

C.1 - Public Hearing - Resolution authorizing Salt Lake City Corporation to file an eminent domain action concerning a billboard located at 204 West 2100 South

POTENTIAL MOTION:

1. ["I move that the Council"] Continue the public hearing to a future City Council meeting at the request of the petitioner

MEMORANDUM

RECEIVED MAR 02 2010

To: Cindy Gust-Jenson
cc: D. Everitt, F. Gray, W. Sommerkorn, E. Rutan, L. Pace
From: Paul C. Nielson, Senior City Attorney
Date: March 2, 2010
Re: Eminent Domain Resolution

This document contains attorney-client privileged information and is, therefore, a "protected record", exempt from the disclosure requirements of the Government Records Access and Management Act (Utah Code § 63-2-101, et seq.). This document should not be disclosed to anyone other than its intended recipients without an Order of a court of competent jurisdiction or under the advice of the Office of the City Attorney.

Lynn Pace forwarded to my attention the attached letter from Greg Simonsen, legal counsel for Reagan Outdoor, regarding the billboards that are the subject of a potential eminent domain action by the City. You will note from the letter that Reagan no longer wishes to have two of the billboards relocated, and, therefore, not considered for acquisition by the City through its condemnation powers.

Accordingly, I have prepared a revised draft resolution that pertains only to the billboard at 204 West 2100 South.

Feel free to call or email me or drop by my office if you have any questions or concerns regarding this matter.

Thank you.


PCN



RINEHART FETZER
SIMONSEN & BOOTH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW

Gregory M. Simonsen, Ext. 104
greg@mountainwestlaw.com

February 8, 2010

Via U.S. Mail

Lynn H. Pace
Deputy City Attorney
SALT LAKE CITY CORPORATION
451 South State Street, Room 505
P.O. Box 145478
Salt Lake City, UT 84114-5478

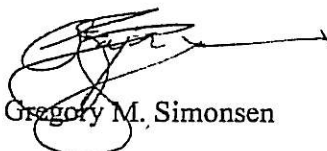
Re: *Signs at 204 West 2100 South, 906 West 700 South, 541 West North Temple*

Dear Mr. Pace:

As you know Reagan Outdoor Advertising has pending applications to relocate billboards at the above-referenced locations. These applications have been much discussed and I will not review all that here. The purpose of this letter is to confirm what we told you in our meeting last week, that because of changed circumstances, Reagan is withdrawing its applications to relocate the signs at 906 West 700 South and 541 West North Temple. The sign at 204 West 2100 South still must be relocated due to its proximity to high voltage power lines.

From our discussion last week, it is my understanding that the City wishes to exercise its powers of condemnation rather than allow the sign at 2100 South to be relocated. If this is true, we again urge the City to move forward with the necessary condemnation proceedings. This office is willing to expedite matters by accepting service on Reagan's behalf of the Summons, Complaint or other documents. If the City's position has changed, we ask that the permit allowing relocation be issued as rapidly as possible.

Very Truly Yours,



Gregory M. Simonsen

GMS/st

cc: Reagan Outdoor Advertising

RESOLUTION NO. ___ OF 2010
(Authorizing an eminent domain action)

A resolution authorizing Salt Lake City Corporation to file an eminent domain action concerning a billboard located at 204 West 2100 South in accordance with Utah Code Sections 78B-6-501, *et seq.*, 72-7-501, *et seq.* and 10-9a-513.

WHEREAS, Reagan Outdoor Advertising (“Reagan”) has requested to relocate a billboard (or outdoor advertising structures) located (or approximately located) at 204 West 2100; and

WHEREAS, it is the City’s policy to reduce the negative impact of billboards in order to “promote the enhancement of the city’s gateways, views, vistas and related urban design elements of the city’s master plans” (*Salt Lake City Code* section 21A.46.160.A); and

WHEREAS, the City denied Reagan’s request to relocate the above-referenced billboards; and

WHEREAS, Utah Code Section 10-9a-513 provides that if a municipality denies a billboard owner’s request to relocate the billboard under certain circumstances, the municipality is deemed to have initiated the acquisition of the billboard by eminent domain; and

WHEREAS, Utah Code Section 78B-6-504(2)(b) provides that an eminent domain action taken by a political subdivision of the State must be approved by the political subdivision’s legislative body; and

WHEREAS, Utah Code Section 78B-6-505 requires that a local political subdivision exercising its eminent domain powers to acquire property shall “make a reasonable effort to negotiate with the property owner for the purchase of the property” before that local political subdivision’s legislative body takes a final vote to authorize an eminent domain action; and

WHEREAS, the City has attempted to negotiate the acquisition of the above-referenced billboard in good faith, but Reagan’s representatives have refused to cooperate with the City in

this matter, namely by refusing the City's requests for information regarding the valuation of said billboard.

NOW THEREFORE, be it resolved by the City Council of Salt Lake City:

SECTION 1. The City Council does hereby authorize the filing of an eminent domain action in the Third Judicial District Court to acquire a billboard (or outdoor advertising structure) located (or approximately) located at 204 West 2100 South Street, and for the City to take any and all measures necessary in furtherance of such action.

SECTION 2. Upon acquisition of the subject billboard, City Administration is urged to pursue recycling of the billboard structure to be acquired or that such structure and materials otherwise be put to a beneficial use consistent with the City's sustainability policies.

