



ASSESSMENT APPEALS BOARD

CANCELLATION OF TAXES

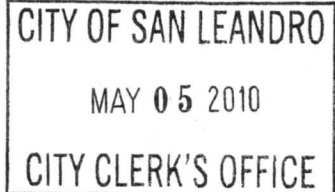
Date: April 21, 2010

In reply, refer to CT No(s):

2009-93062

Reference Number: **42-4530-4**

Previous Owner:



**CITY OF SAN LEANDRO
WENDY K. L. TOM
CIVIC CENTER 835 E 14TH ST
SAN LEANDRO, CA 94577**

CANCELLATION OF TAXES

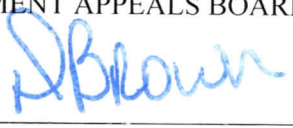
SUBJECT: Request for Cancellation of Taxes

Enclosed is a copy of the Assessor's Report (Exhibit #2009-93062) in response to your request for cancellation of taxes on the above parcel(s).

Per the Assessor's Report, the Auditor has been requested to cancel a portion or all of the subject taxes.

Sincerely,

Crystal Hishida Graff, Clerk of the Board
ASSESSMENT APPEALS BOARD

By: 
Deputy Clerk

Encl.

cc: Tax Collector, QIC 20114



**OFFICE OF ASSESSOR
COUNTY OF ALAMEDA**

1221 Oak Street, County Administration Building
Oakland, California 94612-4288
(510) 272-3787 / FAX (510) 272-3803

RON THOMSEN
ASSESSOR

CANCELLATION OF TAXES

Date: 04/15/2010

To: Patrick O'Connell, AUDITOR-CONTROLLER

From: Ron Thomsen, ASSESSOR

Subject: Cancellation of taxes specified by Revenue and Taxation Code, Section 4986.

For: City of San Leandro

Pursuant to Revenue and Taxation Code Section 4804, and the Board of Supervisors' Resolution No. 187874, it is requested that a portion or all of the taxes on the property indicated by the account numbers listed on the schedule below be cancelled.

Supporting Document	Date of Apportionment	Roll Year Affected	Assessment Roll Account Number	All/Portion	Assessed Value
2009318110	07/05/2007	2009-2010	42-4530-4	All	Land: Improvements:
2009318110	07/05/2007	2008-2009	42-4530-4	All	Land: Improvements:
2009318110	07/05/2007	2007-2008	42-4530-4	All	Land: Improvements:
					Land: Improvements:
					Land: Improvements:
					Land: Improvements:
					Land: Improvements:
					Land: Improvements:
					Land: Improvements:
					Land: Improvements:

Chiu, Vivian

From: Peterson, Tara
Sent: Thursday, May 06, 2010 4:11 PM
To: Chiu, Vivian
Subject: RE: Cancellation of Taxes for 2660 Eden Road
Attachments: DOC050610.pdf

Here you go.

From: Chiu, Vivian
Sent: Thursday, May 06, 2010 10:31 AM
To: Peterson, Tara
Cc: Tom, Wendy
Subject: Cancellation of Taxes for 2660 Eden Road

Hi, Tara:

We received the attached document related the Zeitz property acquired by eminent domain. Do you have copies of any of the recorded documents listed below or other relevant documents for the deed file? All I have in the file is Resolution No. 2006-132. Thank you.

Instrument Number	Date Filed	Document Type	Name (+) = More Names	Associated Name (+) = More Names	Legal Description	Book- Page	Index Status
<u>2006465615</u>	12/21/2006	NOTICE ACTION (LIS PENDENS)	ZEITZ ALBERT EST (+)	CITY SAN LEANDRO			Perm
<u>2009318110</u>	10/07/2009	DECREE CONDEMNATION	ZEITZ ALBERT EST (+)	CITY SAN LEANDRO			Perm
<u>2009385439</u>	12/14/2009	CANCELLATION	ZEITZ ALBERT EST (+)	CITY SAN LEANDRO			Perm

Vivian Chiu
Deputy City Clerk

City Clerk's Office ■ City of San Leandro ■ 835 East 14th Street ■ San Leandro ■ CA 94577-3767
Tel (510) 577-3366 ■ Fax (510) 577-3340



ENDORSED
FILED
ALAMEDA COUNTY

AUG 13 2009

CLERK OF THE SUPERIOR COURT
PAM WILLIAMS
Deputy

1 CLAUDIA J. GORHAM, ESQ., SBN: 142344
2 NELI N. PALMA, ESQ., SBN: 203374
3 MEYERS, NAVE, RIBACK, SILVER & WILSON
4 555 12TH Street, Suite 1500
5 Oakland, CA 94607
6 Telephone: (510) 808.2000
7 Facsimile: (510) 444-1108

8 Attorneys for Petitioner
9 CITY OF SAN LEANDRO,
10 a municipal corporation

Exempt from filing fees per Govt. Code §6103

11 SUPERIOR COURT OF THE STATE OF CALIFORNIA

12 IN AND FOR THE COUNTY OF ALAMEDA

13 CITY OF SAN LEANDRO, a municipal
14 corporation,

15 Petitioner,

16 v.

17 THE HEIRS OR DEVISEES OF
18 ALBERT ZEITZ, DECEASED SUBJECT
19 TO THE ADMINISTRATION OF THE
20 ESTATE OF SAID DEFENDANT;
21 MONICA RUSSELL ZEITZ; NANCY
22 ZEITZ; KATHY ZEITZ; and DOES 1
23 through 25, Inclusive,

24 Respondents.

No.: RG06303297
ASSIGNED FOR ALL PURPOSES TO
Honorable Jon S. Tigar
Department 21

JUDGMENT - ACTION IN EMINENT
DOMAIN

APN: 042-4530-004

Complaint Filed: December 21, 2006
Trial Date: June 8, 2009

1 In the above-entitled cause, plaintiff CITY OF SAN LEANDRO (the "City") and
2 defendants Heirs or Devisees of Albert Zeltz, Deceased Subject to the Administration of
3 the Estate of Said Defendant; Monica Russell Zeltz; Nancy Zeltz; Kathy Zeltz (also known
4 as Kathryn L. Zeltz and Kathryn Zeltz) (Individually and as Administrator With Will Annexed
5 of the Estate of Albert Zeltz, Deceased); and Christine Alicia Zeltz (Individually and as
6 Administrator With Will Annexed of the Estate of Albert Zeltz, Deceased) (the
7 "Defendants"), having stipulated that judgment be entered as follows, and the court having
8 reviewed the parties' stipulation with respect to same, and good cause appearing that this
9 is a proper case for entry of judgment as set forth herein.

