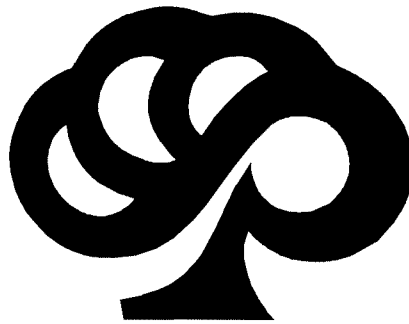


WHEN THE
PLEASANT HILL REDEVELOPMENT AGENCY
ACQUIRES YOUR PROPERTY



Prepared by the
Pleasant Hill Redevelopment Agency

This Guide is intended to provide general information with some specifics on the Property Acquisition Program. Further details regarding acquisition for public purposes are set forth in the California Relocation Assistance Law (Government Code §7260 *et seq.*) and the California Relocation Assistance and Real Property Acquisition Guidelines, California Code of Regulations, Title 25, Chapter 6, prepared by the Department of Housing and Community Development. In the event of any conflict, the State Law and Guidelines shall be controlling.

November 2005

Dear Property Owner:

As the Pleasant Hill Redevelopment Agency (Redevelopment Agency) embarks upon the development of needed real estate projects and community facilities to improve our City, the Redevelopment Agency must often purchase real property on which to construct these projects.

If you own real property acquired for a project, you are protected by the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970 (Federal Uniform Act), the California Relocation Assistance and Real Property Acquisition Guidelines (State Guidelines), and the eminent domain laws of the State of California.

This brochure describes many of the important facts about public acquisition of real property, under Federal and State laws, that should be useful to you.

We are available to answer your questions and to assist you in understanding the acquisition program. Should you desire further information, please contact the Redevelopment Agency offices at (925) 671-5215 or your Acquisition Agent. We firmly believe that full communication with you will greatly ease your concerns and provide a more efficient and effective community improvement program.

PLEASANT HILL REDEVELOPMENT AGENCY
100 Gregory Lane
Pleasant Hill, CA 94523
(925) 671-5215

WHEN THE PLEASANT HILL REDEVELOPMENT AGENCY ACQUIRES YOUR PROPERTY

WHAT RIGHT DOES THE REDEVELOPMENT AGENCY HAVE TO ACQUIRE MY PROPERTY?

Every public agency, including the Pleasant Hill Redevelopment Agency, has certain powers which are necessary for it to operate effectively. For example, states have the power to levy taxes and the power to maintain order. Another power is the power to acquire private property for public purposes. This is known as the power of eminent domain.

The rights of each of us are protected by the Fifth and Fourteenth Amendments of the U.S. Constitution and by State Constitutions and eminent domain laws which guarantee that if a public agency takes private property it must pay "just compensation" to the owner.

Further, under the Uniform Relocation Assistance and Real Property Acquisitions Policy Act of 1970 (Federal Uniform Act) and the California Relocation Assistance and Real Property Acquisition Guidelines (State Guidelines), the owner has additional protections, some of which are explained in this brochure.

WHAT ARE THE ADVANTAGES OF SELLING MY PROPERTY TO THE REDEVELOPMENT AGENCY?

- Redevelopment Agency pays full cash value for the property as determined by an independent appraiser.
- Seller does not have to pay real estate sales commission. Sales commissions typically equal 6% of the sales price in a private transaction.
- Redevelopment Agency pays virtually all closing costs (i.e, escrow fees, recording fees, mortgage prepayment penalties).
- Seller may receive favorable capital gains tax treatment and can transfer his existing property tax base to replacement property.
- Redevelopment Agency provides relocation benefits, including referral assistance and cash payments.
- Redevelopment Agency pays for moving expenses.

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An example of a typical owner-occupied residential acquisition is shown below:

COMPARISON OF REDEVELOPMENT AGENCY PURCHASE VS PRIVATE PURCHASE

	<u>Agency Purchase</u>	<u>Private Purchase</u>
Sales Price (Fair Market Value)	\$150,000	\$150,000
Less Sales Commission of 6%	-0	-9,000
Less Closing Costs	<u>-0</u>	<u>-1,500</u>
Net Cash Before Mortgage Payoff	\$150,000	\$139,500
Add Relocation Benefits:		
Replacement Housing Payment	\$14,500	\$ 0
Moving Expenses (fixed payment or actual costs)	<u>1,250</u>	<u>0</u>
Total Compensation to Seller	\$165,750	\$139,500
Difference	+\$26,250	

In this case, the seller receives \$26,250 more by selling to the Agency rather than a private party. Seller may also receive more favorable capital gains tax treatment and property tax relief benefits.

