

## Condemned Property Not Used Within Ten Years Must Be Offered for Sale to Original Owner

The City of Los Angeles was required to offer to sell condemned property back to its original owner because the property had not been used and the City Council did not adopt a resolution reauthorizing the public use until 19 days past the 10-year statutory deadline. [Rutgard v. City of Los Angeles](#), No. B297655 (2nd Dist., July 30, 2020). On May 29, 2007, the Los Angeles City Council enacted an ordinance authorizing condemnation of a two-story



On May 29, 2007, the City Council enacted an ordinance authorizing condemnation of a two-story building. The City Council never reauthorized the public use until 19 days past the 10-year statutory deadline.

To ensure

that public entities do not use their eminent domain power to acquire property and hold onto it indefinitely without putting it to its intended public use, the Legislature enacted Code of Civil Procedure section 1245.245. This section provides that if the acquired property has not been developed for its intended public use within 10 years of the resolution's adoption, the City must adopt another resolution reauthorizing its intended public use. If the City fails to adopt the reauthorization resolution within 10 years, it is required to offer to sell the property to the owner from which it was acquired. The court determined that the 10-year deadline looks to the dates on which the initial and reauthorization ordinances were "finally adopted." The court found the term "final adoption" did not mean an ordinance's *effective* date, and that the final adoption date is determined by local law. Under the City's charter, an ordinance is "finally adopted" once it has passed the City Council and either (1) approved by the Mayor or (2) if not approved, passed by a second, override vote of the City Council. Under this interpretation, the 2007 Ordinance was finally adopted when the Mayor approved the City Council-enacted initial resolution of necessity for the property on June 8, 2007, and the 2017 Ordinance was finally adopted when

the Mayor approved the City Council-enacted reauthorization resolution on June 27, 2017. Because the City finally adopted its initial and reauthorization resolutions 19 days past the 10-year deadline, section 1245.245 required the City to offer to sell the property back to its original owner at present market value.

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