10 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that judgment is entered
11 for the City and against Defendants, and that upon payment of just compensation to
12 Defendants by City in the amount of \$64,500.00 the property described in the Complaint
13 shall be condemned for the public use of plaintiff.

14 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that default has been
15 entered as to defendant Marilyn Norwood, that judgment is granted against said defaulting
16 defendant, and that said defendant is not entitled to compensation under this Judgment.

17 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that payment of just
18 compensation as set forth above shall constitute full payment for the property so taken,
19 and for all claims of compensation, including but not limited to, compensation for land,
20 interest, attorneys' fees and costs or damages of every kind and nature suffered by
21 defendants and each of them by reason of the taking of the property or by reason of any
22 action or inaction whatsoever on the part of the City or its agents in relation to the property,
23 subject to the limitations and payment of additional conditional monies as set forth under
24 the Settlement Agreement between the parties first dated April 1, 2009.

25 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the amount due of
26 \$64,500.00 shall be made by the City upon approval of the settlement by the Probate
27 Court in the matter of *In Re Estate of Albert Zeltz, Deceased*, Alameda County Case No.
28

1 RP07347385. Upon approval and order of the Probate Court, the State Treasurer shall
2 draw a warrant to the following defendants in the following amounts:

3 "KATHRYN L. ZEITZ and CHRISTINE A. ZEITZ, \$61,000.00

4 as Co-Administrators of the Estate of Albert Zeitz"
5 c/o Selena P. Ontiveros
6 Gonsalves & Kozachenko
7 1133 Auburn Street
8 Fremont, California 94538

9 "MONICA RUSSELL ZEITZ and NANCY ZEITZ" \$ 3,500.00
10 c/o The Law Offices of Duane M. Leonard
11 1936 University Avenue, #380
12 Berkeley, California 94704

13 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that pursuant to the
14 provisions of section 5081 of the Revenue and Tax Code and section 1268.410 et seq. of
15 the Code of Civil Procedure, any current or delinquent real property taxes, penalties or
16 assessments that are a lien against the property actually taken in fee shall be prorated,
17 apportioned, deducted and paid to the Tax Collector of Alameda County as of July 1, 2007,
18 the effective date of possession as set forth in the Order of Prejudgment Possession
19 entered on July 1, 2007. Amount to be paid by the City shall be \$3,869.91, representing
20 the amount of property taxes incurred prior to the July 1, 2007 date of possession.

21 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the State Treasurer
22 shall draw a warrant in the sum of THREE THOUSAND EIGHT HUNDRED SIXTY-NINE
23 DOLLARS and 91/100 (\$3,869.91), to Donald R. White, Tax Collector for the County of
24 Alameda and forward in care of Claudia J. Gorham at Meyers Nave, 555 12th Street, Suite
25 1500, Oakland, California 94607.

26 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that any taxes, penalties
27 or assessments of Alameda County or any other taxing agency accruing on the property
28 actually taken in fee after the July 1, 2007 effective date of the Order for Immediate
Possession are hereby canceled, and the plaintiff shall take free and clear of any lien or
encumbrances therefor on said parcel.

1
2 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the use for which
3 said real property is sought to be condemned, to wit, the construction Water Pollution
4 Control Plant Expansion Project, is and was a public use, and the taking in condemnation
5 by plaintiff of said property is and was necessary for said public use.
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7 Dated: 8/13/09


JUDGE OF THE SUPERIOR COURT

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13 136-8022/1241479.1
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RECORDING REQUESTED BY:

CITY OF SAN LEANDRO

WHEN RECORDED MAIL TO:

Claudia J. Gorham, Esq.
Meyers, Nave, Riback, Silver & Wilso
555 12th Street, Suite 1500
Oakland, CA 94607

APN: 042-4530-004

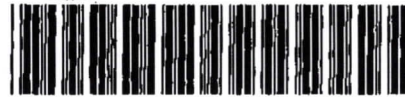
No fee required Govt. Code § 27383



2009318110

10/07/2009 03:51 PM

OFFICIAL RECORDS OF ALAMEDA COUNTY
PATRICK O'CONNELL
RECORDING FEE: 0.00



7 PGS

R This Space for Recorder's Use Only

EXEMPT FROM RECORDING FEES pursuant to Government Code § 27383, which reads: "No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record."

FINAL ORDER IN CONDEMNATION – ACTION IN EMINENT DOMAIN

TITLE OF DOCUMENT

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING INFORMATION
(Govt. Code § 27361.6)



FILED
ALAMEDA COUNTY

AUG 13 2009

CLERK OF THE SUPERIOR COURT
By Pam Williams Deputy

1 CLAUDIA J. GORHAM, ESQ., SBN: 142344
2 NELI N. PALMA, ESQ., SBN: 203374
3 MEYERS, NAVE, RIBACK, SILVER & WILSON
4 555 12TH Street, Suite 1500
Oakland, CA 94607
Telephone: (510) 808.2000
Facsimile: (510) 444-1108

6 Attorneys for Petitioner
7 CITY OF SAN LEANDRO,
a municipal corporation

Exempt from filing fees per Govt. Code §6103

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9
10 IN AND FOR THE COUNTY OF ALAMEDA

11 CITY OF SAN LEANDRO, a municipal
12 corporation,

13 Petitioner,

14 v.