WHO MAKES THE DECISION TO OFFER TO BUY MY PROPERTY?

The decision to acquire a property for a public project usually involves many persons and many decisions. When redevelopment funds are provided for a project, the final decision to proceed with the project is made by the Redevelopment Agency (the elected Pleasant Hill City Council members sit as the Pleasant Hill Redevelopment Agency's governing body) after a thorough review which includes public hearings to obtain the views of interested citizens.

If you have any questions about the project or the potential acquisition of your property for the project, you should ask a representative of the Redevelopment Agency.

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HOW WILL THE REDEVELOPMENT AGENCY DETERMINE HOW MUCH TO OFFER ME FOR MY PROPERTY?

Before making you an offer, the Redevelopment Agency will obtain at least one appraisal of your property by a competent real property appraiser who is familiar with local property values. The appraiser will inspect your property and state his professional opinion of its current fair market value in an appraisal report.

The Redevelopment Agency is required to offer you "just compensation" for your property. This amount cannot be less than the fair market value of your property as determined by the Redevelopment Agency on the basis of its approved appraisal.

WHAT IS FAIR MARKET VALUE?

Fair market value is sometimes defined as that amount of money which would probably be paid for a property in a sale between a willing seller, who does not have to sell, and a willing buyer, who does not have to buy. The fair market value of a property is generally considered to be "just compensation". Fair market value does not take into account intangible elements such as sentimental value, goodwill, business profits, or any "special" value that your property may have for you as an individual or for the Redevelopment Agency.

HOW DOES AN APPRAISER DETERMINE THE FAIR MARKET VALUE OF MY PROPERTY?

Each parcel or real property is different and therefore no single formula can be devised to appraise all properties. Among the factors an appraiser typically considers in estimating the value of real property are:

- How it compares with similar properties in the area that have sold recently.
- How much it would cost to reproduce the buildings and other structures, less any depreciation.
- How much rental income it could produce.

WILL I HAVE A CHANCE TO TALK TO THE APPRAISER?

YES. You must be contacted and given the opportunity to accompany the appraiser on his or her inspection of your property. You may then inform the appraiser of any special features which you believe may add to the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to

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insure that nothing of allowable value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property represent you.

HOW SOON WILL THE REDEVELOPMENT AGENCY GIVE ME A WRITTEN PURCHASE OFFER?

The timing of a purchase offer depends on the following factors:

1. The amount of work required to appraise your property;
2. The availability of funding; and,
3. Possible project delays caused by factors outside the control of the Redevelopment Agency.

Typically, where Items 2 and 3 above are not involved, you can expect a written purchase offer within 60 to 90 days of completion of the appraisal. The appraisal of a single family residence takes approximately three weeks to complete from the date the property is inspected. The appraisal of a business or industrial property, on the other hand, can take several months to complete due to the much greater complexity involved.

The Redevelopment Agency must give you a written offer to acquire your property for the full amount it determines to be just compensation. Along with the offer you will receive a written statement explaining the basis for the determination of just compensation. No negotiations can take place before you receive this statement and the written purchase offer.

WHAT IS IN THE REDEVELOPMENT AGENCY'S STATEMENT OF THE BASIS FOR ITS DETERMINATION OF JUST COMPENSATION?

The Redevelopment Agency's statement of the basis for its determination of just compensation must be provided to you with the written purchase offer. Among other things, this statement must include:

- The amount of the offer.
- The date of valuation.
- The highest and best use of the property.
- The principal transactions or analysis supporting the determination of value.

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MUST I ACCEPT THE REDEVELOPMENT AGENCY'S INITIAL OFFER?

NO. You are entitled to present your evidence as to the amount you believe is the value of your property and to make suggestions for changing the terms and conditions of the offer. The Agency will consider and respond to your evidence and suggestions and may, if supported by the available evidence of value, adjust the offer price.

MAY I HAVE SOMEONE REPRESENT ME DURING NEGOTIATIONS?

YES. If you would like an attorney, real estate agent, or anyone else to represent you during negotiations, please inform the Redevelopment Agency in writing. However, state law does not require the Redevelopment Agency to pay the costs of any such representation.

IF I AGREE TO ACCEPT THE REDEVELOPMENT AGENCY'S OFFER, HOW SOON WILL I BE PAID?

