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PARTIAL JUDGMENT AND FINAL ORDER OF CONDEMNATION
AS TO DEFENDANT HOWARD JOSEPH ZIVNAK
CASE NO. RIC 422340

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SCANNED

AUG 09 2007

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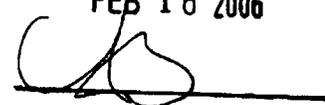
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FEB 03 2008

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2 REDEVELOPMENT AGENCY FOR THE CITY OF RIVERSIDE
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF RIVERSIDE

FEB 16 2006



5 Attorneys for Plaintiff, Redevelopment Agency
for the City of Riverside
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8 SUPERIOR COURT OF CALIFORNIA
9 COUNTY OF RIVERSIDE

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11 REDEVELOPMENT AGENCY FOR THE)
CITY OF RIVERSIDE, a public body,)
12 corporate and politic,)
13)
Plaintiff,)
14)
vs.)
15 H.J. ZIVNAK; HOWARD JOSEPH ZIVNAK;)
NORTHERN COUNTIES TITLE)
16 INSURANCE COMPANY; THE BANK OF)
NEW YORK; B & Z TRUCK BODIES, INC.;)
17 DOES 1 through 100; and ALL PERSONS)
UNKNOWN CLAIMING AN INTEREST IN)
18 THE PROPERTY,)
19)
Defendants.)

CASE NO.: RIC 422340
Assigned for all purposes to the
Honorable Judge Thomas Cahraman
Department 8

**PARTIAL JUDGMENT AND FINAL
ORDER OF CONDEMNATION AS TO
DEFENDANT HOWARD JOSEPH
ZIVNAK**

[Stipulation re Settlement and for Entry of
Partial Judgment and Final Order of
Condemnation filed concurrently
herewith]

Assessor's Parcel Numbers:

213-221-005
213-221-006
213-221-007

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1 Pursuant to a written Stipulation by and between plaintiff Redevelopment Agency for the
2 City of Riverside (hereinafter "Agency"), by and through Heriberto F. Diaz, Deputy City Attorney,
3 and defendant Howard Joseph Zivnak, a.k.a. H.J. Zivnak, (collectively hereinafter "Zivnak"), that
4 a Judgment and Final Order of Condemnation as to Assessor's Parcel Numbers 213-221-005, 213-
5 221-006, and 213-221-007 may be made and entered herein in accordance with the terms and
6 conditions hereof without further notice to said defendants;

7 IT IS HEREBY FOUND AND DETERMINED:

- 8 1. The interest of defendant Zivnak in and to the real property designated in the
9 complaint as Assessor's Parcel Numbers 213-221-005, 213-221-006, and 213-221-007 is fee
10 simple absolute.
- 11 2. By execution of the Stipulation herein, defendant Zivnak waives the right to jury
12 trial, Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of
13 Final Order of Condemnation as to Assessor's Parcel Numbers 213-221-005, 213-221-006, and
14 213-221-007, and the right and time for appeal.
- 15 3. Defendant Zivnak expressly waives the right to challenge the Agency's right to
16 acquire the property by eminent domain, the right to further and greater compensation, and the
17 right to an award of attorneys fees, to the extent that they may be allowable by law.
- 18 4. Pursuant to said stipulation, the total amount of just compensation to be paid by
19 plaintiff to defendant Zivnak is the sum of Two Million Nine Hundred Nineteen Thousand Dollars
20 (\$2,919,000.00) plus interest and costs as calculated and established herein ("Award"). The Award
21 is inclusive of attorneys fees and all costs of suit, including those costs defined in California *Code*
22 *of Civil Procedure* § 1268.710 and litigation expenses including, but not limited to those defined
23 in California *Code of Civil Procedure* § 1235.140.
- 24 5. On December 8, 2004, plaintiff Redevelopment Agency for the City of Riverside
25 deposited with the State Treasury Condemnation Fund the amount of One Million Six Hundred
26 Sixty-five Thousand Two Hundred Seventy Dollars (\$1,665,270.00) as a deposit of probable just
27 compensation.

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1 6. On April 28, 2005, Agency made a mortgage payment in the amount of Fourteen
2 Thousand Four Hundred Twenty-three Dollars and Fifty-one Cents (\$14,423.51) to Lehman
3 Brothers Small Business Finance for the benefit of Zivnak.

4 7. The following distributions were made from funds deposited with the State of
5 California pursuant to application and order of the court on the dates indicated below:

<u>Applicant</u>	<u>Order</u>	<u>Withdrawal</u>	<u>Date of Withdrawal</u>
6 Redevelopment 7 Agency for the City of 8 Riverside	05/17/2005	\$14,423.51	06/02/2005
9 Lehman Brothers 10 Small Business 11 Finance	05/17/2005	\$836,488.91	06/02/2005
12 Lehman Brothers 13 Small Business 14 Finance	05/17/2005	\$669,028.85	06/02/2005
15 Howard Joseph Zivnak	05/17/2005	\$145,328.73	06/02/2005

16 8. The sum of Zero Dollars (\$0.00) remains on deposit with the State of California.