15 THE HEIRS OR DEVISEES OF
16 ALBERT ZEITZ, DECEASED SUBJECT
17 TO THE ADMINISTRATION OF THE
ESTATE OF SAID DEFENDANT;
18 MONICA RUSSELL ZEITZ; NANCY
ZEITZ; KATHY ZEITZ; and DOES 1
19 through 25, inclusive,

20 Respondents.
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No.: RG06303297
ASSIGNED FOR ALL PURPOSES TO
Honorable Jon S. Tigar
Department 21

FINAL ORDER IN CONDEMNATION -
ACTION IN EMINENT DOMAIN

APN: 042-4530-004

Complaint Filed: December 21, 2006
Trial Date: June 8, 2009

Final Order in Condemnation - Action in Eminent Domain

1 WHEREAS, on or about December 21, 2006, Plaintiff CITY OF SAN LEANDRO
2 (hereinafter referred to as "CITY"), filed a Complaint in Eminent Domain to acquire fee title
3 in and to the subject property commonly known as County of Alameda Assessor's Number
4 042-4530-004, located in the City of San Leandro, County of Alameda, California, for the
5 City's Water Pollution Control Plant Expansion Project ("Project");

6 IT APPEARING, and the Court finds, that Judgment in Condemnation having been
7 entered in the above entitled action, in the office of the Clerk of the Alameda County
8 Superior Court, State of California; that Judgment having ordered, adjudged and decreed
9 that Plaintiff CITY is entitled to take by condemnation the property described therein and
10 more particularly described in Exhibit "A," attached hereto and incorporated by this
11 reference, and the Stipulation for Entry of Judgment in Condemnation, and that plaintiff
12 CITY has paid to Defendants Heirs or Devisees of Albert Zeltz, Deceased Subject to the
13 Administration of the Estate of Said Defendant; Monica Russell Zeltz; Nancy Zeltz; Kathy
14 Zeltz (also known as Kathryn L. Zeltz and Kathryn Zeltz) (individually and as Administrator
15 With Will Annexed of the Estate of Albert Zeltz, Deceased); and Christine Alicia Zeltz
16 (Individually and as Administrator With Will Annexed of the Estate of Albert Zeltz,
17 Deceased) (hereinafter collectively the "Defendants"), the sum of money assessed by the
18 Judgment in Condemnation entered herein a total payment of compensation in the amount
19 of SIXTY FOUR THOUSAND FIVE HUNDRED DOLLARS (\$64,500.00) as full and just
20 compensation for the taking of said property;

21 THEREFORE, IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the
22 public interest and necessity require the acquisition of the subject property as described in
23 Exhibit "A," attached hereto and incorporated by this reference.

24 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the property
25 described in Exhibit "A," attached hereto and incorporated by this reference, be and hereby
26 is condemned to and taken by Plaintiff CITY for the following public use, to wit, for
27 construction of the Project.
28

1 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that upon recordation a
2 certified copy of this Final Order of Condemnation with the County Recorder of Alameda
3 County, State of California, the real property interest, as described in Exhibit "A," attached
4 hereto and incorporated by this reference, shall vest in Plaintiff CITY, its successors, and
5 its assigns, free and clear and discharged of all liens and claims of every kind whatsoever.

6 IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the Plaintiff's
7 portion of any current taxes to be paid to Alameda County are canceled as of July 5, 2007,
8 the effective date of the Order for Prejudgment Possession, pursuant to California
9 Revenue and Taxation Code, Division 1, Article 5, section 5081 et seq.

10
11 IT IS SO ORDERED.

12
13 DATED: 8/13/09


JUDGE OF THE SUPERIOR COURT

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18 138.6022/1211408.1

Order No. 804-16412
Guarantee No. G-2226-00001427

EXHIBIT "A" LEGAL DESCRIPTION

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA, CITY OF SAN LEANDRO, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

