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Pittsburg files eminent domain suit for waterfront property

By Paul Burgarino
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PITTSBURG — A landowner is fighting an eminent domain suit by Pittsburg's Redevelopment Agency aimed at acquiring nearly 3 acres of contaminated land on the city's waterfront.

In a suit filed April 8, the redevelopment agency asked a Contra Costa County Superior Court judge to direct Marine Express Inc. to sell its E. Third Street property to the city for a fair market value price of \$966,000. That price was determined by an appraisal done for the city in September 2007.

The agency also asked Marine Express for reimbursement for cleanup costs. The property is valued at \$1.26 million when clean, according to the appraisal.

Last month, attorney Peter Langbord of Foley & Mansfeld PLLP, acting on behalf of Marine Express, filed an argument against reimbursement, saying insufficient facts presented to justify legal action.

Despite admitting in court papers that Marine Express submitted a remedial action plan, the city's three claims for recovery of cleanup costs because of the Polanco Redevelopment Act does not address that, Langbord said. Marine Express also says the claim doesn't acknowledge that the plan was approved by the regional water board, according to court documents.

"We're at a loss why they're asserting any of this now," Langbord said, adding that Marine Express has continued with plans to clean up the site.

Pittsburg's Redevelopment Agency also is asking the court to take possession of the property before a final decision is issued in the suit, said Juliet Cox, an attorney with Goldfarb and Lipman LLP, the firm representing the city. A provision in eminent domain law allows the agency to do this provided it makes funds equal to the appraised value available to the owner, she said.

There are concerns that if the property isn't acquired soon, the owner might proceed with development, resulting in higher property value, according to a city report in February.

Langbord said he plans to file a response to the eminent domain suit by the end of this week, adding that Marine Express is currently working on cleanup.


The property is part of a 33-acre site identified by the city as a unified development area in June 2006. Gaining the land would enable Pittsburg to move ahead with redevelopment of the area just west of Harbor Street, even though no concrete plan has emerged.

Property owner Renova Partners LLC, an investor and developer of former industrial properties, has submitted the only proposal for the area, a mix of marine, office and residential uses. The city's Redevelopment Agency board has taken no action on it.

Tesoro Corp. has a memorandum of understanding with Pittsburg to move its operations by mid-2009, thus freeing up the area west of Harbor Street.

Langbord said earlier this year that Marine Express

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was advised in 2007 by then landowner California Portland Cement Co. that the city wanted the land and read the city's proposal request for a development plan.

Marine Express has been the only waterfront property owner not interested in working with the city. Langbord says his client intends to operate a marine services business to repair deep-water ships, which is in line with Pittsburg's goals there.

A July 11 hearing is set for Contra Costa Superior Court on the Polanco Act claims. An Aug. 1 hearing will deal with whether the redevelopment agency is entitled to possession before judgement.

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