If you reach a voluntary agreement to sell your property and your ownership (title) is clear, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after you sign a purchase contract. If the title evidence obtained by the Redevelopment Agency indicates that further action is necessary to clear your ownership (title), you may be able to hasten the payment by helping the Redevelopment Agency to resolve any outstanding issues. (Title evidence is basically a legal record of the ownership of the property, typically referred to as a title report. It identifies the owners of record and lists the restrictive deed covenants and recorded mortgages, liens, and other instruments affecting your ownership of the property.)

WHAT HAPPENS IF I DON'T AGREE TO THE FINAL PURCHASE OFFER BY THE REDEVELOPMENT AGENCY?

If you are unable to reach a voluntary agreement through negotiations, the Redevelopment Agency may consider filing a suit in court to acquire your property through an eminent domain proceeding. Eminent domain proceedings are often referred to as condemnations. If the Redevelopment Agency decides to abandon its intention to acquire, it will immediately give such notice to the property owner.

WHAT HAPPENS IF THE REDEVELOPMENT AGENCY CONDEMNS MY PROPERTY?

Prior to proceeding with the condemnation of your property, the Redevelopment Agency must hold a public hearing and consider, among other things, whether the

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public interest and necessity require the project for which your property would be acquired and whether your property is necessary for the project. You will be notified of the public hearing at least 15 days in advance and will be given an opportunity to speak. If the Redevelopment Agency decides to condemn your property, it will file a condemnation suit.

During the condemnation court proceedings, you will be provided an opportunity to introduce your evidence as to the value of your property. Of course, the Redevelopment Agency will have the same right. After hearing the evidence of all parties, the court or jury will determine the amount of just compensation.

To help you in presenting your case in a condemnation proceeding, you may wish to employ an attorney and an appraiser. However, the Redevelopment Agency will not pay the costs of these professional services and other costs which you incur in presenting your case to the court.

WHAT IS AN ORDER FOR POSSESSION?

An order for possession is a process within a condemnation action which allows the Redevelopment Agency to have the use of your property prior to a negotiated settlement or an award of just compensation by the court. This procedure is used typically only where the use of your property is necessary to accomplish timely construction of the project for which your property is required.

To obtain an order for possession, the Redevelopment Agency must deposit with the state or county treasury an amount not less than its appraisal of the fair market value of the property. The owner may then apply to the court to withdraw its share of this amount. Early withdrawal of your share of the money will not affect your right to seek additional compensation for your property. If you pursue withdrawal, it is recommended that you have the help of an attorney. Should the negotiated settlement or court award exceed the amount deposited by the Redevelopment Agency, you will be paid the difference, plus any interest that may be provided by State law.

WHAT CAN I DO IF I AM NOT SATISFIED WITH THE COURT'S DETERMINATION?

If you are not satisfied with the court's determination of the amount for just compensation, you may file an appeal with the appropriate appellate court for the area in which your property is located. The Redevelopment Agency may also file an appeal if it believes the amount of the court judgment is too high.

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WILL I HAVE TO PAY ANY SETTLEMENT COSTS?

You will be responsible for the payment of the balance on any mortgage on your property. Also, if your ownership is not clear, you may have to pay the cost of clearing it. You will not be responsible for the reasonable and necessary costs of:

- Recording fees, transfer taxes and any similar expenses which are incidental to transferring ownership to the Redevelopment Agency.
- Penalty costs and other charges necessary to permit prepayment of an earlier recorded mortgage on the property which was entered into in good faith.
- Real property taxes covering the period after the Redevelopment Agency acquires your property.

The Redevelopment Agency will identify these items in a Settlement Cost Statement to be given to you at the time of settlement or soon after the court award of compensation, if the property is acquired by condemnation. Ordinarily, if you have paid any of these expenses yourself, you will be repaid at that time. If you later discover other costs for which you should be repaid, you should request repayment from the Redevelopment Agency within six months after the acquisition. The Redevelopment Agency will assist you in filing a claim for these costs. Finally, if you believe that you were not properly repaid, you may appeal first to the Redevelopment Agency, and if not satisfied, then to the courts.

MAY I KEEP ANY OF THE BUILDINGS OR OTHER IMPROVEMENTS ON MY PROPERTY?

Very often, many or all improvements on a property are not required by the Redevelopment Agency. This might include such items as a fireplace mantel or your favorite shrubbery. If you wish to keep any improvements, please let the Redevelopment Agency know as soon as possible.