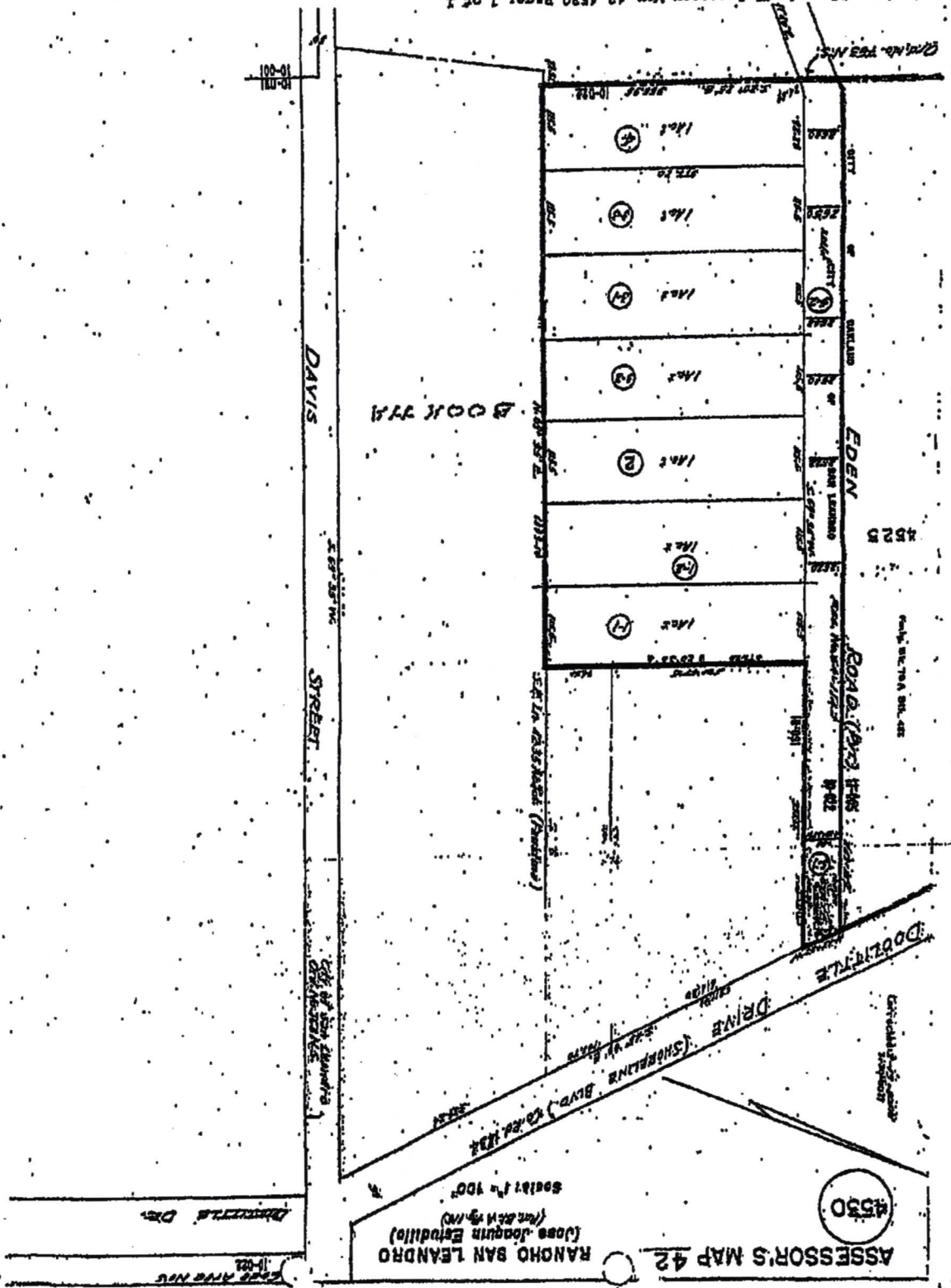
BEGINNING AT A POINT ON THE SOUTHEASTERN BOUNDARY LINE OF THAT CERTAIN 42.35 ACRE TRACT OF LAND CONVEYED BY PETER LEKOS, A SINGLE MAN TO J. E. FAUSTINA, BY DEED DATED MARCH 4, 1925, AND RECORDED MARCH 10, 1925, IN BOOK 902, OF OFFICIAL RECORDS OF ALAMEDA COUNTY AT PAGE 475, DISTANT THEREON SOUTH 69 DEGREES 13 MINUTES WEST 1262.78 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE, FORMERLY BAY SHORE BOULEVARD; RUNNING THENCE SOUTH 69 DEGREES 13 MINUTES WEST ALONG THE SOUTHEASTERN BOUNDARY LINE OF SAID 42.35 ACRE TRACT OF LAND 115.5 FEET; THENCE NORTH 20 DEGREES 47 MINUTES WEST 368.95 FEET TO THE SOUTHEASTERN LINE OF A PRIVATE ROAD KNOWN AS EDEN ROAD; THENCE NORTH 49 DEGREES 41 MINUTES 40 SECONDS EAST ALONG THE LAST NAMED LINE 24.69 FEET TO AN ANGLE POINT THEREIN; THENCE CONTINUING ALONG SAID LINE OF EDEN ROAD NORTH 69 DEGREES 13 MINUTES EAST 92.23 FEET TO A LINE DRAWN NORTH 20 DEGREES 47 MINUTES WEST FROM THE POINT OF BEGINNING; THENCE SOUTH 20 DEGREES 47 MINUTES EAST 377.20 FEET TO THE POINT OF BEGINNING.

PARCEL TWO:

A RIGHT OF WAY FOR ROAD PURPOSES OVER AND ALONG A PRIVATE ROAD FIFTY FEET WIDE KNOWN AS EDEN ROAD EXTENDING FROM THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE TO THE WESTERN BOUNDARY LINE OF RANCHO SAN LEANDRO, THE CENTER LINE OF SAID ROAD BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE, DISTANT THEREON NORTH 45 DEGREES 22 MINUTES WEST 442.29 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHEASTERN BOUNDARY LINE OF THAT CERTAIN 42.35 ACRE TRACT OF LAND CONVEYED BY PETER LEKOS TO J. E. FAUSTINA, BY DEED RECORDED MARCH 10, 1925, IN BOOK 902, PAGE 475, RUNNING THENCE SOUTH 69 DEGREES 13 MINUTES WEST 1175.31 FEET TO AN ANGLE POINT IN SAID ROAD; THENCE SOUTH 49 DEGREES 41 MINUTES 40 SECONDS WEST 503.40 FEET TO THE WESTERN BOUNDARY LINE OF THE RANCHO SAN LEANDRO.

APN: 042-4530-004



Meyers, Nave, Riback, Silver & Wilson
Attn: Skinner, David W.
555 12th St., Ste. 1500
Oakland, CA 94607

Monica Russell Zeltz
2132 San Antonio Avenue
Alameda, CA 94501

Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

City of San Leandro	No. <u>RG06303297</u>
Plaintiff/Petitioner(s)	Order
VS.	Motion for prejudgmt possession
The Heirs Or devisees Of Deceased Sub	Granted
Defendant/Respondent(s)	
(Abbreviated Title)	

The Motion for prejudgmt possession was set for hearing on 04/02/2007 at 09:00 AM in Department 31 before the Honorable Winifred Y. Smith. The Tentative Ruling was published and has not been contested.

IT IS HEREBY ORDERED THAT:

The tentative ruling is affirmed as follows: The unopposed Motion of Plaintiff City of San Leandro ("City") for Order for Prejudgment Possession is GRANTED pursuant to Code of Civil Procedure Section 1255.410 et seq.

