

2011 DRAFTING REQUEST

Bill

Received: 10/19/2010

Received By: **pgrant**

Wanted: **As time permits**

Companion to LRB:

For: **Mary Lazich (608) 266-5400**

By/Representing: **Lance**

May Contact:

Drafter: **pgrant**

Subject: **Eminent Domain - miscellaneous**

Addl. Drafters:

Extra Copies: **MES**

Submit via email: **YES**

Requester's email: **Sen.Lazich@legis.wisconsin.gov**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Narrow permitted uses of eminent domain

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	pgrant 10/21/2010	wjackson 11/04/2010		_____			
/P1	pgrant 11/18/2010	wjackson 11/29/2010	jfrantze 11/05/2010	_____	mbarman 11/05/2010		S&L
/1	pgrant 12/02/2010	wjackson 12/03/2010	mduchek 11/30/2010	_____	lparisi 11/30/2010		S&L
/2			phenry	_____	cduerst	cduerst	

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			12/06/2010 _____		12/06/2010	03/04/2011	

FE Sent For: 03/01/2011, ~~03/01/2011~~

↳ "1/2"

<END>

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12/3
DK

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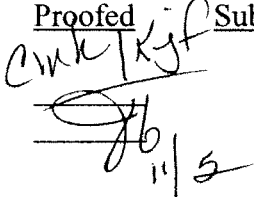
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/?	pgrant	/P/WLJ 11/4					

FE Sent For:

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rec'd [initials] ds ar /p
from Larrick (Lance)

Proposed Legislation to End Pretextual Blight Takings

Section 32.025

1. Notwithstanding any other law, eminent domain shall only be used for a public use.
Public use means, exclusively:
 - A. the possession, occupation, ownership, and enjoyment of the land by the general public, or by public agencies;
 - B. the creation or functioning of a public utility corporation mentioned in s 32.02; or
 - C. the elimination of existing harm to the public caused by blighted property.
2. Economic development, including an increase in tax base, tax revenues, employment, or general economic health, or other public purposes do not constitute a public use.

32.03(6)(a)

(a) In this subsection, "blighted property" means any property that is not land zoned agricultural and, by reason of abandonment, dilapidation, deterioration, ~~age or obsolescence, inadequate provisions for ventilation, light, air, or sanitation, high density of population and overcrowding, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements,~~ or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare. ~~Property that consists of only one dwelling unit is not blighted property unless, in addition, at least one of the following applies:~~

32.03(6)(a)1.

1. The property is not occupied by the owner of the property, his or her spouse, or an individual related to the owner by blood, marriage, or adoption within the 4th degree of kinship under s. 990.001 (16).

32.03(6)(a)2.

2. The crime rate in, on, or adjacent to the property is at least 3 times the crime rate in the remainder of the municipality in which the property is located.

32.03(6)(b)

(b) Property that is not blighted property may not be acquired by condemnation by an entity authorized to condemn property under s. 32.02 (1) or (11) if the condemnor intends to convey or lease the acquired property to a private entity.

32.03(6)(c)

(c) Before commencing the condemnation of property that a condemnor authorized to condemn property under s. 32.02 (1) or (11) intends to convey or lease to a private entity, the condemnor shall make written findings and provide a copy of the findings to the owner of the property. The findings shall include all of the following:

32.03(6)(c)1.

1. The scope of the redevelopment project encompassing the owner's property.

32.03(6)(c)2.

2. A legal description of the redevelopment area that includes the owner's property.

32.03(6)(c)3.

3. The purpose of the condemnation.

32.03(6)(c)4.

4. A finding that the owner's property is blighted and the reasons for that finding including that:

(1) the owner's property was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations in which the cited code violations involve one or more of the following:

- a. a roof and roof framing element;
- b. support walls, beams, and headers;
- c. foundation, footings, and subgrade conditions;
- d. light and ventilation;
- e. fire protection, including egress;
- f. internal utilities, including electricity, gas, and water;
- g. flooring and flooring elements; or
- h. walls, insulation, and exterior envelope;

(2) the cited code violations have not been remedied after two notices to cure the noncompliance; and

(3) satisfaction of the cited and uncured violations would cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, for property taxes payable in the year in which the condemnation is commenced.

most recent assessed value

32.06(5)

