

No. 660, S.]

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CHAPTER 613

AN ACT to amend 66.431 (3) (f) and (5) (b), as created by chapter 3, laws of the special session of 1958, and amended by chapter 410, laws of 1959; to renumber 66.431 (8), (10), (11), (14) and (16), as created by chapter 3, laws of the special session of 1958, and 66.431 (9), (12), (13) and (15), as created by chapter 3, laws of the special session of 1958, and amended by chapter 515, laws of 1959; and to create 66.431 (8) of the statutes, relating to eminent domain procedure regarding slum clearance, redevelopment and urban renewal.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 66.431 (3) (f) and (5) (b) of the statutes, as created by chapter 3, laws of the special session of 1958, and amended by chapter 410, laws of 1959, are amended to read:

66.431 (3) (f) In carrying out this section, the authority is deemed an independent, separate and distinct public body and a body corporate and politic, exercising public powers determined to be necessary by the state to protect and promote the health, safety and morals of its residents, and is authorized to take title to real and personal property in its own name; and such authority shall proceed with the acquisition of property by eminent domain under ch. 32, *except as provided in sub. (8) or any other law relating specifically to eminent domain procedures of redevelopment authorities.*

(5) (b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32, *except as provided in sub. (8) or any other law relating specifically to eminent domain procedures of redevelopment authorities.*

SECTION 2. 66.431 (8), (10), (11), (14) and (16) of the statutes, as created by chapter 3, laws of the special session of 1958, are renumbered (9), (11), (12), (15) and (17), respectively.

SECTION 3. 66.431 (9), (12), (13) and (15) of the statutes, as created by chapter 3, laws of the special session of 1958 and amended by chapter 515, laws of 1959, are renumbered (10), (13), (14) and (16), respectively.

SECTION 4. 66.431 (8) of the statutes is created to read:

66.431 (8) VERDICT OF NECESSITY PROCEDURE. (a) The authority shall not be required to negotiate for the acquisition of property before proceeding with the exercise of the power of eminent domain.

(b) The following procedure shall be applicable where an authority proceeds with condemnation for the purpose of acquiring property under this section.

1. The authority shall first adopt a resolution of necessity finding that the acquisition of property within a project area is necessary to the carrying out of a redevelopment plan, and describing the parcels of property to be acquired through condemnation. The authority shall file a petition with the circuit court of the county in which the property is located and it may elect to file such petition either under s. 32.07 (1) (as amended by chapter 410, laws of 1959) or under subd. 2.

2. If the authority elects to file a petition under this paragraph rather than under s. 32.07 (1) (as amended by chapter 410, laws of 1959), such petition shall contain a description of the parcels of property to be acquired through condemnation, the names of the persons owning or having an interest in such property, and a brief statement as to the necessity of acquiring the property to carry out the redevelopment plan, if under this section, or a brief statement of the urban renewal plan, if under s. 66.435. The authority may also elect to include a recitation concerning the compensation to be paid with respect to the various parcels of property included in the petition, but such recitation may be omitted. The authority may include such other information in its petition as it deems appropriate. The petition may be addressed to all or an integral part of the area which is included within the redevelopment plan, it being intended that the redevelopment project may be divided into separate areas in order to permit a feasible method for executing the redevelopment plan. If the petition is addressed to some of the parcels of property included in the project area, such action shall not bar a subsequent action for the remaining parcels of property. The filing of the petition under this paragraph shall be deemed the commencement of an action for the determination of the necessity of the taking and with respect to the compensation to be made for the several parcels of property sought to be acquired through condemnation. The authority may at any time prior to the jury verdict of necessity amend its resolution of necessity and its petition to the court to delete therefrom any identified parcel or parcels of property.

3. Within 20 days after the service of a copy of the petition, any person owning or interested in any property proposed to be condemned may file an answer and serve a copy of the answer on the authority or its counsel but may not otherwise plead. A copy of the petition shall be served in the same manner as a circuit court summons. After the expiration of the time for answering, the action may be brought on for hearing on a 3-day notice to all parties who have answered, and such action shall be tried at the earliest time available by the court. The court shall thereupon impanel a jury and the question of the necessity of the taking shall thereupon be tried as a question of fact, and the jury shall also determine at the same time the compensation to be awarded for the several parcels of property included in the petition. Juries shall be obtained in the manner provided for circuit courts. If no answer to the petition is interposed, the trial by jury shall proceed ex parte. The costs in such proceeding shall be paid by the redevelopment authority. If the jury find that the taking of such property is not necessary, the owner or owners thereof answering shall recover his or their necessary disbursements and taxable costs not to exceed \$50.