City is authorized to enter upon and take immediate possession of the subject parcel of land described in City's Complaint filed on 12/21/06.

The date after which City is authorized to take possession is July 1, 2007.

City shall serve a copy of this order and the Notice of Deposit and a written statement or summary of the basis for the appraisal (see Code Civ. Proc §1255.020) on the record owner and named defendants in accordance with Code of Civil Procedure Section 1255.450. City is to mail a copy of this Order to named defendants within 5 days of the hearing date.

Dated: 04/02/2007



Judge Winifred Y. Smith

Superior Court of California, County of Alameda
Rene C. Davidson Alameda County Courthouse

Case Number: RG06303297
Order After Hearing Re: of 04/02/2007

DECLARATION OF SERVICE BY MAIL

I certify that I am not a party to this cause and that a true and correct copy of the foregoing document was mailed first class, postage prepaid, in a sealed envelope, addressed as shown on the foregoing document or on the attached, and that the mailing of the foregoing and execution of this certificate occurred at 201 13th Street, Oakland, California.

Executed on 04/02/2007.

Executive Officer / Clerk of the Superior Court

By *Yvonne Baggett*

Deputy Clerk

1 DAVID W. SKINNER, ESQ., SBN: 146285
2 OLIVER R. GUTIERREZ, ESQ., SBN: 218696
3 MEYERS, NAVE, RIBACK, SILVER & WILSON
4 555 12TH Street, Suite 1500
5 Oakland, CA 94607
6 Telephone: (510) 808.2000
7 Facsimile: (510) 444-1108

8 Attorneys for Plaintiff
9 CITY OF SAN LEANDRO,
10 a municipal corporation
11

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SUPERIOR COURT OF THE STATE OF CALIFORNIA
IN AND FOR THE COUNTY OF ALAMEDA

CITY OF SAN LEANDRO, a municipal corporation,

Plaintiff,

v.

THE HEIRS OR DEVISEES OF
ALBERT ZEITZ, DECEASED SUBJECT
TO THE ADMINISTRATION OF THE
ESTATE OF SAID DEFENDANT;
MONICA RUSSELL ZEITZ; NANCY
ZEITZ; KATHY ZEITZ; and DOES 1
through 25, inclusive,

Defendants.

No.:

DECLARATION OF UCHE UDEMEZUE
IN SUPPORT OF EX PARTE
APPLICATION FOR ORDER OF
PREJUDGMENT POSSESSION

APN: 042-4530-004

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1 I, UCHE UDEMEZUE, declare as follows:

2 1. I am the Director of Engineering & Transportation for Plaintiff CITY OF SAN
3 LEANDRO, a municipal corporation, ("City") and am responsible for the overall operations
4 of all engineering and transportation related services for the City, including the acquisition
5 of real property for the Water Pollution Control Plant Expansion Project (hereinafter
6 "Project"). I have personal knowledge of the facts set forth in this declaration and will, if
7 necessary, be able to competently testify thereto.

8 2. The Project will further the City's goal to ensure that local water, sewer,
9 storm drainage, and solid waste facilities are well maintained; improvements meet existing
10 and future needs; and land use decisions are contingent on the adequacy and
11 maintenance of such facilities. The purpose of the Project is to maintain adequate capacity
12 at the San Leandro wastewater treatment plant to accommodate projected levels of growth
13 within the service area and encourage the Oro Loma Sanitary District to do the same; and,
14 to support efforts to maintain and/or improve the high quality of treated effluent at both
15 plants and increase the feasibility and cost-effectiveness of using reclaimed wastewater for
16 non-potable purposes

17 3. On December 4, 2006, City adopted a Resolution of Necessity authorizing
18 the filing of this action and making the required findings.

19 4. This eminent domain action is being filed for the purposes of acquiring fee
20 title in and to the property located at 2660 Eden Road, San Leandro, California ("Subject
21 Property") for the Project.

22 5. The Subject Property is a vacant and unimproved site, which formerly was
23 used as a "dirt farm."

24 6. A ninety (90) day Order of Possession is necessary to begin construction of
25 the Project.

26 ///

27 ///

28 ///

1 7. Based on the foregoing, City respectfully requests that the Court grant a
2 ninety (90) day Order of Possession.

3 I declare under penalty of perjury under the laws of the State of California that the
4 foregoing is true and correct.

5 Dated: December 19, 2006



UCHE UDEMEZUE

136-6022/877094_1

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2006-132

(3104/D-1401)

A RESOLUTION OF NECESSITY DETERMINING THAT THE PUBLIC INTEREST AND NECESSITY REQUIRE THE ACQUISITION OF ASSESSOR'S PARCEL NO. 042-4530-004, KNOWN AS 2660 EDEN ROAD AND DIRECTING THE FILING OF EMINENT DOMAIN FOR THE EXPANSION OF THE WATER POLLUTION CONTROL PLANT

IT IS RESOLVED by the City Council of the City of San Leandro as follows:

WHEREAS, it is desirable and necessary for the City of San Leandro to acquire certain real property, particularly described in Exhibit "A", attached hereto and made a part hereof by reference, for public purposes, to with: for the expansion of the Water Pollution Control Plant. The name and address of the owner who has interest to be acquired is as follows:

Albert Zeitz
and/or the heirs and devisees of Albert Zeitz, deceased,
and all persons claiming by, through or under said decedent
2132 San Antonio Avenue
Alameda, CA 94501-4327

WHEREAS, the City of San Leandro is vested with the power of eminent domain to acquire real property by virtue of Article I, Section 19, of the Constitution of the State of California, Code of Civil Procedure Sections 1240.050, 1240.110, 1240.120, 1240.125, 1240.150, and 1240.410, and Government Code Sections 37350.5, 38730, and 38900; and

WHEREAS, pursuant to the provisions of Section 1245.235 of the Code of Civil Procedure of the State of California, notice has been duly given to all persons whose property is to be acquired by eminent domain and whose names and addresses appear on the last Alameda County equalized assessment roll, all of whom have been given a reasonable opportunity to appear and be heard before the City Council of the City of San Leandro on the following matters:

- a. Whether the public interest and necessity require the project;

- b. Whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the property sought to be acquired is necessary for the project; and
- d. Whether the offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

WHEREAS, pursuant to the provisions of Section 7267.2 of the Government Code of the State of California, the City of San Leandro has made an offer to the owner(s) of the subject property for just compensation.