(5) Court action to contest right of condemnation. When an owner desires to contest the right of the condemnor to condemn the property described in the jurisdictional offer for any reason other than that the amount of compensation offered is inadequate, such owner may within 40 days from the date of personal service of the jurisdictional offer or within 40 days from the date of postmark of the certified mail letter transmitting such offer, or within 40 days after date of publication of the jurisdictional offer as to persons for whom such publication was necessary and was made, commence an action in the circuit court of the county wherein the property is located, naming the condemnor as defendant. Such action shall be the only manner in which any issue other than the amount of just compensation or other than proceedings to perfect title under ss. 32.11 and 32.12 may be raised pertaining to the condemnation of the property described in the jurisdictional offer. The trial of the issues raised by the pleadings in such action shall be given precedence over all other actions in said court then not on trial. If such action is not commenced within the time limited the owner or other person having any interest in the property shall be forever barred from raising any such objection in any other manner. The commencement of an action by an owner under this subsection shall not prevent a condemnor from filing the petition provided for in sub. (7) and proceeding thereon. Nothing in this subsection shall be construed to limit in any respect the right to determine the necessity of taking as conferred by s. 32.07 nor to prevent the condemnor from proceeding with condemnation during the pendency of the action to contest the right to condemn. Failure to raise specific objections to the condemnation prior to the service of the jurisdictional offer shall not preclude any claims in an action under this section. For condemnations to remediate blight the condemnor must show by a preponderance of the evidence in circuit court that the condemnor meets the requirements of 32.03(6)(a)-(c).

This section shall not apply to any owner who had a right to bring a proceeding pursuant to s. 66.431 (7), 1959 stats., prior to its repeal by chapter 526, laws of 1961, effective on October 8, 1961, and, in lieu of this section, s. 66.431 (7), 1959 stats., as it existed prior to such effective date of repeal shall be the owner's exclusive remedy.

32.07 Necessity, determination of. The necessity of the taking shall be determined as follows:

32.07(1)

(1) A certificate of public convenience and necessity issued under s. 196.491 (3) shall constitute the determination of the necessity of the taking for any lands or interests described in the certificate.

32.07(2)

(2) The determination of the public service commission of the necessity of taking any undeveloped water power site made pursuant to s. 32.03 (3) shall be conclusive except for abuses of discretion.

~~The petitioner shall determine necessity if application is by the state or any commission, department, board or other branch of state government or by a city, village, town, county, school district, board, commission, public officer, commission created by contract under s. 66.0301, joint local water authority under s. 66.0823, transit authority created under s. 66.1030, redevelopment authority created under s. 66.1333, local exposition district created under subch. II of ch. 229, local cultural arts district created under subch. V of ch. 229, housing authority created under ss. 66.1201 to 66.1211 or for the right of way of a railroad up to 100 feet in width, for a telegraph, telephone or other electric line, for the right of way for a gas pipeline, main or service or for easements for the construction of any elevated structure or subway for railroad purposes.~~

32.07(3)

(3) In all other cases, the judge shall determine the necessity which the condemnor must establish by preponderance of the evidence.

32.07(4)

(4) ~~The determination of the public service commission of the necessity of taking any undeveloped water power site made pursuant to s. 32.03 (3) shall be conclusive.~~

*unless the determination is
arbitrary or unreasonable*

REPEAL 32.22 Special procedure for immediate condemnation

Note: This is the statute's quick-take provision. It is not needed for blight. If, however, the senator does not wish to repeal this section, the following change should be made:

32.22(1)(a)

(a) "~~Blighted property~~" means any property which, by reason of abandonment, dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, faulty lot layout in relation to size, adequacy, accessibility or usefulness, un sanitary or unsafe conditions, deterioration of site or other improvements, or the existence of conditions which endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety or welfare shall have the same meaning in this section as it does in s. 32.03(6)a - c.

32.71 ~~Liberal~~ Strict construction. This subchapter shall be liberally ~~strictly~~ construed ~~construed to provide the city with the largest possible power and leeway of action against the condemnor and in favor of the property owner.~~

SUBCHAPTER XIII
URBAN REDEVELOPMENT AND RENEWAL

66.1301 Urban redevelopment.

66.1301(1)

(1) Short title. Sections 66.1301 to 66.1329 may be referred to as the "Urban Redevelopment Law".

66.1311 Urban redevelopment; acquisition of land.

66.1311(1)

(1) A redevelopment corporation may acquire real property or secure options in its own name or in the name of nominees to acquire real property, by gift, grant, lease, purchase or otherwise.

66.1311(2)

(2) A city may, upon request by a redevelopment corporation, acquire, or obligate itself to acquire, for the redevelopment corporation real property included in a certificate of approval of condemnation, by gift, grant, lease, purchase, condemnation, or otherwise, according to the provisions of any law applicable to the acquisition of real property by the city. Real property acquired by a city for a redevelopment corporation shall be conveyed by the city to the redevelopment corporation upon payment to the city of all sums expended or required to be expended by the city in the acquisition of the real property, or leased by the city to the redevelopment corporation, upon terms agreed upon between the city and the redevelopment corporation to carry out the purposes of ss. 66.1301 to 66.1329.