If you do arrange to keep any improvement(s), the Redevelopment Agency will deduct its salvage value from the price you would otherwise receive. (The salvage value of an item is its probable selling price if offered for sale on the condition that the buyer will remove it at his own expense.) If you arrange to keep any real property improvement (such as a fireplace mantel or a shrub), you will not be entitled to receive a relocation payment for the cost of moving it to a new location.

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CAN THE REDEVELOPMENT AGENCY TAKE ONLY A PART OF MY PROPERTY?

YES. But if the purchase of only a part of your property reduces the value of the remaining part(s), you must be paid for that loss in value. Also, if any remaining part would have little or no utility or value to you, the Redevelopment Agency will offer to acquire that remaining part from you, if you so desire. Whether the remaining part(s) has a reduced value after Agency acquisition will be determined by the Redevelopment Agency's appraiser and attorney as well as by negotiations with the property owner.

WILL I HAVE TO PAY RENT TO THE REDEVELOPMENT AGENCY AFTER MY PROPERTY IS ACQUIRED?

If you or your tenants remain in the property after acquisition, you or the tenants will be required to pay a fair rent to the Redevelopment Agency. Generally, the Redevelopment Agency will negotiate these terms with you during the acquisition of your property and, in some cases, rent will be limited to a rent within your financial means (as defined in state regulations) or an amount charged as rent for the use of a property similar to yours in a similar area, whichever is less.

HOW SOON MUST I MOVE?

Every reasonable effort will be made to give you ample time to relocate after the acquisition of your property. In most cases a mutually satisfactory arrangement can be worked out. Except in an unusual instance where there is an urgent need for your property, you cannot be required to move from your residence or to move your business or farm operation without at least 90 days' advance written notice of the date by which your move is required.

If you reach a voluntary agreement to sell your property, you cannot be required to move before you receive the agreed purchase price. In the case of a condemnation, you cannot be required to move before the estimated fair market value of your property has been deposited with the state or county treasury so that you can withdraw your share.

If you are being displaced from your residence, decent, safe and sanitary replacement housing must be available before you can be required to move.

WILL I RECEIVE ASSISTANCE WITH RELOCATION?

YES. In addition to any compensation paid through the property acquisition process, the Redevelopment Agency will provide relocation referral assistance and cash payments for eligible relocation expenses. The amount of relocation compensation is determined on a case-by-case basis in accordance with the Federal Uniform Act and

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State Guidelines. A Relocation Assistance Program brochure describing relocation benefits is available from the Redevelopment Agency.

I'M A VETERAN, HOW ABOUT MY GI LOAN?

After your GI home mortgage loan has been repaid, you may be permitted to obtain another GI loan to purchase another property. Check on such arrangements with your nearest VA office.

WILL I BE COMPENSATED FOR THE LOSS OF GOODWILL FOR MY BUSINESS?

If you own a business located and conducted on the real property to be acquired, you may have a right to compensation for loss of goodwill.

MY PROPERTY IS WORTH MORE NOW THAN WHEN I BOUGHT IT. MUST I PAY CAPITAL GAINS TAX ON THE INCREASE?

In most cases when the Redevelopment Agency acquires real property for public purposes, the property owner may postpone the payment of federal capital gains taxes on any profit from the sale if the profit is reinvested in similar property within a certain replacement period. To take advantage of this right, you should file the details in a statement with your federal income tax return for the tax year in which you realize the gains.

Internal Revenue Service (IRS) Publication 544 "Sales and Other Dispositions of Assets" is available from the IRS. It explains how the federal income tax would apply to a gain or loss resulting from the condemnation of real property or its sale under the threat of condemnation for public purposes. If you have any questions about the IRS rules, you should discuss your particular circumstances with your personal tax advisor or your local IRS office.

WONT' MY PROPERTY TAXES INCREASE SUBSTANTIALLY WHEN I PURCHASE A NEW HOME BECAUSE OF THE PROPOSITION 13 RE-ASSESSMENT FORMULA?

NO. Not as long as the replacement property's purchase price does not exceed 120% of the sales price for the acquired property. Section 2(d) of Article XIII A of the California Constitution provides that property tax relief shall be granted to any real property owner who acquires comparable replacement property after having been displaced by governmental acquisition or condemnation proceedings.

