

Pittsburg settles eminent domain lawsuit

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Contra Costa Times

Posted: 01/04/2010 03:01:40 PM PST

Updated: 01/04/2010 05:43:12 PM PST

Pittsburg has settled a lawsuit against a business whose land it had tried to acquire as part of its waterfront development efforts.

In an agreement reached last month in Contra Costa County Superior Court, Pittsburg's redevelopment agency recouped \$1.8 million it deposited in 2008 to acquire a 2.7-acre piece of property owned by Marine Express. The company acquired the site in May 2007.

In the Dec. 14 settlement, Marine Express agreed to pay Pittsburg \$115,386.94 for past costs in cleaning contaminants from the property and take responsibility for future cleanup. The Alameda-based marine service provider issued a check last week, City Attorney Ruthann Ziegler said.

Marine Express retains the property and can run its business, which includes repairing deep-water vessels, tug service and boat construction support among other services. It can conduct off-site business but must keep equipment and vehicles within an enclosed building, and boats can't be docked more than 115 feet from shore.

Marine Express must start any necessary additional cleanup of the property by April 10, according to the settlement. Cleanup, including submittal of a Remedial Action Completion Plan to the state

Regional Water Quality Control Board, must be complete before July 1.

In the 2008 eminent domain suit, the agency asked a judge to direct Marine Express to sell the East Third Street property to the city for fair-market value. A pair of court orders bumped the amount Pittsburg had to keep in a fund for compensation from \$966,000 to \$1.8 million. A 2007 appraisal for the city said the property is valued at \$1.26 million when clean.

Pittsburg chose to settle because it had initially taken steps to clean the site when it was under different ownership, Ziegler said. Further, it didn't make sense given the economic climate to pursue further litigation, as Marine Express' efforts would "probably have the same result the city desired anyway," she said.

"Ultimately, the hope is they will finish the cleanup and be a successful owner and developer of the property," she said.

"My client is very thankful for the resolution of the case and looks forward to a long-term working relationship with the city of Pittsburg," said Peter Langbord of Foley & Mansfeld PLLP, an attorney acting on behalf of Marine Express.

The agreement also allows Marine Express to lease the tideland off the Pittsburg shore.

The property is part of a 33-acre site identified by the city in June 2006 as a unified development area.

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