66.1311(3)

(3) The provisions of ss. 66.1301 to 66.1329~~33~~ with respect to the condemnation of real property by a city for a redevelopment corporation prevail over the provisions of any other law are subject to all substantive and procedural requirements in chapter 32.

*see 66.1331 (4)(b)
66.1333 (5)(b)*

66.1313

66.1313 Urban redevelopment; condemnation for.

66.1313(1)

(1) Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. The petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting the petition shall require that the redevelopment corporation pay the city all sums expended or required to be expended by the city in the acquisition of the real property, or for any real property to be conveyed to the corporation by the city in connection with the plan, and the time of payment and manner of securing payment, and may require that the city receive, before proceeding with the acquisition of the real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city deems advisable. Upon the passage of a resolution by the local governing body granting the petition, the redevelopment corporation shall make 3 copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the city attorney of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of copies of surveys or maps constitutes

acceptance by the redevelopment corporation of the terms and conditions contained in the resolution. The city may conduct condemnation proceedings ~~either under ch. 32 or under other laws applicable to the city.~~ exclusively under all substantive and procedural requirements in chapter 32. When title to real property vests in the city, it shall convey or lease the real property, with any other real property to be conveyed or leased to the redevelopment corporation by the city in connection with the redevelopment plan, to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition.

66.1331

66.1331 Blighted area law.

66.1331(1)

(1) Short title. This section shall be known and may be cited and referred to as the "blighted area law."

66.1331(2)

(2) Findings and declaration of necessity. It is found and declared that there have existed and continue to exist in cities within the state, substandard, insanitary, deteriorated, slum and blighted areas which constitute a serious and growing menace, injurious and inimical to the public health, safety, morals and welfare of the residents of the state. The existence of these areas contributes substantially and increasingly to the spread of disease and crime (necessitating excessive and disproportionate expenditures of public funds for the preservation of the public health and safety, for crime prevention, correction, prosecution, punishment, and the treatment of juvenile delinquency and for the maintenance of adequate police, fire and accident protection, and other public services and facilities), constitutes an economic and social liability, substantially impairs or arrests the sound growth of cities, and retards the provision of housing accommodations. This menace is beyond remedy and control solely by regulatory process in the exercise of the police power and cannot be dealt with effectively by the ordinary operations of private enterprise without the aids provided in this section. The acquisition of property for the purpose of eliminating substandard, insanitary, deteriorated, slum or blighted conditions or preventing recurrence of these conditions in the area, the removal of structures and improvement of sites, the disposition of the property for redevelopment incidental to these activities, and any assistance which may be given by cities or any other public bodies, are public uses and purposes for which public money may be expended and the power of eminent domain exercised. The necessity in the public interest for the provisions of this section is declared as a matter of legislative determination.

66.1331(2m)

(2m) Discrimination. Persons otherwise entitled to any right, benefit, facility, or privilege under this section may not be denied the right, benefit, facility, or privilege in any manner for any purpose nor be discriminated against because of sex, race, color, creed, sexual orientation, status as a victim of domestic abuse, sexual assault, or stalking, as defined in s. 106.50 (1m) (u), or national origin.

66.1331(3)

(3) Definitions. In this section, unless a different intent clearly appears from the context:

66.1331(3)(a)

(a) "Blighted area" means any area, including a slum area, but not land zoned agricultural, in which a majority of the ~~structures~~ buildings have been:

1. inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations in which the cited code violations involve one or more of the following:
 - a. roof and roof framing element;
 - b. support walls, beams, and headers;
 - c. foundation, footings, and subgrade conditions;
 - d. light and ventilation;
 - e. fire protection, including egress;
 - f. internal utilities, including electricity, gas, and water;
 - g. flooring and flooring elements; or
 - h. walls, insulation, and exterior envelope;
2. cited code violations have not been remedied after two notices to cure the noncompliance; and
3. found to require improvements to satisfy the cited and uncured violations that would cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, for property taxes payable in the year in which the condemnation is commenced.
 - a. If a developer involved in a redevelopment project contributed to the existence or degree of blight on the property, the contribution by the developer must not be used in the determination of blight.

are residential or in which there is a predominance of buildings or improvements, whether residential or nonresidential, and which, by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of these factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency and crime, and is detrimental to the public health, safety, morals or welfare.

66.1333

66.1333

66.1333 Blight elimination and slum clearance.

66.1333

66.1333 (1)

(1) Short title. This section shall be known and may be cited as the "Blight Elimination and Slum Clearance Act".

