent domain under the Plan with respect to any privately-owned property within the Project Area.

The Law Offices of
Gonzalez & Lipman
Five Montgomery Street
Teleis Tower
Twenty-Third Floor
San Francisco
California 94104
(415) 788-8338
FAX (415) 788-0999

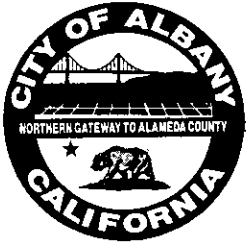
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7. Petitioners are entitled to costs and have already filed a cost bill; the Agency has paid those costs.

Dated: 11/29/01

JAMES A. RICHMAN
JUDGE OF THE SUPERIOR COURT

The Law Offices of
Goldfarb & Lipman
One Montgomery Street
Teleis Tower
Twenty-Third Floor
San Francisco
California 94104
(415) 786-6336
FAX (415) 786-0989



City of Albany

1000 SAN PABLO AVENUE • ALBANY, CALIFORNIA 94706-2295

CITY ADMINISTRATOR
PH. (510) 528-5710
FAX (510) 528-5797

CITY ATTORNEY
PH. (510) 524-9205
FAX (510) 526-9190

CITY CLERK
PH. (510) 528-5720
FAX (510) 528-5797

CITY COUNCIL
PH. (510) 528-5720
FAX (510) 528-5797

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PH. (510) 528-5771
FAX (510) 528-5774

PERSONNEL

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FAX (510) 528-5797

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PH. (510) 525-7300
FAX (510) 525-1360

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- Senior Center
PH. (510) 524-9122
FAX (510) 524-8940
- Teen Center
PH. (510) 525-0576

STATE OF CALIFORNIA)
COUNTY OF ALAMEDA) ss
CITY OF ALBANY)

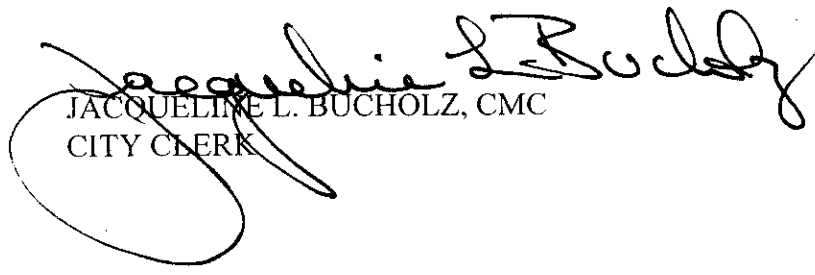
I, **JACQUELINE L. BUCHOLZ**, City Clerk of the City of Albany, California, do hereby certify that the whole number of members of the City Council of said City of Albany is five and that the foregoing is a true and correct copy of Ordinance No. 07-03 which was passed and adopted by the said City Council, approved and signed by the Mayor of said City, and attested by the City Clerk of said City, all at a regular meeting of the said Council on the 16th day of July 2007 A.D., and that the same was so passed and adopted by the following votes and duly published or posted according to State law.

AYES: Council Members Atkinson, Javandel, Okawachi, Wile & Mayor Lieber

NOES: None

ABSENT: None

In witness whereof, I have hereunto set my hand and affixed the official seal of the City of Albany, this 17th day of July, 2007.


JACQUELINE L. BUCHOLZ, CMC
CITY CLERK

The City of Albany is dedicated to maintaining its small town ambience, responding to the needs of the community, and providing a safe, healthy environment now and in the future.



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