NOW, THEREFORE, IT IS FOUND, DETERMINED, AND ORDERED as follows:

1. The public interest and necessity require the project to expand the Water Pollution Control Plant;
2. The project is planned and located in the manner which will be most compatible with the greatest public good and the least private injury;
3. The taking of the fee simple title in and to the real property more particularly described in said Exhibit "A" is necessary for the project;
4. The offer required by Section 7267.2 of the Government Code of the State of California has been made to the owner or owners of record of the real property;
5. The law firm of Meyers, Nave, Riback, Silver & Wilson is hereby authorized and directed to institute and conduct to conclusion an action in eminent domain for the acquisition of the estates and interests aforesaid and to take such action as it may deem advisable or necessary in connection therewith;
6. An order for prejudgment possession may be obtained in said action and a warrant issued to the State Treasury Condemnation Fund, in the amount determined by the

Court to be so deposited, as a condition to the right of immediate possession; and

7. This project is Categorically Exempt.

Introduced by Councilmember Grant and passed and adopted this 4th day of December
2006, by the following vote:

Members of the Council:

AYES: Councilmembers Badger, Grant, Nardine, Santos, Starosciak, Stephens;
Mayor Young (7)

NOES: None (0)

ABSENT: None (0)

ATTEST: Marian Handa
Marian Handa, City Clerk

Order No. 804-16412
Guarantee No. G-2226-00001427

EXHIBIT "A" LEGAL DESCRIPTION

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF ALAMEDA, CITY OF SAN LEANDRO, AND IS DESCRIBED AS FOLLOWS:

PARCEL ONE:

BEGINNING AT A POINT ON THE SOUTHEASTERN BOUNDARY LINE OF THAT CERTAIN 42.35 ACRE TRACT OF LAND CONVEYED BY PETER LEKOS, A SINGLE MAN TO J. E. FAUSTINA, BY DEED DATED MARCH 4, 1925, AND RECORDED MARCH 10, 1925, IN BOOK 902, OF OFFICIAL RECORDS OF ALAMEDA COUNTY AT PAGE 475, DISTANT THEREON SOUTH 69 DEGREES 13 MINUTES WEST 1262.78 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE, FORMERLY BAY SHORE BOULEVARD; RUNNING THENCE SOUTH 69 DEGREES 13 MINUTES WEST ALONG THE SOUTHEASTERN BOUNDARY LINE OF SAID 42.35 ACRE TRACT OF LAND 115.5 FEET ; THENCE NORTH 20 DEGREES 47 MINUTES WEST 368.95 FEET TO THE SOUTHEASTERN LINE OF A PRIVATE ROAD KNOWN AS EDEN ROAD; THENCE NORTH 49 DEGREES 41 MINUTES 40 SECONDS EAST ALONG THE LAST NAMED LINE 24.69 FEET TO AN ANGLE POINT THEREIN; THENCE CONTINUING ALONG SAID LINE OF EDEN ROAD NORTH 69 DEGREES 13 MINUTES EAST 92.23 FEET TO A LINE DRAWN NORTH 20 DEGREES 47 MINUTES WEST FROM THE POINT OF BEGINNING; THENCE SOUTH 20 DEGREES 47 MINUTES EAST 377.20 FEET TO THE POINT OF BEGINNING.

PARCEL TWO;

A RIGHT OF WAY FOR ROAD PURPOSES OVER AND ALONG A PRIVATE ROAD FIFTY FEET WIDE KNOWN AS EDEN ROAD EXTENDING FROM THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE TO THE WESTERN BOUNDARY LINE OF RANCHO SAN LEANDRO, THE CENTER LINE OF SAID ROAD BEING DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE SOUTHWESTERN LINE OF DOOLITTLE DRIVE, DISTANT THEREON NORTH 45 DEGREES 22 MINUTES WEST 442.29 FEET FROM THE POINT OF INTERSECTION THEREOF WITH THE SOUTHEASTERN BOUNDARY LINE OF THAT CERTAIN 42.35 ACRE TRACT OF LAND CONVEYED BY PETER LEKOS TO J. E. FAUSTINA, BY DEED RECORDED MARCH 10, 1925, IN BOOK 902, PAGE 475, RUNNING THENCE SOUTH 69 DEGREES 13 MINUTES WEST 1175.31 FEET TO AN ANGLE POINT IN SAID ROAD; THENCE SOUTH 49 DEGREES 41 MINUTES 40 SECONDS WEST 503.40 FEET TO THE WESTERN BOUNDARY LINE OF THE RANCHO SAN LEANDRO.

APN: 042-4530-004

(4530)

ASSESSOR'S MAP 42

RANCHO SAN LEANDRO
(Jose Joaquin Estudillo)
(Pat. Gr. A Pg. 116)

Scale: 1" = 100'

Corrected: 2-19-2018
3-30-00 JT

DOOLITTLE

469-1025
1-5

17-005
10-022

ROAD (AVT) 17-005
64-114-10-022

4525
PRO

Fmly. Bk. 79A Bk. 465

EDEN

OAKLAND

CITY

Old No. 763 N.S.

S.E. Ln 42.35 Ac. Tch. (Faustine)

N. 69, 33 E.

ALL MOON

DAVIS

STREET

City of San Leandro
Ord. No. 763 N.S.

Ord. No. 763 N.S.