4. The jury shall first view the property to be taken and determine the necessity for taking such property and fix the compensation therefor.

5. The redevelopment plan approved by the authority shall be prima facie evidence of the existence of the plan, and such plan shall not be subject to challenge at the condemnation proceedings, it being intended that the jury shall determine the necessity of taking the several parcels of property included in the petition in order to carry out such plan.

6. At any time following service of the petition above referred to, any party to the proceedings may file a stipulation in the following form, stipulating to the compensation of his property, which stipulation shall be submitted to the jury:

Form:
Circuit Court of ----- County
Title of proceedings
Case No.
Addressed to the Clerk of the Circuit Court

The undersigned, being informed, understands that the Redevelopment Authority of _____ County will present a witness during the trial of the above proceedings who will testify that the fair market value of Parcel _____, more fully described as follows, and included as a parcel within the redevelopment plan, is the sum of \$_____, which price is agreeable to the undersigned.

7. To assist the jury in arriving at their verdict of necessity, the court may allow the jury, when they retire, to take with them the petition filed in the proceedings, stipulations, and a map showing the location of the redevelopment plan and of each and all the parcels of property to be taken, and the court shall submit to the jury a blank verdict which shall be in substantially the following form:

PART I

We find that it is _____ necessary to take the private property described in the petition in this cause, for the use and [or] benefit of the public, for the proposed public improvement.

PART II

The just compensation to be paid for such private property we have ascertained and determined and hereby award as follows:

Description of each of the several parcels of private property to be taken	Owners, occupants & others interested in each parcel	Compensation	To whom payable

The different descriptions of the property and the names of the occupants, owners and others interested therein, may be inserted in said blank verdict, under the direction of the court, before it is submitted to the jury, or it may be done by the jury. The jury shall return a single verdict as to necessity with respect to all parcels included in the petition. In determining the compensation, the jury shall give consideration to the various factors under ch. 32.

(c) No appeal shall lie from the jury's determination of necessity. However, any party to the proceedings who is aggrieved by the determination of the jury with respect to compensation may appeal to the supreme court from that determination, provided that such appeal is taken within 30 days from the time of the jury's determination and perfected in the manner set forth in ch. 274. The supreme court may either modify the compensation awarded by the jury or may order a new trial before the circuit court, but only as to compensation.

(d) Sections 32.14 to 32.195 shall apply to title and other related proceedings, except where such sections conflict with this subsection or any other laws relating specifically to eminent domain procedures of redevelopment authorities.

(e) If the jury returns a verdict of no necessity with respect to the taking of property included within the petition, the authority may modify the redevelopment plan without further public hearing, but with the approval of the local legislative body. Following the modification of such redevelopment plan, the authority may commence a proceeding in the circuit court under this subsection not less than 3 months nor more than 6 months following the jury's determination of no necessity. In such subsequent proceeding, the jury shall pass upon the necessity of taking the several parcels included in the petition, and the court shall submit separate ques-

tions with respect to the necessity of taking each parcel of property and shall also at the same time submit the matter of compensation to the jury for the parcels to be acquired through condemnation.

(f) If a redevelopment authority should determine that the carrying out of a redevelopment project is not feasible, it may, at any time prior to the expiration of 60 days after the jury determination of compensation discontinue its eminent domain procedures upon such terms as seems just to the court.

(g) If a proceeding is commenced under sub. (7) and is not concluded prior to commencement of proceedings by the authority for condemnation, the condemnation proceedings shall, nevertheless, proceed and if the court determines in the proceedings commenced under sub. (7) that a parcel or parcels of property shall be excluded from the redevelopment plan, such parcel or parcels shall be excluded notwithstanding necessity has been determined as to such parcel or parcels by the jury, but the exclusion of such parcel or parcels of property shall not affect the verdict of necessity as to all other parcels of property.

Approved December 22, 1959.
