

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS
ACTION AGENDA SUMMARY

DEPT: County Counsel

BOARD AGENDA # *E-1

Urgent

Routine

AGENDA DATE June 29, 2010

CEO Concurs with Recommendation YES NO

4/5 Vote Required YES NO

(Information Attached)

SUBJECT:

Approval to File a Disclaimer of Interest in Response to the Complaint in Eminent Domain Filed by the California Department of Transportation to Acquire Parcel 15332 for the State Route 219 Transportation Improvement Project

STAFF RECOMMENDATIONS:

1. Authorize the Chairman of the Board of Supervisors to sign a disclaimer waiving any interest in the case (except for property taxes) and to direct County Counsel to file the disclaimer.

FISCAL IMPACT:

The proposed action does not have any impact on the County General Fund.

BOARD ACTION AS FOLLOWS:

No. 2010-430

On motion of Supervisor Chiesa, Seconded by Supervisor O'Brien
and approved by the following vote,

Ayes: Supervisors: O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) Approved as recommended

2) Denied

3) Approved as amended

4) Other:

MOTION:

Christine Ferraro

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to File a Disclaimer of Interest in Response to the Complaint in Eminent Domain Filed by the California Department of Transportation to Acquire Parcel 15332 for the State Route 219 Transportation Improvement Project

Page 2

DISCUSSION:

This matter concerns a condemnation action (Stanislaus County Superior Court Case No. 653395.) filed by the California Department of Transportation to acquire a portion of Parcel 15332 needed to construct its State Route 219 Improvement Project on Kiernan Avenue. Stanislaus County Tax Collector has been named as a defendant in the lawsuit, and the County's only interest in the property is to secure unpaid property taxes.

The Eminent Domain Law allows a defendant to file a disclaimer that contains a statement that it claims no interest in the property or in the compensation that may be awarded. (Gov. Code, § 1250.325 (a).) Filing a disclaimer ends the County's participation in the lawsuit. (§ 1250.325 (b).) The disclaimer waives any interest in the property or in compensation, except for payment of property taxes that already is required by the Eminent Domain Law to be calculated and paid as part of the judgment. (§ 1260.250.)

Unlike other pleadings in a lawsuit that County Counsel can sign and file, the Eminent Domain Law requires a disclaimer of interest to be signed by the defendant, not the attorney for the defendant. (§ 1250.325 (a).)

Staff requests the Board to authorize the Chairman to sign the disclaimer waiving any interest in the case (except for property taxes) and to direct County Counsel to file the disclaimer.

POLICY ISSUES:

Board approval of the proposed action supports its priority of providing for efficient delivery of public services.

STAFFING IMPACT:

There are no staffing impacts associated with adoption of the proposed ordinance.

CONTACT:

Deirdre McGrath, Deputy County Counsel, at 525-6376.

1 JOHN P. DOERING, County Counsel
DEIRDRE McGRATH, Deputy County Counsel
2 SBN No. 138238
City-County Administration Building
3 1010 Tenth Street, Suite 6400
Modesto, California 95354
4 Telephone: (209) 525-6376
Facsimile: (209) 525-4473
5

6 Attorneys for Defendant Stanislaus County Tax Collector
7

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF STANISLAUS
10

11 THE PEOPLE OF THE STATE OF
CALIFORNIA, acting by and through the
12 Department of Transportation,

13 Plaintiff,

14 v.

15 BRIAN J. FOSNAUGH aka BRIAN
FOSNAUGH; STANISLAUS COUNTY
16 TAX COLLECTOR; MODESTO
IRRIGATION DISTRICT; CHICAGO TITLE
17 COMPANY; MORTGAGE ELECTRONIC
REGISTRATION SYSTEMS, INC.;
18 PINNACLE FINANCIAL CORPORATION,
a corporation; ABC AWNING & PATIO CO
19 and DOE ONE through DOE TWENTY,
inclusive,
20

21 Defendants.
22
23
24
25
26
27
28

CASE NO. 653395

**DISCLAIMER OF DEFENDANT
STANISLAUS COUNTY TAX
COLLECTOR**

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Defendant STANISLAUS COUNTY TAX COLLECTOR ("County"), on the condition that no costs or other monetary relief will be awarded against it, hereby disclaims all interest in the compensation that may be awarded in the above-captioned matter, except for unpaid taxes, penalties and costs that have accrued upon such property, which amount shall be paid to the tax collector from the award of compensation pursuant to subdivision (e) of section 1260.250 of the Code of Civil Procedure. The County acknowledges it has no right to participate further in the proceedings.

DATED: June 29, 2010

COUNTY OF STANISLAUS



By *Jeff Grover*
JEFF GROVER
Chairman of the Board of Supervisors