17 9. Defendant Zivnak is entitled to an award of interest calculated herein pursuant to
18 California *Code of Civil Procedure* § 1268.310 *et seq.* as follows:

- 19 a) Interest accrued on the principal amount of \$2,919,000.00 at the daily rate
20 of \$115.96 (1.454% per annum) from December 8, 2004, to December 31,
21 2004, in the sum of \$2,783.10.
- 22 b) Interest accrued on the principal amount of \$2,921,783.10 at the daily rate
23 of \$146.09 (1.830% per annum) from January 1, 2005, to June 2, 2005, in
24 the sum of \$22,351.64.
- 25 c) Interest accrued on the principal amount of \$1,278,864.84 at the daily rate
26 of \$63.94 (1.830% per annum) from June 3, 2005, to June 30, 2005, in the
27 sum of \$1,790.41.
- d) Interest accrued on the principal amount of \$1,280,655.25 at the daily rate
 of \$91.40 (2.612% per annum) from July 1, 2005, to December 31, 2005,

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1 in the sum of \$16,816.76.
2 e) Interest accrued on the principal amount of \$1,297,472.01 at the daily rate
3 of \$112.97 (3.178% per annum) from January 1, 2006, through the date of
4 payment.

5 10. The use for which an interest in and to Assessor's Parcel Numbers 213-221-005,
6 213-221-006, and 213-221-007 are being acquired is a use authorized by law and the acquisition of
7 said interest is necessary to said use.

8 11. An Order of Prejudgment Possession became effective as to the interests of
9 defendant Zivnak in and to Assessor's Parcel Numbers 213-221-005, 213-221-006, and 213-221-
10 007 on February 13, 2005.

11 12. The total of all applicable unpaid taxes, penalties, and costs for prior, current, and
12 next succeeding tax years, prorated, to the date of possession are as follows:

<u>Assessor's Parcel Number</u>	<u>Total Unpaid Taxes, Penalties and Costs</u>
213-221-005	\$1,121.96
213-221-006	\$2,276.25
213-221-007	\$8,479.26

17 13. The following defendants filed a Disclaimer of Interest on the date indicated
18 below and are entitled to no compensation herein:

<u>Defendant</u>	<u>Date Filed</u>
Bank of New York	November 3, 2005
B & Z Truck Bodies, Inc.	Filed concurrently herewith

22 14. The following defendants were dismissed by plaintiff without prejudice from this
23 action on the dates indicated below:

<u>Defendant</u>	<u>Date of Filing</u>
Northern Counties Title Insurance Company	October 17, 2005

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1 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 1. The total fair market value and damages for the taking of Assessor's Parcel
3 Numbers 213-221-005, 213-221-006, and 213-221-007, including interest accrued from the date of
4 deposit through December 31, 2005, is the sum of One Million Two Hundred Ninety-seven
5 Thousand Four Hundred Seventy-two Dollars and One Cent (\$1,297,472.01); thereafter interest
6 shall accrue at the daily rate of One Hundred Twelve Dollars and Ninety-seven Cents (\$112.97)
7 through the date of payment ("Award"). Defendant Zivnak is entitled to recover costs in the
8 amount of Seven Hundred Twenty-eight Dollars (\$728.00). Said sums shall be paid by plaintiff not
9 later than thirty days after the date of entry of judgment.

10 2. Except as otherwise provided herein, payment hereunder shall be deemed to
11 expressly include all costs of suit pursuant to California *Code of Civil Procedure* § 1268.710 and
12 all litigation expenses including, but not limited to, those defined in California *Code of Civil*
13 *Procedure* § 1235.140. Payment hereunder shall further be deemed to be the total just
14 compensation and damages, if any, to which defendant Zivnak shall be entitled by reason of the
15 condemnation of Assessor's Parcel Numbers 213-221-005, 213-221-006, and 213-221-007.

16 3. The sum of Eleven Thousand Eight Hundred Seventy-seven Dollars and Forty-
17 seven Cents (\$11,877.47), apportioned pursuant to paragraph 12, above, shall be paid outside these
18 court proceedings by the plaintiff to the County of Riverside tax collector for unpaid taxes,
19 penalties, and costs for prior, current, and succeeding tax years prorated to the date of possession.

20 4. The Award remaining to be paid herein less unpaid taxes in the amount of Eleven
21 Thousand Eight Hundred Seventy-seven Dollars and Forty-seven Cents (\$11,877.47) shall be paid
22 outside of these court proceedings and shall be payable to Howard Joseph Zivank at the following
23 address:

24 c/o Barry A. Ross, Esq.
25 7700 Irvine Center Drive, Suite 710
Irvine, CA 92618

26 5. Payment to defendant Zivnak of the sums herein above specified shall constitute
27 payment in full for the real property taken and for all damages of any kind and nature whatsoever

1 suffered by said defendants by reason of such taking.

2 6. An Order for Prejudgment Possession as to Assessor's Parcel Numbers 213-221-
3 005, 213-221-006, and 213-221-007 became effective on February 13, 2005.

4 7. Plaintiff's portion of taxes, if any, are cancelled as of the effective date of
5 possession.

