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Larry W. Ward  
Assessor, County Clerk & Recorder



This instrument is for the benefit  
of the City of Riverside and is  
exempt from recording fees  
(Government Code § 27383<sup>1</sup>)

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JUDGMENT AND FINAL ORDER OF CONDEMNATION  
CASE NO. 07CC03962

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<sup>1</sup> Government Code § 27383: "No fee shall be charged by the recorder for services rendered to the State, to any municipality, county in the State or other political subdivision thereof, except for making a copy of a paper or record."

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GREGORY P. PRIAMOS, Agency General Counsel, #136766  
HERIBERTO F. DIAZ, Deputy Agency General Counsel, #132821  
REDEVELOPMENT AGENCY OF THE CITY OF RIVERSIDE  
City Hall, 3900 Main Street  
Riverside, California 92522  
Telephone (951) 826-5567  
Facsimile (951) 826-5540  
ediaz@riversideca.gov

JUN 04 2008

CLERK OF SUPERIOR COURT  
COUNTY OF ORANGE  
HERIBERTO F. DIAZ  
AGENCY GENERAL COUNSEL

Attorneys for plaintiff, Redevelopment Agency  
of the City of Riverside

(Fee Exempt Govt. Code § 6103)

SUPERIOR COURT OF CALIFORNIA

COUNTY OF ORANGE

REDEVELOPMENT AGENCY OF THE CITY  
OF RIVERSIDE, a public body, corporate and  
politic,

Plaintiff,

vs.

JOHN K. GARNER, CHARLES H. GARNER,  
AND LEONARD M. SMITH, ALL AS  
TRUSTEES OF THE GARNER TRUST; ALL  
PERSONS UNKNOWN CLAIMING AN  
INTEREST IN THE PROPERTY; AND DOES  
THROUGH TO, inclusive,

Defendant

CASE NO. 07CC03962  
Assigned for all purposes to the  
Honorable Judge Gregory Munoz  
Department C-8

JUDGMENT AND FINAL ORDER OF  
CONDEMNATION

APNs: 213-312-001  
213-312-002

This Judgment and Final Order of Condemnation is hereby made following disposition,  
through the court proceedings described below, of all parties and property interests alleged in the  
Complaint in Eminent Domain.

IT IS HEREBY FOUND AND DETERMINED:

1. Pursuant to its Charter, sections 37350.5 and 40404 of the Government Code of  
the State of California, section 4090 of the Streets and Highways Code of the State of California,  
section 1240.010 of the Code of Civil Procedure of the State of California, and Article I, section

Ok. to certify MO.C-8

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1 19 of the Constitution of the State of California, plaintiff Redevelopment Agency of the City of  
2 Riverside ("Agency") is authorized to acquire real property or interests therein for public uses  
3 and purposes, to wit: for assemblage and redevelopment of underutilized properties fronting  
4 University Avenue and Lime Street ("Project"). Plaintiff may withhold the sum of One Hundred  
5 Sixty-one Dollars and Seventy Cents (\$161.70) for payment of real property taxes due the  
6 Riverside County Tax Collector as of the date of cancellation of the real property taxes.

7 2. After a duly noticed public hearing and an opportunity to be heard in  
8 compliance with Code of Civil Procedure section 1245.235, on August 8, 2006, plaintiff's  
9 governing board ("Agency Board") adopted Resolution Number 792 authorizing plaintiff to  
10 acquire the property described in the complaint on file herein, including Riverside County  
11 Assessor's Parcel Numbers 213-312-001 and 213-312-002 by eminent domain. In compliance  
12 with sections 1245.220 and 1245.230 of the Code of Civil Procedure, the Agency Board found  
13 and determined that: (a) the public interest and necessity require the proposed project, (b) the  
14 proposed project is planned and located in the manner that will be the most compatible with the  
15 greatest public good and least private injury, (c) the acquisition and taking of permanent  
16 easements and lesser interests in the property sought to be acquired are necessary for the Project,  
17 and (d) the offer required by section 7267.2 of the Government Code has been made to the  
18 owners of record of the subject property interests.

19 3. Plaintiff commenced this eminent domain action to condemn the following  
20 property interests: fee simple absolute in and to Assessor's Parcel Numbers 213-312-001 and  
21 213-312-002.

22 4. Plaintiff named the following defendants in this action:

<u>DEFENDANT</u>	<u>INTEREST</u>
Charles H. Garner, Trustee of the Garner Trust	Owner

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John K. Garner, Trustee of the Garner Trust	Owner
Leonard M. Smith, Trustee of the Garner Trust	Owner

5. Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the Garner Trust, filed an answer to the complaint in eminent domain. Sarah M. Garner and William E. Hallas are successor trustees of the Garner Trust.

6. On August 25, 2006, plaintiff deposited a total of Nine Hundred Fifty Thousand Dollars (\$950,000.00) with the Treasurer of the State of California condemnation fund as a deposit of probable just compensation for Assessor's Parcel Numbers 213-312-001 and 213-312-002. On September 13, 2007, the court made and entered an order permitting defendants to withdraw Nine Hundred Fifty Thousand Dollars (\$950,000.00) from funds on deposit with the State Treasurer. No funds remain on deposit.

