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Residents say they will fight no-money offer on eminent domain grab

By: LAURA MITCHELL - Staff Writer

MURRIETA ---- A handful of Jefferson Avenue residents say they will fight the city's decision to force them to sell a portion of their property, which a city-hired appraiser says has no cash value.

The city needs the 25-foot-wide strips from five property owners to widen Jefferson from Murrieta Hot Springs Road to Juniper Street to accommodate projected increases in traffic, according to city documents. Under eminent domain statutes, local governments have the right to obtain land they need for the public good at a price based on its fair market value, as determined by a court.

The Murrieta City Council voted unanimously Tuesday night to begin eminent domain proceedings against four property owners. A decision on a fifth property was delayed until Aug. 3 because the landowner, Thomas Suttle, was not able to attend Tuesday's council meeting.

Wednesday the property owners said they will fight the city.

"They ran over the top of us. ... Now I've got to go out and hire an appraiser to counter their appraiser and hire an attorney to counter their attorney," Jefferson Avenue resident William Baldwin said.

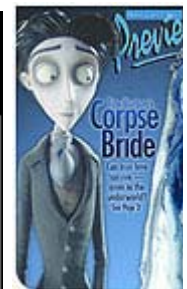
The city wants 25 feet of Baldwin's land, which would put his home just a few feet from the road. The road widening would take out his fence and trees, Baldwin said. A future sidewalk and utility lines are planned to extend 2 feet into his home, but city officials say they will not install the sidewalks as long as Baldwin owns the property.

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The \$2.8 million project consists of expanding the two-lane Jefferson to four driving lanes plus one turn lane, adding curbs and gutters, and installing traffic signals at Ivy and Juniper streets, city Senior Management Analyst Al Vollbrecht said. City officials hope the project can begin in August and be completed within 10 months, Vollbrecht said.

Baldwin and the four other property owners were initially offered nothing for their land.

When a property is not developed to its "highest and best use," which in this case is retail development, the land the city needs is deemed to have zero value, City Attorney John Harper said Wednesday. The property is zoned for multiple uses, which would allow either retail or residential use.

Murrieta traffic engineer Mick Bartholomew said the city offered the property owners nothing because the loss of the 25-foot strip of land would be offset by the increased value of the property once the road improvements are in place.

Harper said the city made a second offer to each owner of \$5,000 for the disruption the road improvements may cause "even though there is no legal obligation."

But a government academic said he had never heard of a zero-dollar offer for land a city wants to take via eminent domain.

"There's no dearth of creativity in government," said Steven Frates, senior fellow with the Rose Institute of State and Local Government at Claremont-McKenna College.

However, cities have substantial power under eminent domain and some cities pursue it very aggressively, Frates said.

Too aggressively for Cathy Forkey, who also lives on Jefferson.

Forkey said she does not agree that the \$5,000 will compensate for the inconvenience of the road improvements.

The land the city is requiring would put her bedrooms 12 feet from the edge of the property and "noise at present is, at times, unbearable," Forkey told the council Tuesday.

Jefferson property owner Gary Gwinn said that although he agrees Jefferson Avenue needs to be widened, he also intends to challenge the city's action because of the zero dollar offer for 6,600 square feet of his land.

"I'm still kind of rattled on it. I just know that zero value is not what is meant in the Fifth Amendment. If they take your ground, they've got to come up with fair market value," Gwinn said Wednesday.

The fact that the city is claiming the land is worth nothing is ludicrous, he said.

"That's all you've got is the land. Everything else can blow away, burn down, be destroyed. The land is the value," Gwinn said.

He is already fighting the city on another eminent domain lawsuit filed against him over another property. Gwinn and his brother, John, are owners of one-third of an acre adjacent to New Clay Street and south of Ivy that the city needs to complete a flood-control channel.

"I'm going to have to fight this one in court, too," Gwinn said, adding the city did not give enough notice to the property owners.

With the council's approval, Harper will file the eminent domain lawsuits in Riverside Superior Court to force the landowners to sell the land at a price determined by the court.

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