6 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF
7 CONDEMNATION:

8 The interest of defendant Howard Joseph Zivnak, a.k.a. H.J. Zivnak, in the real property
9 designated as Assessor's Parcel Numbers 213-221-005, 213-221-006, and 213-221-007 is hereby
10 condemned for the public use and purposes described in the Complaint as fee simple absolute.
11 Plaintiff Redevelopment Agency for the City of Riverside to take title to the interests of said
12 defendants in the following-described real property, together with all improvements thereon in
13 which said defendants have an interest, free and clear of any and all liens, encumbrances,
14 easements, and leaseholds, of whatever kind or nature:

15
16 THAT CERTAIN REAL PROPERTY IN THE CITY OF RIVERSIDE, COUNTY OF RIVERSIDE,
17 STATE OF CALIFORNIA DESCRIBED AS FOLLOWS:

18
19 PARCEL 1

20 THAT PORTION OF BLOCK 6, RANGE 8 OF THE TOWN OF RIVERSIDE, IN THE CITY OF
21 RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE
22 IN BOOK 7 PAGE 17 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED
23 AS FOLLOWS:

24 BEGINNING AT A POINT ON THE NORTHERLY LINE OF SEVENTH STREET, 83 FEET 6 INCHES
25 SOUTHEASTERLY FROM THE MOST WESTERLY CORNER OF BLOCK 6, RANGE 8 OF THE
26 TOWN OF RIVERSIDE, AS SHOWN BY MAP ON FILE IN BOOK 7 PAGE 17 OF MAPS, RECORDS
27 OF RIVERSIDE COUNTY, CALIFORNIA;

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1 THENCE SOUTHEASTERLY ALONG SAID NORTHERLY LINE OF SEVENTH STREET, 64 FEET,
2 6 INCHES, MORE OR LESS, TO A POINT 182 FEET NORTHWESTERLY FROM THE MOST
3 SOUTHERLY CORNER OF SAID BLOCK;

4
5 THENCE AT A RIGHT ANGLE NORTHEASTERLY AND A PARALLEL WITH THE WESTERLY
6 LINE OF MARKET STREET, 132 FEET; THENCE AT A RIGHT ANGLE NORTHWESTERLY AND
7 PARALLEL WITH SAID NORTHERLY LINE OF SEVENTH STREET, 64 FEET 6 INCHES, MORE
8 OR LESS, TO A POINT 83 FEET: 6 INCHES SOUTHEASTERLY FROM (MEASURED ALONG A
9 LINE DRAWN AT A RIGHT ANGLE TO) THE EASTERLY LINE OF ALMOND STREET; THENCE
10 AT A RIGHT ANGLE SOUTHWESTERLY AND PARALLEL WITH THE EASTERLY LINE OF
11 ALMOND STREET, 132 FEET, MORE OR LESS, TO THE POINT OF BEGINNING.

12
13 PARCEL 2

14 THAT PORTION OF BLOCK 6, RANGE 8 OF THE TOWN OF RIVERSIDE, IN THE CITY OF
15 RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE
16 IN BOOK 7 PAGE 17 OF MAPS, RECORD OF RIVERSIDE COUNTY, CALIFORNIA, DESCRIBED
17 AS FOLLOWS:

18
19 COMMENCING ON THE NORTHERLY LINE OF SEVENTH STREET AT A POINT 132.00 FEET
20 WESTERLY FROM THE SOUTHEASTERLY CORNER OF SAID BLOCK 6; THENCE WESTERLY
21 ALONG SAID NORTHERLY LINE OF SEVENTH STREET, 50.00 FEET; THENCE AT A RIGHT
22 ANGLE NORTHERLY AND PARALLEL WITH THE WESTERLY LINE OF MARKET STREET,
23 132.00 FEET; THENCE AT A RIGHT ANGLE EASTERLY PARALLEL WITH THE NORTHERLY
24 LINE OF SEVENTH STREET, 50.00 FEET; THENCE AT A RIGHT ANGLE SOUTHERLY AND
25 PARALLEL WITH THE WESTERLY LINE OF MARKET STREET, 132.00 FEET.

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PARCEL 3
LOTS 1 AND 2 OF BLOCK 6, RANGE 8 OF THE TOWN OF RIVERSIDE, IN THE CITY OF
RIVERSIDE, COUNTY OF RIVERSIDE, STATE OF CALIFORNIA, AS SHOWN BY MAP ON FILE
IN BOOK 7 PAGE 17 OF MAPS, RECORDS OF RIVERSIDE COUNTY, CALIFORNIA.

DATED: 2/15/06

T. Calhoun
Judge of the Superior Court

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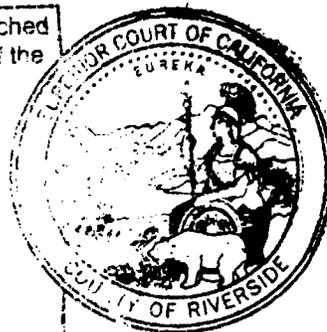
Superior Court of California
County of Riverside

By *[Signature]*

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