

Victorville Daily Press

City may use eminent domain

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Nisqualli Road property owner is holding out on 1,800 square feet

VICTORVILLE - The city is using eminent domain as "last resort" measure to capture a slice of turf along Nisqualli Road that would be needed to widen the thoroughfare.

In a unanimous vote Tuesday night, City Council members voted to take a roughly 1,800-square-foot piece of a half-acre lot at the northeast corner of Nisqualli Road and Seventh Avenue, which would be used to build a drain, sidewalk and street signal.

So far, owner Rodolfo Padilla has not responded to city overtures to buy the land, officials said.

"To refresh everybody's memory, the policy of this city has been that we would only consider eminent domain as a last, last resort," Mayor Terry Caldwell said before the vote.

To alleviate traffic, the city has been planning to build an interchange at Interstate 15 and Nisqualli Road for more than six years. It took the Federal Highway Administration four years to sign off the project, and the city just awarded a bid for Phase I of the project on Tuesday night.

After hiring a private appraiser to put a value on the land, the city has gone back and forth with the property owner and still has not reached an agreement on the land, said Deputy City Attorney Bill Medlen. The amounts negotiated are not public record.

"Out of the 70 parcels they needed for this road widening, this was the only one they were not able to settle with," he said.

Padilla did not claim his right to a public hearing and did not show up at the council meeting, which is required by law before the use of eminent domain. Attempts to locate him for comment were unsuccessful.

Taking property by eminent domain is an action that goes through the courts. If the owner chooses to appeal the action, the matter could conceivably reach a higher court, said Steven Frates, a senior fellow at the Rose Institute of State and Local Government at Claremont McKenna College.

"If there's a legal shootout, it could have implications," Frates said.

He added the landmark Kelo vs. City of New London case, in which the Supreme Court ruled that eminent domain could be used for redevelopment purposes, went all the way to the highest court because a woman decided she simply did not want to give up her house.

But Medlen pointed out that in the Padilla case, the use of eminent domain remains squarely for public benefit.

"The city wants to widen a road because everyone knows there's too much traffic on B.V., right?" he said. "And we have a situation where we've settled with 70 people and one person wants to hold out. So what do we do? We hold up a street widening because one person doesn't want to settle?"

Before the council vote, City Manager Jon Roberts seemed perplexed as to why a property owner would resist the improvement.

"If the parcel of land were to be developed privately, (the owner) would need to

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dedicate this portion to the city at no cost," Robert said, referring to the sidewalk and signal. "I think anyone in the industry would probably concur that the remaining parcel would increase in value once the improvements were made."

The taxable value of the land is listed with the assessor's office at \$51,000, which translates to about \$2.34 per square foot. Assessed values can be lower than appraisal values, especially if the property has not changed hands in a while.

According to tax records, Padilla bought the property in 2005, after which the assessed value jumped from \$18,290 to \$50,000.