7. On May 8, 2008, a Stipulation re Settlement and For Entry of Final Judgment and Final Order of Condemnation ("Stipulation") was made and entered as to defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the Garner Trust. Pursuant to said Stipulation, defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the Garner Trust, were to be paid the sum of One Million One Hundred Four Thousand Forty-two Dollars and Twenty-two Cents (\$1,104,042.22) outside of these court proceedings.

8. The interest of defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the Garner Trust, in the real property designated in the complaint as Assessor's Parcel Numbers 213-312-001 and 213-312-002 to be condemned herein is fee simple.

9. By execution of the Stipulation herein, defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the Garner Trust, waive the right to jury trial, Statement of Decision, Notice of Entry of Judgment in Condemnation, Notice of Entry of Final

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1 Order of Condemnation as to Assessor's Parcel Numbers 213-312-001 and 213-312-002, and the  
2 right to and time for appeal.

3 10. Pursuant to said Stipulation, defendants Charles H. Garner, Sarah M. Garner,  
4 and William E. Hallas, as Trustees of the Garner Trust, expressly waive the right to challenge the  
5 Agency's right to acquire the property by eminent domain, the right to further and greater  
6 compensation, and the right to an award of interest, attorney fees and costs, to the extent they  
7 may be allowable by law.

8 11. Pursuant to said Stipulation, defendants Charles H. Garner, Sarah M. Garner,  
9 and William E. Hallas, as Trustees of the Garner Trust, make a knowing waiver of any and all  
10 rights created by California Civil Code section 1542.

11 12. Pursuant to said Stipulation, the total amount of just compensation to be paid by  
12 plaintiff to defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees  
13 of the Garner Trust, is Two Million Fifty-four Thousand Forty-two Dollars and Twenty-two  
14 Cents (\$2,054,042.22). Said amount is inclusive of fair market value and interest thereon,  
15 attorney fees, and all costs of suit, including those costs defined in California Code of Civil  
16 Procedure section 1268.70, and litigation expenses including, but not limited to, those defined  
17 California Code of Civil Procedure section 1235.140.

18 13. An Order of Prejudgment Possession ("OPP") became effective as to the  
19 interests of defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees  
20 of the Garner Trust, in and to Assessor's Parcel Numbers 213-312-001 and 213-312-002 on  
21 January 22, 2007. Pursuant to the OPP, plaintiff exercised its rights and has commenced work on  
22 the project.

23 14. The use for which an interest in and to Assessor's Parcel Numbers 213-312-001  
24 and 213-312-002 is being acquired is a use authorized by law and the acquisition of said interest  
25 is necessary to said use.



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1 WHEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

2 1. The total compensation, award, and damages to be paid as a result of the  
3 condemnation of the interests of defendants Charles H. Garner, Sarah M. Garner, and William E.  
4 Hallas, as Trustees of the Garner Trust, is the total sum of Two Million Fifty-four Thousand  
5 Forty-two Dollars and Twenty-two Cents (\$2,054,042.22). Probable compensation in the sum of  
6 Nine Hundred Fifty Thousand Dollars (\$950,000) has been withdrawn by defendants in this  
7 proceeding. The balance of One Million One Hundred Four Thousand Forty-two Dollars and  
8 Twenty-two Cents (\$1,104,042.22) shall be paid by plaintiff pursuant to this judgment in  
9 accordance with the stipulation herein.

10 2. Payment hereunder shall be deemed to expressly include all costs of suit pursuant  
11 to California Code of Civil Procedure section 1268.710 and all litigation expenses including, but  
12 not limited to, those defined in California Code of Civil Procedure section 1235.140. Payment  
13 hereunder shall further be deemed to be the total just compensation and damages, if any, to  
14 which defendant Charles H. Garner, Sarah M. Garner, and William E. Hallas, as Trustees of the  
15 Garner Trust, shall be entitled by reason of the condemnation of Assessor's Parcel Numbers 213-  
16 312-001 and 213-312-002.

17 3. Defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas, as  
18 Trustees of the Garner Trust's, portion of taxes as to Assessor's Parcel Numbers 213-312-001  
19 and 213-312-002 is cancelled as of the effective date of possession herein, January 22, 2007.

20 4. Payment to defendants Charles H. Garner, Sarah M. Garner, and William E.  
21 Hallas, as Trustees of the Garner Trust, of the amount herein above specified shall constitute  
22 payment in full for the taking of a fee simple interest in Assessor Parcel Numbers 213-312-001  
23 and 213-312-002 and for all damages of any kind and nature whatsoever suffered by said  
24 defendants by reason of such taking.