DE. DEBILIS

Code Area No's 10-022

CITY OF SAN LEANDRO

STAFF REPORT

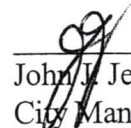
DATE: December 4, 2006

TO: John Jermanis, City Manager

FROM: Uchenna Udemezue, Director
Engineering & Transportation Department

BY: Tara Peterson, Administrative Services Manager

APPROVED AND
FORWARDED
TO CITY COUNCIL


John J. Jermanis
City Manager

leso 2006-132 (3104/D-1401)

SUBJECT PROJECT/PROJECT DESCRIPTION:

MATTER OF PROPERTY OWNER HEARING REGARDING EMINENT DOMAIN PROCEEDINGS FOR ACQUISITION OF 2660 EDEN ROAD FOR THE WATER POLLUTION CONTROL PLANT EXPANSION PROJECT, PROJECT NO. 593-52-216

SUMMARY AND RECOMMENDATION

It is recommended that the City Council adopt the proposed Resolution of Necessity to acquire, by eminent domain, fee title in and to the property known as 2660 Eden Road, San Leandro, California (APN: 042-4530-004) for the expansion of the Water Pollution Control Plant. Albert Zeitz (deceased) is the owner of record of the subject property.

Further, staff recommends that the City Council make the following findings for the proposed acquisition:

- a. The public interest and necessity require the proposed project;
- b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. The property described in the respective Resolution of Necessity is necessary for the proposed project; and
- d. The offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

BACKGROUND

The City notified the heirs of Albert Zeitz regarding the City's desire to acquire the subject property. However, none of Mr. Zeitz's heirs have responded to staff's attempts to negotiate a voluntary purchase of the subject property. Pursuant to Government Code Section 7267.1, which requires a public entity to make every reasonable effort to acquire expeditiously property by negotiation, we will continue our attempts to negotiate with the heirs.

Since the dirt was piled on the subject property, there has been no activity at the site. However, the assessor's records indicate that Mr. Zeitz's heirs continue to pay the property taxes. Accordingly, staff has sent all communications regarding the subject property to the heirs' address.

To meet the proposed construction schedule for the expansion of the Water Pollution Control Plant, it is necessary that the City take possession of the subject property during the spring of 2007. If the City adopts the Resolution of Necessity, it will allow construction to commence in a timely manner (i.e., late 2007).

EMINENT DOMAIN PROCESS:

A. The City has Complied with all Applicable Statutory Procedures

The City retained an appraiser to appraise the value of the subject property for the project. Pursuant to Government Code §7267.2(a), the City reviewed and approved the appraisal and accordingly prepared the government code offer to the property owner and his heirs. On September 6, 2006, the Government Code §7267.2 offer letter was made to the property owner for the appraised value of the property interests.

Since September, the City has made an attempt to negotiate with the property owner's heirs. Allowing for a fifteen to thirty day negotiation period is good practice, but not required. Pursuant to Code of Civil Procedure §1245.235(a), on November 7, 2006, the City sent a Notice of Intent to Adopt a Resolution of Necessity to "each person...whose name and address appears on the last equalized county assessment roll..." for the aforementioned property. The Code of Civil Procedure provides that a property owner -- in order to "appear and be heard" at the hearing on the resolution of necessity -- must file a written request with the condemning agency "within 15 days after the notice was mailed...."

The City has complied with all applicable statutory procedures and continues to attempt to negotiate with the property owner's heirs.

B. The City has Satisfied the Requirements Under Eminent Domain Law to Adopt a Resolution of Necessity

As stated in Section A above, the City has complied with the statutory procedures. The City is authorized to bring an eminent domain action to acquire real property interests for public use pursuant to and under the provisions of Article 1, Section 19 of the Constitution of the State of California, and Code of Civil Procedure Section ("CCP") 1230.010, et seq. A city may acquire by eminent domain any property necessary to carry out any of its powers or functions, which include property to treat wastewater for the City and its residents. (Govt. Code §§ 37350.5, 38730, 38900.)

If the City Council adopts the proposed Resolution of Necessity, and subsequently determines that it cannot reach an agreement with the property owner (and/or his heirs), the next step will be to file an eminent domain action in Alameda County Superior Court. The City can seek immediate possession of the subject property by depositing with the State Condemnation Fund the amount of probable compensation (e.g., the appraised value) and requesting the Court to

enter an order granting possession, which would be effective 30-90 days thereafter. Generally, if the property is "lawfully occupied by a person dwelling thereon or by a farm or business operation", the order can be effective on the 90th day following service of the order. In "all other cases", the order can be effective on the 30th day following service. (CCP §1255.450(b).) An order can be effective in less than 30 days, but "not less than three days", if the court finds that the condemning agency has "an urgent need for possession of property and that possession will not displace or unreasonably affect any person in actual and lawful possession of the property...." (CCP §1255.410(c).)

If the case does not settle beforehand, it will proceed toward trial on the amount of just compensation owed to the property owner.

FINDINGS:

City Council adoption of the Resolution of Necessity is required for the initiation of the proposed eminent domain action. The Resolution, with the following findings, must be adopted by a minimum two-thirds vote of the seven member City Council (five affirmative votes required) in accordance with California Code of Civil Procedure Sections 1245.230 and 1245.240. Evidence supporting the adoption of the Resolutions is set forth in this report, including the matters noted below:

- a. The public interest and necessity require the proposed project;

The Water Pollution Control Plant is necessary for the treatment of sewage, to meet the demands of regulatory agencies concerning said treatment, and to provide for the health of the public.

- b. The proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;

The Water Pollution Control Plant expansion is necessary to provide additional space for new equipment so the plant can continue to meet both current demand and future regulatory requirements. The site is fully built out and too small to allow for the required equipment.

- c. The property described in the respective Resolution of Necessity is necessary for the proposed project; and

The Property is located adjacent to the plant, and is ideally situated to allow for the construction of new facilities.

- d. The offer required by Government Code Section 7267.2 has been made to the owner(s) of record.