DATED this _____ day of _____, 2010.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2010.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

HB_ATTYY-#11460-v2-Resolution_authorizing_ eminent_domain_action_-_billboards.DOC

<p>APPROVED AS TO FORM Salt Lake City Attorney's Office</p> <p>Date: <u>March 2, 2010</u></p> <p>By: <u>Paul C. Nielson</u> Paul C. Nielson, Senior City Attorney</p>
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SCANNED TO: *mayer*
SCANNED BY: *hays*
DATE: 2/9/2010
RALPH BECKER
MAYOR

SALT LAKE CITY CORPORATION
LAW DEPARTMENT

EDWIN P. RUTAN, II
CITY ATTORNEY



[Signature]

David Everitt, Chief of Staff

CITY COUNCIL TRANSMITTAL

Date Received: 02/09/10
Date sent to Council: 02/10/10

TO: Salt Lake City Council
JT Martin, Chair

DATE: 2/9/10

FROM: Frank Gray, Community and Economic Development Director

SUBJECT: Acquisition of three signs in lieu of permitting their relocation

STAFF CONTACT: Wilf Sommerkorn, Planning Director

DOCUMENT TYPE: Resolution

RECOMMENDATION: The Administration recommends the Council approve the resolution authorizing eminent domain actions on signs at approximately the following locations: 204 West 2100 South, 906 West 700 South, and 541 West North Temple.

BUDGET IMPACT: The Administration has estimated value of the signs at a combined amount of \$835 based on their assessed value. The owner will no doubt claim they are worth more, but absent a counter-offer or discovery, the Administration cannot estimate what those values are. The Court case will determine the value of the signs if the parties cannot reach agreement.

BACKGROUND DISCUSSION: Reagan Outdoor Advertising ("Reagan") filed applications to relocate three billboards. Those billboards are currently located at approximately 204 West 2100 South, 906 West 700 South, and 541 West North Temple. Pursuant to the authority granted under state law, the Administration informed Reagan that rather than allow the relocation it would purchase those signs. Accordingly, the Administration requested information regarding the value of those signs. Reagan has not provided any such information and has rejected the Administration's offer to purchase them, opting instead for a court proceeding.

Reagan's right to request the relocation of these billboards arises under Utah Code Annotated section 10-9a-513 (as to the signs located on 700 South and North Temple) and 72-7-516 (as to the sign on 2100 South). Both of those statutes indicate that if the municipality denies a request

to relocate it must pay the owner for the value of the billboard. That value can be determined by a court pursuant to the eminent domain process if the parties cannot agree on just compensation.

Prior to initiating eminent domain proceedings, the Utah Code Annotated requires the City Council to approve the filing of the action. Thus, in complying with the code, the Administration requests the Council approve the accompanying resolution authorizing purchase, through eminent domain if necessary, of these three billboards.

PUBLIC PROCESS:

RESOLUTION NO. ____ OF 2010
(Authorizing an eminent domain action)

A resolution authorizing Salt Lake City Corporation to file an eminent domain action concerning billboards located at 204 West 2100 South, 906 West 700 South, and 541 West North Temple in accordance with Utah Code Sections 78B-6-501, *et seq.*, 72-7-501, *et seq.* and 10-9a-513.

WHEREAS, Reagan Outdoor Advertising (“Reagan”) has requested to relocate billboards (or outdoor advertising structures) located (or approximately located) at 204 West 2100 South Street, 906 West 700 South Street, and 541 North Temple Street; and

WHEREAS, it is the City’s policy to reduce the negative impact of billboards in order to “promote the enhancement of the city’s gateways, views, vistas and related urban design elements of the city’s master plans” (*Salt Lake City Code* section 21A.46.160.A); and

WHEREAS, the City denied Reagan’s request to relocate the above-referenced billboards; and

WHEREAS, Utah Code Section 10-9a-513 provides that if a municipality denies a billboard owner’s request to relocate the billboard under certain circumstances, the municipality is deemed to have initiated the acquisition of the billboard by eminent domain; and

WHEREAS, Utah Code Section 78B-6-504(2)(b) provides that an eminent domain action taken by a political subdivision of the State must be approved by the political subdivision’s legislative body; and

WHEREAS, Utah Code Section 78B-6-505 requires that a local political subdivision exercising its eminent domain powers to acquire property shall “make a reasonable effort to negotiate with the property owner for the purchase of the property” before that local political subdivision’s legislative body takes a final vote to authorize an eminent domain action; and

WHEREAS, the City has attempted to negotiate the acquisition of the above-referenced billboards in good faith, but Reagan’s representatives have refused to cooperate with the City in

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SECTION 2. Upon acquisition of the subject billboards, City Administration is urged to pursue recycling of the billboard structures to be acquired or that such structures and materials otherwise be put to a beneficial use consistent with the City's sustainability policies.

DATED this _____ day of _____, 2010.

Passed by the City Council of Salt Lake City, Utah, this _____ day of _____, 2010.

SALT LAKE CITY COUNCIL

By: _____
CHAIRPERSON

ATTEST AND COUNTERSIGN:

CITY RECORDER

HB_ATTYS-11460-v1-Resolution_ authorizing_ eminent_ domain_ action_ -_ billboards.DOC

APPROVED AS TO FORM
Salt Lake City Attorney's Office
Date: FEBRUARY 9, 2010
By: Paul C. Nielson
Paul C. Nielson, Senior City Attorney