66.1333

66.1333 (2)

(2) Findings. In addition to the findings and declarations made in ss. 66.1331 (2) and 66.1337, it is found and declared that the existence of substandard, deteriorated, slum and blighted areas and blighted properties is a matter of statewide concern. It is the policy of this state to protect and promote the health, safety, morals and general welfare of the people of the state in which these areas and blighted properties exist by the elimination and prevention of these areas and blighted properties through the utilization of all means appropriate for that purpose, thereby encouraging well-planned, integrated, stable, safe and healthful neighborhoods, the provision of healthful homes, a decent living environment and adequate places for employment of the people of this state and its communities in these areas and blighted properties. The purposes of this section are to provide for the elimination and prevention of substandard, deteriorated, slum and blighted areas and blighted properties through redevelopment and other activities by state-created agencies and the utilization of all other available public and private agencies and resources. State agencies are necessary in order to carry out in the most effective and efficient manner the state's policy and declared purposes for the prevention and elimination of substandard, deteriorated, slum and blighted areas and blighted properties. State agencies shall be available in all the cities in the state to be known as the redevelopment authorities of the particular cities and carry out and effectuate the provisions of this section when the local legislative bodies of the cities determine there is a need for them to carry out within their cities the powers and purposes of this section. Assistance which may be given by cities or any other public bodies under this section is a public use and purpose for which public money may be expended. The necessity in the public interest for the provisions of this section is declared a matter of legislative determination. Nothing in this subsection contravenes, repeals or rescinds the finding or declaration of necessity before the recreation of this subsection on June 1, 1958.

66.1333

66.1333 (2m)

(2m) Definitions. In this section, unless the context clearly indicates otherwise:

66.1333

66.1333 (2m)(a)

(a) "Abandoned highway corridor" means land in any city designated by the department of transportation for use as part of an expressway or a freeway, which is no longer designated by the department for that purpose.

66.1333

66.1333 (2m)(am)

(am) "Arts incubator" has the meaning given in s. 44.60 (1) (a).

66.1333

66.1333 (2m)(ar)

(ar) "Authority" means a redevelopment authority.

66.1333

66.1333 (2m)(b)

(b) "Blighted area" means: ~~any of the following:~~

66.1333

66.1333 (2m)(b)1.

1. ~~An area, including a slum area, but not land zoned agricultural in which there is a predominance the majority of buildings or improvements, whether residential or nonresidential, are "blighted properties."~~

~~which by reason of dilapidation, deterioration, age or obsolescence, inadequate provision for ventilation, light, air, sanitation, or open spaces, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency, or crime, and is detrimental to the public health, safety, morals or welfare.~~

66.1333

66.1333 (2m)(b)2.

~~2. An area which by reason of the presence of a substantial number of substandard, slum, deteriorated or deteriorating structures, predominance of defective or inadequate street layout, faulty lot layout in relation to size, adequacy, accessibility or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provision of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals, or welfare in its present condition and use.~~

66.1333(2m)(b)3.

~~3. An area which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.~~

66.1333 (2m)(bm)

"Blighted property" means (a) any property that is not land zoned agricultural and, by reason of abandonment, dilapidation, deterioration, or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare; and

(b) the condemnor has made findings of blight including that:

(1) the owner's property was inspected by the appropriate local government and cited for one or more enforceable housing, maintenance, or building code violations in which the cited code violations involve one or more of the following:

- a. a roof and roof framing element;
- b. support walls, beams, and headers;
- c. foundation, footings, and subgrade conditions;
- d. light and ventilation;
- e. fire protection, including egress;
- f. internal utilities, including electricity, gas, and water;
- g. flooring and flooring elements; or
- h. walls, insulation, and exterior envelope;

(2) the cited code violations have not been remedied after two notices to cure the noncompliance; and

(3) satisfaction of the cited and uncured violations would cost more than 50 percent of the assessor's taxable market value for the building, excluding land value, for property taxes payable in the year in which the condemnation is commenced.

a. If a developer involved in a redevelopment project contributed to the existence or degree of blight on the property, the contribution by the developer must not be used in the determination of blight.

