



NAPA COUNTY

ROBERT J. PETERSON, P.E.
District Engineer

FLOOD CONTROL AND WATER CONSERVATION DISTRICT

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November 27, 2002

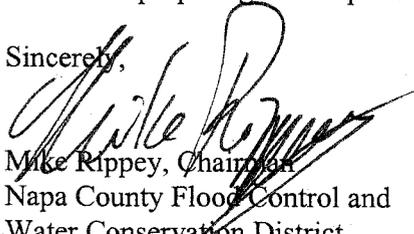
The Honorable W. Scott Snowden
Presiding Judge
Superior Court of California, County of Napa
825 Brown Street
Napa, CA 94559

Dear Judge Snowden:

As required by Penal Code Section 933(c) enclosed are the supplemental responses to the 2001-02 Grand Jury Final Report from the Napa County Flood Control and Water Conservation District. On September 17, 2002, at the Regular Meeting of the District Board, the enclosed responses to the findings of the 2001-02 Napa County Grand Jury were approved.

The District Board would like to acknowledge the members of the 2001-02 Grand Jury for the time they have devoted in preparing their report.

Sincerely,


Mike Rippey, Chairman
Napa County Flood Control and
Water Conservation District

Enclosure

MR:gc

cc: Foreman, 2001-02 Grand Jury

Napa County Flood Control and Water Conservation District

Finding 1:

Income from the sales tax is running ahead of projections by 7.1 million dollars in three years.

Finding 1 Response: The Flood District agrees with the Finding.

Finding 2:

In the files examined by the Grand Jury there was no instance in which the original offer was less than the appraised value. In only one instance was there an appraisal with a range of value and in that instance the initial offer was at the highest of the range. There is no instance in which a settlement was less than the original offer.

Finding 2 Response: The Flood District agrees with the Finding.

Recommendation 2:

The Flood Control District should continue to make its original offer at the highest appraised value.

Recommendation 2 Response: The recommendation has been implemented. The Flood District will continue to make its original offer at the highest appraised price.

Finding 3:

The antagonism and bitterness that resulted from condemnation is the fault of the process and not the fault of FCD personnel. The better the process is understood by the property owner, the less the bitterness.

Finding 3 Response: The Flood District agrees with the Finding.

Recommendation 3:

While the antagonism and bitterness are not going to go away, a better effort should be made by FCD to educate the property owner about the process and about how the property owner might go about determining the value of the property.

Recommendation 3 Response: The recommendation has been implemented. The Flood Control District will produce additional printed informational brochures to assist property owners in understanding the process of land acquisition and relocation.

Finding 4:

Negotiations for the acquisition of property and relocation expenses are conducted by consultants hired by the FCD and only rarely by FCD personnel.

Finding 4 Response: The Flood District agrees with the Finding.

Recommendation 4:

FCD personnel should not be involved in original negotiations nor in every negotiation, but should be able to step in which the situation appears hopeless.

Recommendation 4 Response: The recommendation has been implemented. FCD personnel will continue to not be involved in the original negotiations nor in every negotiation but intervened when the process is stalemated.

Finding 6:

The Grand Jury finds that, other than going permanently out of business, one of the worst thing that can happen to a business that is located on property needed for the Project is to be closed from the time of the order of possession until a new location can be found. Temporary closure is devastating to most businesses.

Finding 6 Response: The Flood District agrees with the Finding.

Recommendation 6:

The Board of Supervisors of the County and the Planning Commission and Planning Staff of the County and the City Councils of the County's Cities and their Planning Commissions and the Staffs should make every effort to accommodate applications for relocation of businesses closed by the Project, including but not limited to giving priority to such applications over other applications.

Recommendation 6 Response: The recommendation has been implemented. The FCD will encourage and work with other local agencies to make every effort to accommodate applications for relocation of businesses closed by the Project.

Finding 9:

If the Federal share and the State share are not forthcoming, and in fact pay only that which is now budgeted by the FCD, there will be a shortfall of revenues that will increase the cost of the Project beyond the amount of the shortfall.

Finding 9 Response: The Flood District agrees with the Finding.

Recommendation 9:

The FCD staff should report to the Financial Oversight Committee, the Board of Supervisors, the various City Councils and the public through the media the nature and extent of the shortfall and the contingency plans to meet it.

Recommendation 9 Response: The recommendation has been implemented. The FCD staff will continue to provide 20-year cash flow projections, which will reflect the most current understanding of funding expectations from the Federal and State governments and how any projected funding shortfalls will be accommodated in the cash flow projections. These reports will be provided to the Financial Oversight Committee, the Flood Control Board and the media.

Government agencies often need to acquire private property for public programs or projects. This kind of acquisition has long been recognized as a right of organized government and is known as "the power of eminent domain". However, our governments cannot abuse this power. The Fifth Amendment of our Federal Constitution states that private property shall not "be taken for public use, without just compensation." The Fourteenth Amendment provides comparable protection against abuse by State governments.

Since 1971, the acquisition of land for a variety of government programs and projects has been subject to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (*the Uniform Act*). The Uniform Act provides for fair and equitable treatment of persons whose property will be acquired or who will be displaced because of programs or projects financed with Federal funds. Congress amended and updated the Uniform Act in 1987.

The Uniform Act has three parts or Titles. Title I contains general provisions and definitions. Title II has provisions for relocation assistance for persons displaced because of Federal and federally-assisted programs. Title III, the Uniform Real Property Acquisition Policy, has provisions for consistent treatment of owners when their property is acquired by the Government.