On September 6, 2006, a Government Code §7267.2 offer letter was made to the property owner for the appraised value of the property interests.

Current City Council Policy

Not Applicable

Previous City Council Action(s)

- On September 5, 2006 by Resolution No. 2006-102, the City Council authorized the City Manager to execute a real property agreement for the property required for this project
- On March 7, 2005 by Resolution No. 2005-023, the City Council approved a contractual services agreement with Malcolm Pirnie, Inc. for preliminary design and consulting services

City Council Committee Review And Action

Not Applicable

Applicable General Plan Policy

- Goal 52:
Ensure that local water, sewer, storm drainage, and solid waste facilities are well maintained; improvements meet existing and future needs; and land use decisions are contingent on the adequacy and maintenance of such facilities
- Action 52.05:
Maintain adequate capacity at the San Leandro wastewater treatment plant to accommodate projected levels of growth within the service area and encourage the Oro Loma Sanitary District to do the same. Support efforts to maintain and/or improve the high quality of treated effluent at both plants and increase the feasibility and cost-effectiveness of using reclaimed wastewater for non-potable purposes

Permits And/Or Variances Granted

Not Applicable

Environmental Review

- This project is Categorically Exempt

Code Compliance Review

Not Applicable

Board/Commission Findings

Not Applicable

Summary Of Public Outreach Efforts

Not Applicable

Fiscal Impact

- An appraisal has been received that values the property at \$450,500
- The cost to remove the dirt pile is estimated at approximately \$450,000
- Funding is available for the acquisition through the Water Pollution Control Plant Enterprise Fund, Account No. 593-52-216

Budget Authority

- Funding for this project was appropriated as part of the Fiscal Year 2004-05 budget

Attachments

- Site Map

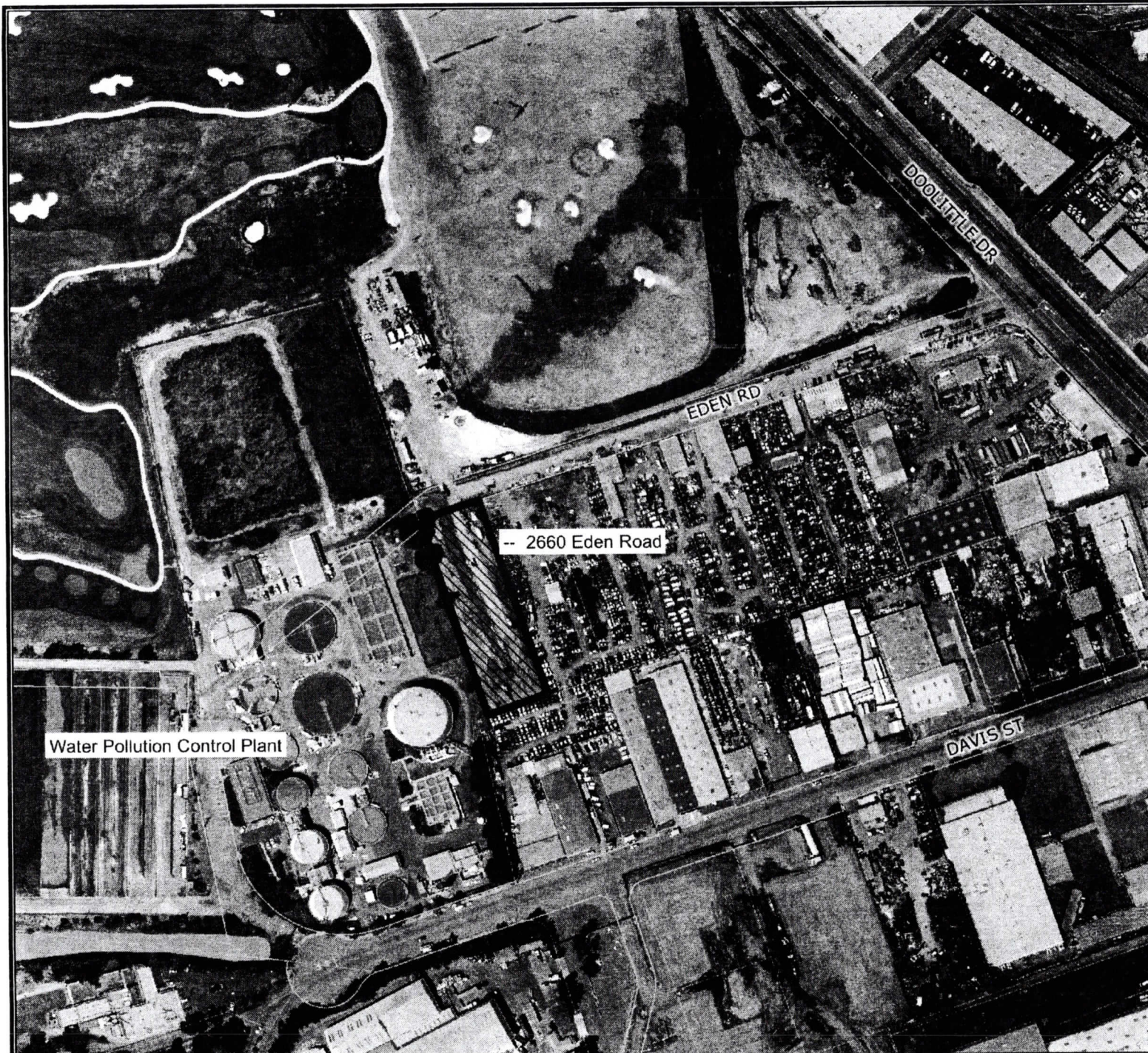
CONCLUSION

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UU:THP:ml



-- 2660 Eden Road

Water Pollution Control Plant

Subject Site

Scale 1:3,159

City of San Leandro GIS

Printed: Nov 15, 2006 2:51:48 PM

