

TO: City Council
FROM: James L. App, City Manager
SUBJECT: Earthquake 2003: Recovery – Red-Tagged Building Access
DATE: January 12, 2004

NEEDS: Consider merchant's requests for limited entry to buildings that have been red-tagged as extremely hazardous and unsafe for entry.

FACTS:

1. The earthquake of December 22, 2003 caused significant damage creating a condition of extreme hazard in a number of commercial buildings.
2. During the initial emergency response period, a number of very limited entries to hazardous buildings were made by Emergency Services personnel to retrieve essential business items.
3. The hazardous buildings were deemed unsafe to enter, closed and "red-tagged" (pursuant to California Penal Code Section 409.5).
4. Following red-tagged building closure, the City published requirements for future limited building entry by private parties:
 - Structure inspected by property owner's engineer to develop recommendations to mitigate hazards;
 - Mitigation plan submitted to City Building Division for processing;
 - All work performed by private and properly licensed professionals;
 - Private party liability waivers on file with the City; and
 - No private party entry until all private hazard mitigation completed, inspected and re-tagged yellow by the City.
5. Some merchants whose businesses are housed in red-tagged buildings have requested the City allow them to enter without hazard mitigation, but with an engineered entry strategy, for the purpose of inventory and/or critical record or equipment retrieval.

ANALYSIS &

CONCLUSION: Merchants have been displaced for three weeks. They represent that their inventory and/or livelihood is threatened if access cannot be granted soon. Some have indicated an interest and/or willingness to engage private engineers to design and execute an entry strategy.

City Building Officials and Emergency Service personnel indicate the buildings are extremely hazardous and a threat to life if the hazards are not mitigated before any entry is attempted. It is possible, however, for the City to consider allowing entry by private parties provided:

- Entry party's engineer prepares and certifies a safe entry strategy;
- The entry strategy is submitted to the City for information (not approval) to allow rescue personnel to familiarize themselves with the plan;
- Entry strategy is executed by appropriately licensed private professionals;
- All private parties (merchant, engineer, property owner, entry party(s)) execute liability waivers and indemnification agreements; and
- Qualified City Emergency Services equipment & personnel can be made available on scene during the entry.

**POLICY
REFERENCE:**

California Penal Code Section 409.5.

**FISCAL
IMPACT:**

Cost of 4-man crew and equipment per entry. Exposure to future claims should any injuries result from entry.

OPTIONS:

- A. Deny request for limited entry until the property owner's engineer recommends, receives City approval for, and mitigates the hazards.
- B. Allow limited entry to red-tagged buildings upon completion of the following:
 - Entry party's engineer prepares entry strategy;
 - All parties (merchant, property owner, entry party(s)) execute City liability waivers and indemnification agreements;
 - City Emergency Services personnel have reviewed the entry strategy (not for approval, but for rescue information);
 - Entry strategy is executed by appropriately licensed private professionals;
 - Qualified City Emergency Services equipment & personnel can be made available on scene during the entry.
- C. Amend, Modify or Reject the Options Above.