

## PETERSON LAW GROUP

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April 12, 2010

Honorable Mayor and City Council  
City of Pasadena  
100 North Garfield Avenue  
Pasadena, California 91101

Re: *Hearing on Resolution of Necessity*  
Date: April 12, 2010, 7:30 p.m.  
Property: 78 North Marengo Avenue, Pasadena, California  
Assessor Parcel Nos.: 5733-026-028 and -029

Ladies and Gentlemen:

This letter is submitted on behalf of Trove Investment Corporation ("Trove"), as owner of the above-referenced property ("subject property"). This letter sets forth grounds upon which the adoption of the Resolution of Necessity is opposed. We request that this letter be made part of the record of these proceedings.

The subject property is zoned CD 2, a commercial zone. It is improved with an improvement of approximately 43,000 square feet that is capable of being adapted to a variety of uses. Trove has the means to develop the site to a variety of uses consistent with the City's goals. It is absolutely unnecessary for the above-referenced property to be taken by eminent domain. The objectives of the City can be met by the subject property's owner, in conjunction with an owner participation agreement.

Trove sets forth the following additional objections to the adoption of the Resolution of Necessity as it relates to the subject property, and specifically challenges the City's right and power to acquire the subject property on the following grounds:

1. The Project itself is not clearly defined and approved. The Resolution of Necessity is invalid if it is not related to acquisition for a formally approved project. Otherwise, use and necessity are subject to a moving target, not a legal basis for determination. This acquisition effort must be halted pending formal adoption of project. A categorical exemption is not a project. Preservation is not a defined project. Absent proposed demolition, preservation is the status quo. There is no proposed demolition. Therefore, preservation is not a basis for a project in this case. Use and necessity cannot be found.

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2. There has been no proper opportunity provided to Trove to participate in the project through owner participation agreement or disposition and development agreement or otherwise. Trove is ready, willing and able to participate in a project for the re-use and preservation of this improved property.

3. It is not clear from available documents if this project is a public works project of the City or a Redevelopment Agency project for redevelopment.

4. City has failed to fully and properly comply with the California Environmental Quality Act ("CEQA") and environmental laws which must necessarily be complied with prior to the time of adoption of a Resolution of Necessity and commencement of an action in eminent domain based thereon.

5. City has further failed to fully and properly comply with CEQA, environmental laws, and California Law in failing to show the necessity of condemning this project for adaptive re-use or preservation where the existing owner is willing and capable of undertaking such uses. Even historical preservation as a municipal function is inadequate, where, as here, the owner has been deprived of the use of the property due to acts of the City. In essence, the City has prevented re-use and preservation and now seeks to acquire the property for its own re-use and preservation.

6. City does not intend to devote the property described and sought to be condemned to a public use within the time required by law.

7. There can be no public use in taking the property of one and transferring it to the City or another for adaptive re-use when the current owner stands ready, willing and able to devote the property to the very uses the City has planned for it.

8. There has been no CEQA compliance. A categorical exemption is insufficient when adaptive re-use is the intended project.

9. Any re-use of the property for government offices or otherwise is not supported by the marketplace. If office use is desired, the greatest public good and least private injury are not satisfied by the taking. Given the availability of low rent space, substantial amounts of lower rent commercial space is generally available in Pasadena than will be provided by the subject property.

10. The public interest and necessity do not require the subject property. The public interest can be served just as well by permitting the current owner to develop the property in the manner proposed by City.

11. The property and interests acquired as described in the Resolution of Necessity are

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not necessary for the project for which it is being taken. All goals of the City can be met by Trove without the City acquiring the subject property.

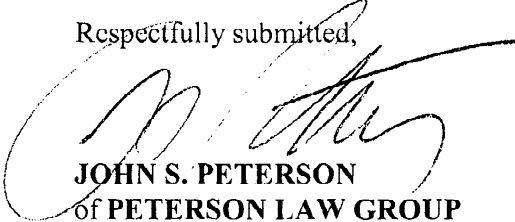
12. The adoption of the Resolution of Necessity is influenced by bad faith and gross abuse of discretion. As stated above, City has prevented use of the subject property and now seeks to acquire the subject property because it has not been used. Therefore, it is impossible for the Board to find and determine that the public interest and necessity require the proposed project or the acquisition of the subject property, or that the proposed project is planned and located in a manner most compatible with the greatest public good and least private injury.

13. The Board, in acting to adopt the Resolution of Necessity at this time without compliance with the foregoing matters, is not authorized by statute to exercise the power of eminent domain and cannot commence an eminent domain proceeding to acquire the subject property.

14. The scope of proposed acquisition includes uses which are not authorized by law, and which are not allowed as a basis for the exercise of the power of eminent domain.

The owners object to the adoption of the Resolution of Necessity and any consequential eminent domain action on the grounds stated herein and upon such further grounds as may be legally justified and set forth at time of trial herein.

Respectfully submitted,



**JOHN S. PETERSON**  
of **PETERSON LAW GROUP**

cc: Gregson Perry, Esq.  
Regina Danner, Esq.