25 ///



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1 WHEREFORE THE COURT NOW MAKES THE FOLLOWING ORDER OF  
2 CONDEMNATION:

3 The interests of defendants Charles H. Garner, Sarah M. Garner, and William E. Hallas,  
4 as Trustees of the Garner Trust, in and to Assessor's Parcel Numbers 213-312-001 and 213-312-  
5 002 are hereby condemned for the public use and purpose described in the complaint herein, to  
6 wit, for assemblage and redevelopment of underutilized properties fronting University Avenue  
7 and Lime Street, plaintiff to take title to the interest(s) of said defendants in said real property  
8 together with all improvements thereon in which said defendant has an interest, free and clear of  
9 any and all liens, encumbrances, easements, and leaseholds of whatever kind or nature:

10 That the interests condemned to the Redevelopment Agency of the City of Riverside in and to  
11 Assessor's Parcel Numbers 213-312-001 and 213-312-002 are legally described in Exhibit 1  
12 hereto.

13  
14  
15 DATED: 6/4/08

  
16 JUDGE OF THE SUPERIOR COURT  
17 HON. GREGORY MUNOZ

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EXHIBIT "A"

A.P.N. 213-312-001 # 002  
FEE SIMPLE INTEREST

That certain real property located in the City of Riverside, County of Riverside, State of California, described as follows:

That portion of Block 8, Range 3 of the Town of Riverside, as shown by map on file in Book 7, Page 17 of Maps, records of San Bernardino County, California, being bounded as follows:

ON the southeast by the northwesterly line of State Highway Route 91;

ON the northeast by the southwesterly line of University Avenue (formerly 8<sup>th</sup> Street) as shown by said map;



ON the northwest by the southeasterly line of Lime Street as shown by said map;

On the southwest by the following described line:

BEGINNING at a point on said southeasterly line on Lime Street, distant 125 feet northeasterly from the southwesterly corner of said Block 8, Range 3;

THENCE at a right angle southeasterly and parallel with the northeasterly line of 9<sup>th</sup> Street as shown on said map, 130 feet, more or less, to said northwesterly line of State Highway Route 91, and the END of this line description.

This description was prepared by me or under my direction in conformance with the requirements of the Land Surveyors Act.

  
Mark S. Brown, L.S. 5655                      Date                      Prep.   
License Expires 9/30/07



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PROOF OF SERVICE

STATE OF CALIFORNIA, COUNTY OF RIVERSIDE

I am a resident of the county aforesaid; I am over the age of 18 years and not a party to the within above-entitled action; my business address is 3900 Main Street, Riverside, California 92522.

On May 9, 2008, I served the within JUDGMENT AND FINAL ORDER OF CONDEMNATION on the interested parties in said action addressed as follows:

Roscoe D. Keagy, Esq.	Attorneys for defendants:
Richard R. Freeland, Esq.	Charles H. Garner, Sarah M. Garner,
Charles F. Campbell, Esq.	and William E. Hallas, as trustees of the
ASARO, KEAGY, FREELAND & MCKINLEY LLP	Garner Trust
3170 Fourth Avenue, 4 <sup>th</sup> Floor	
San Diego, California 92103	
619-297-3170 phone	
619-299-4268 / 619-299-2547 fax	

(XX) VIA MAIL - In accordance with the regular mail collection and processing practices of this business office, with which I am familiar, by means of which mail is deposited with the United States Postal Service at Riverside, California, that same day in the ordinary course of business, I deposited such sealed envelope for collection and mailing on this same date following ordinary business practices.

( ) PERSONAL - I caused such envelope to be delivered by hand to the above-listed addressee pursuant to C.C.P. § 1011.

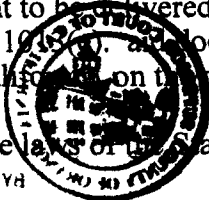
( ) VIA OVERNIGHT DELIVERY - I caused such envelope to be delivered by hand to the office of the addressee via overnight delivery pursuant to C.C.P. § 1013(c). Said document was deposited at the box regularly maintained by said express service carrier on the date set forth above.

( ) VIA FACSIMILE - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to C.C.P. § 1013(d). Said document was transmitted from the office of City Attorney in Riverside, California on the date set forth above.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Executed on May 9, 2008, at Riverside, California.

*Kimberly Oehlert*  
Kimberly Oehlert



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LARRY W. WARD  
COUNTY OF RIVERSIDE  
ASSESSOR-COUNTY CLERK-RECORDER

Recorder  
P O. Box 751  
Riverside, CA 92502-0751  
(951) 486-7000

www.riversideacr.com

CERTIFICATION

Pursuant to the provisions of Government Code 27361.7, I certify under the penalty of perjury that the following is a true copy of illegible wording found in the attached document:

(Print or type the page number(s) and wording below):

( ) VIA FACSIMILE - I caused such document to be delivered to the office of the addressee via facsimile machine pursuant to C.C.P. §1013(e). said document was transmitted from the office of the City Attorney in Riverside, California, on the date set forth above.

I declare under penalty of perjury, under the laws of the State of California that the foregoing is true and correct.

Date:

6/26/08

Signature:

Tiffany Burton

Print Name:

Tiffany Burton

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