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If the full cash value of the comparable replacement property does not exceed 120% of the purchase price or the court judgment of the property acquired or taken, then the adjusted base year value of the property acquired or taken shall be transferred to the comparable replacement property. An application for this property tax relief adjustment must be filed with the Contra Costa County's Office of Assessor as soon as possible after the settlement of the purchase of the replacement property.

IS IT POSSIBLE TO DONATE PROPERTY TO THE REDEVELOPMENT AGENCY?

YES. However, prior to accepting any donation of real property, the Redevelopment Agency may request the property owner to indicate in writing that, although he understands that he cannot be required to sell his property for less than just compensation, he voluntarily agrees to do so.

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ATTACHMENT

CALIFORNIA CODE OF CIVIL PROCEDURE
TITLE 7, EMINENT DOMAIN LAW
Chapter 9, Article 6, Compensation for Loss of Goodwill

Section 1263.510 Burden of Proof
Section 1263.520 State Tax Returns
Section 1263.530 Scope of Article

Section 1263.510 Burden of Proof

(a) The owner of a business conducted on the property taken, or on the remainder if such property is part of a larger parcel, shall be compensated for loss of goodwill if the owner proves all of the following:

- (1) The loss is caused by the taking of the property or the injury to the remainder.
- (2) The loss cannot reasonably be prevented by a relocation of the business or by taking steps and adopting procedures that a reasonably prudent person would take and adopt in preserving the goodwill.
- (3) Compensation for the loss will not be included in payments under Section 7262 of the Government Code.
- (4) Compensation for the loss will not be duplicated in the compensation otherwise awarded to the owner.

(b) Within the meaning of this article, "goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

Added by Stats. 1975, c. 1275, section 2, operative July 1, 1976.

Law Revision Commission Comment

Section 1263.510, which is the same in substance as in Section 1016 of the Uniform Eminent Domain Code, is new to California eminent domain law. Under prior court decisions, compensation for business losses in eminent domain was not allowed. See, e.g., *City of Oakland v. Pacific Coast Lumber and Mill Co.*, 171 Cal. 392, 153 P. 705 (1915); but see *Community Redevelopment Agency v. Abrams*, (hearing granted by Supreme Court 1974). Section 1263.510 provides compensation for loss of goodwill in both a whole or a partial taking. Goodwill loss is recoverable under Section 1263.510 only to the extent it cannot reasonably be prevented by relocation or other efforts by the owner to mitigate.

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The determination of loss of goodwill is governed by the rules of evidence generally applicable to such a determination and not by the special rules relating to valuation in eminent domain contained in Article 2 (commencing with Section 810) of Chapter 1 of Division 7 of the Evidence Code. See Evidence Code Section 811 and Comment thereto. Thus, the provisions of Evidence Code Sections 817 and 819 that restrict admissibility of income from a business for the determination of value, damage, and benefit in no way limit admissibility of income from a business for the determination of loss of goodwill. Notwithstanding Section 1260.210, the burden of proof is on the property owner under this section.

Section 1263.510 compensates for goodwill loss only to the extent such loss is not compensated by Government Code Section 7262 (moving expense and moving losses for relocated business or farm operations; in lieu payments for business or farm operation that cannot be relocated without a substantial loss of patronage). See also Sections 1263.010 (no double recovery), 1263.410 (offset against benefits to remainder).

Section 1263.520 State Tax Returns

The owner of a business who claims compensation under this article shall make available to the court, and the court shall, upon such terms and conditions as will preserve their confidentiality, make available to the plaintiff, the state tax returns of the business for audit for confidential use solely for the purpose of determining the amount of compensation under this article. Nothing in this section affects any right a party may otherwise have to discovery or to require the production of documents, papers, books, and accounts.

Added by Stats. 1975, c. 1275, section 2, operative July 1, 1976.

Legislative Committee Comment - Senate

Section 1263.520 is comparable to a portion of Government Code Section 7262(c). The state tax returns remain confidential under this section and may not be introduced in evidence in the case. See, e.g., Rev. & Tax Code Sections 19282 (personal income tax), 22451 (bank and corporation tax).

Section 1263.530 Scope of Article

Nothing in this article is intended to deal with compensation for inverse condemnation claims for temporary interference with or interruption of business.

Added by Stats. 1975, c. 1275, section 2, operative July 1, 1976.

Legislative Committee Comment - Senate

Section 1263.530 makes clear that this article is not intended to affect the rules relating to compensation for temporary business losses. This matter is left to continuing case development.