

Additional Support Material Agenda Item No. 26

Board of Directors Meeting

September 7, 2022

9:30 AM

Location:

San Bernardino County Transportation Authority
First Floor Lobby Board Room
Santa Fe Depot, 1170 W. 3rd Street
San Bernardino, CA 92410

DISCUSSION ITEMS

Transit

26. Hearing to Consider Resolutions of Necessity for Property Interests for the West Valley Connector Project

That the Board, acting as the San Bernardino County Transportation Authority:

D. Upon completion of the public hearing, that the Board of Directors adopt the Resolution of Necessity No. 22-046 authorizing and directing General Counsel, or her designees, to prepare, commence, and prosecute proceedings in eminent domain for the purpose of acquiring certain real property interests on the real property owned by Gregory L. Johnson & Thea M. Johnson, Co-Trustees of The Johnson Family Trust established June 9, 2011 (APN 1011-111-21). The Resolution must be approved by at least a two-thirds vote of the Board of Directors; and

Received correspondence on the above Resolution of Necessity after publication of the agenda.

Request to speak from Alan Fenstermacher, Rutan & Tucker, LLP, representing the interests of The Johnson Family Trust.

From: [Fenstermacher, Alan](#)
To: [clerkoftheboard](#)
Cc: [Ramie Dawit](#)
Subject: September 7, 2022 Resolution of Necessity Hearing (1511 W. Holt Boulevard. Ontario) - Request to be Heard
Date: Thursday, September 1, 2022 11:17:28 AM
Attachments: [image001.png](#)
[2022-08-17 SBCTA Notice of Hearing re Resolution of Necessity.pdf](#)

Good morning –

This email is sent pursuant to the instructions in the Notice of Intent to Adopt a Resolution of Necessity (attached) sent to the Johnson Family Trust, regarding condemnation of a temporary construction easement 1511 W. Holt Boulevard, Ontario, CA and identified as San Bernardino County Tax Assessors Parcel Number 101 1-1 1 1-21. A request to be heard was previously provided in writing to counsel for SBCTA, but I am providing it again to the Clerk, still within the 15 period, in an abundance of caution. I represent the Johnson Family Trust. Please take this email as my formal request to be heard at the hearing, on behalf of my client, and as a formal objection to any condemnation.

In sum, the property owner requests to be heard in the event that the SBCTA does not honor the already agreed upon settlement and voluntary purchase of this property. The property owner has been negotiating for months, and had an agreed upon purchase and sale agreement (“PSA”) that was represented to be approved by the SBCTA. Only after the PSA and grant of temporary easement was signed and notarized by my client *as instructed by SBCTA’s counsel and right of way agents*, the SBCTA appears to be attempting to back out of this deal.

My client, the property owner, objects to any condemnation as the voluntary purchase was already agreed upon, and my client has relied on the same. Any attempt to now condemn the property would not only be a breach of contract, but it would constitute unreasonable precondemnation conduct that would open up the SBCTA to further damages and attorneys fees. The right to take the property would also be suspect as a result of this precondemnation conduct.

My client hopes the SBCTA honors the deal and countersigns the already executed documents that were negotiated over many months, and appearance at this hearing will become unnecessary. Thank you.

Alan B. Fenstermacher

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