All Federal, State and local public agencies (*and others receiving Federal financial assistance for public programs and projects requiring the acquisition of real property*) must comply with the policies and provisions set forth in the Uniform Act and its amendments. The rules for the Uniform Act were first published in the *Federal Register* of March 2, 1989. The rules are reprinted each year in the Code of Federal Regulations, (CFR) Title 49, Part 24.

The rules provide uniform policy and procedures for the acquisition of real property by all Federal, State, and local government agencies (*and by certain private persons*) who receive financial assistance for any program or project from the United States Government. The acquisition itself does not need to be federally funded for the rules to apply. If Federal funds are used in any phase of the program or project, the rules of the Uniform Act apply. The rules encourage acquiring agencies to negotiate with property owners in a prompt and amicable manner so that litigation can be avoided.

Payment and Possession

Payment

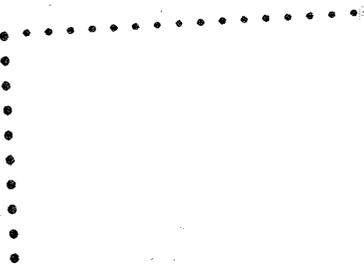
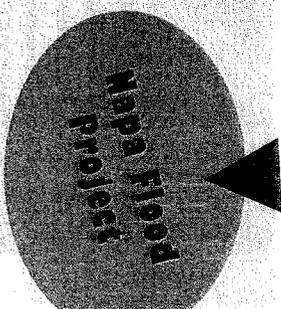
The last step in the acquisition process is payment for your property. As soon as all of the necessary paperwork has been completed for transferring title of the property, the District will pay any liens that may exist against the property and pay your equity to you. (Liens are deducted from the compensation.) Your incidental expenses will also be paid or reimbursed. These expenses are not deducted. Incidental expenses are all those reasonable expenses incurred as a result of transferring title to the District such as:

- Recording fees, transfer taxes, documentary stamps, evidence of title, surveys, legal descriptions of the real property, and other similar expenses necessary to convey the property to the District. The District, however, is not required to pay costs required solely to perfect your title (*that is, to assure that the title to the real property is entirely without fault or defect*).
- Penalty costs and other charges for pre-paying any pre-existing recorded mortgage entered into in good faith encumbering the real property.
- The pro rata share of any prepaid real property taxes that can be allocated to the period after the District obtains title to the property or takes possession of it, whichever is earlier.

If possible, the District will pay these costs directly so that you will not need to pay the costs and then claim reimbursement from the District.

The District is represented by Associated Right of Way Services in the acquisition and relocation process. They can be reached for more detailed information at
(925) 947-5626

**Napa County Flood
Control and Water
Conservation District**



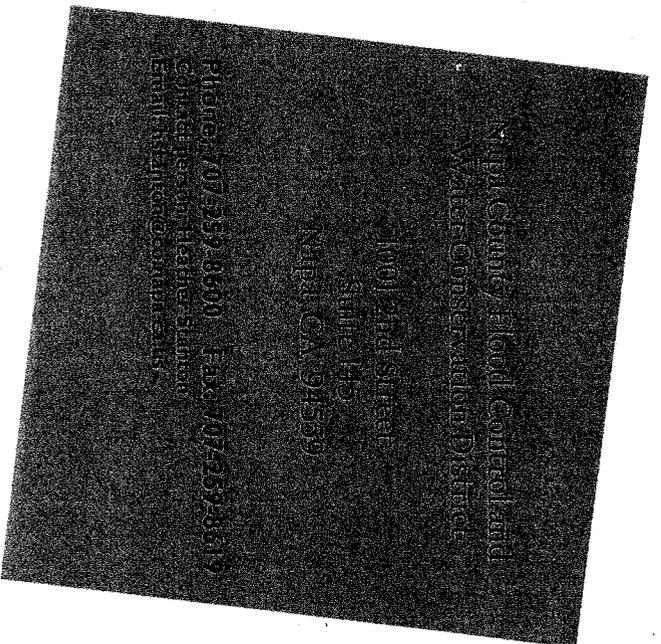
If you are a property owner



If your property is needed, you will receive written notification from the District that your property may be acquired. You will receive a written offer, which is based on an independent appraisal, and the amount of the offer is an offer based on just compensation.

You have the right to counter our offer and the District encourages you to respond with documentation that supports your property value opinion. This does not mean you must complete an appraisal, but you must provide some data which will substantiate your value.

The only way we can begin to negotiate a settlement is if you respond to our offer. If negotiations do not meet your needs, the next step can be to schedule a mediation under the supervision of a retired Judge. You do not necessarily need the services of legal counsel for this process. You may also elect at this time to schedule a meeting with District staff to discuss your concerns with the negotiation process.



If you are the tenant



If the property that you lease or rent is needed, you will receive written notification from the District and a meeting will be scheduled by the District's representative to determine your needs. If you are eligible for relocation assistance, you will receive written material related to your entitlement and the process for making claims.

Relocation assistance benefits are based on the actual and reasonable costs to move personal property. Non-residential displaces are generally eligible for business re-establishment expenses actually incurred.

Written appeals may be made to the District when a person believes that the District has failed to properly consider that person's application for relocation assistance. The District has a formal appeals process. A displacee has the right to be represented by legal counsel or another representative in connection with an appeal.

It is the District's desire to achieve settlement without going through the court system which is time consuming and lengthy. Although District staff is not involved in the appraisal or the negotiations the staff is available to assist in reaching settlement whenever requested.