~~means any property within a city, whether residential or nonresidential, which by reason of dilapidation, deterioration, age or obsolescence, inadequate provisions for ventilation, light, air or sanitation, high density of population and overcrowding, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, is conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime, and is detrimental to the public health, safety, morals or welfare, or any property which by reason of faulty lot layout in relation to size, adequacy, accessibility or usefulness, insanitary or unsafe conditions, deterioration of site or other improvements, diversity of ownership, tax or special assessment delinquency exceeding the fair market value of the land, defective or unusual conditions of title, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, substantially impairs or arrests the sound growth of a city, retards the provisions of housing accommodations or constitutes an economic or social liability and is a menace to the public health, safety, morals or welfare in its present condition and use, or any property which is predominantly open and which because of obsolete platting, diversity of ownership, deterioration of structures or of site improvements, or otherwise, substantially impairs or arrests the sound growth of the community.~~

(3) Redevelopment authority.

66.1333

66.1333 (3)(a)

(a)

66.1333

66.1333 (3)(f)

(f) An authority is 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 may take title to real and personal property in its own name. The authority may proceed with the acquisition of property by eminent domain ~~under ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities~~ exclusively under the substantive and procedural requirements in chapter 32.

66.1333

66.1333 (5)

(5) Powers of redevelopment authorities.

66.1333

66.1333 (5)(a)

(a) An authority may exercise all powers necessary or incidental to carry out and effectuate the purposes of this section, including the power to do all of the following:

66.1333

66.1333 (5)(b)1.

1. Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted ~~in accordance with ch. 32, or any other law relating specifically to eminent domain procedures of redevelopment authorities~~ exclusively under the substantive and procedural requirements in chapter 32.

66.1333

66.1333 (5)(c)

(c)

66.1333

66.1333 (5)(c)1.

1. Notwithstanding sub. (6), the authority of a 1st class city may acquire any property determined by the authority to be blighted property without designating a boundary or adopting a redevelopment plan. The authority may not acquire property under this subdivision without the approval of the local legislative body of the city in which the authority is located.

66.1333 (5)(c)1r.

1r. Condemnation proceedings for the acquisition of blighted property shall be conducted ~~exclusively under ch. 32 or under any other law relating specifically to eminent domain procedures of authorities~~ the substantive and procedural requirements in chapter 32. The authority may hold, clear, construct, manage, improve or dispose of the blighted property, for the purpose of eliminating its status as blighted property. Notwithstanding sub. (9), the authority may dispose of the blighted property in any manner. The authority may assist private acquisition, improvement and development of blighted property for the purpose of eliminating its status as blighted property, and for that purpose the authority has all of the duties, rights, powers and privileges given to the authority under this section, as if it had acquired the blighted property.

Date (time) needed

~~Other:~~
by 11/5/10 please (DN)

LRB - 0275, P1

PG: WLJ:

BILL

Use the appropriate components and routines developed for bills.

AN ACT . . . [generate catalog] *to repeal . . . ; to renumber . . . ; to consolidate and renumber . . . ; to renumber and amend . . . ; to consolidate, renumber and amend . . . ; to amend . . . ; to repeal and recreate . . . ; and to create . . .* of the statutes; **relating to:** . . . *various changes to the eminent domain laws* . . .

[NOTE: See section 4.02 (2) (br), Drafting Manual, for specific order of standard phrases.]

Analysis by the Legislative Reference Bureau

If titles are needed in the analysis, in the component bar:

For the main heading, execute: **create → anal: → title: → head**

For the subheading, execute: **create → anal: → title: → sub**

For the sub-subheading, execute: **create → anal: → title: → sub-sub**

For the analysis text, in the component bar:

For the text paragraph, execute: **create → anal: → text**

(prelim. draft)

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

SECTION #.

SEC. # CR. 32.015

In addition to the restrictions specified in ss. 32.02 and 32.03, ^{property} 32.015 Public use requirement ^{condemnation.} may not be acquired by condemnation other than for

the following:

(1) The possession, occupation, ownership, and enjoyment of the property by the general public or ^a public agency.

(2) The establishment or operation of a public utility, as specified in ss. 32.02.

(3) The elimination of existing blight ^{caused by} blighted property.

note:****

NOTE (10) Do you want to define "public agency" for the purpose of sub (1)?

(20) Do you want to define "blighted property" for the purpose of sub (3)?

Section #. 32.03 (6) (a) (intro.) of the statutes is amended to read:

that is not zoned or used for agricultural purposes

32.03 (6) (a) (intro.) In this subsection, "blighted property" means any property that, by reason of abandonment, dilapidation, deterioration, ~~age or obsolescence, inadequate provisions for ventilation, light, air, or sanitation, high density of population and overcrowding, faulty lot layout in relation to size, adequacy, accessibility, or usefulness, unsanitary or unsafe conditions, deterioration of site or other improvements,~~ or the existence of conditions that endanger life or property by fire or other causes, or any combination of such factors, is detrimental to the public health, safety, or welfare. ~~Property that consists of only one dwelling unit is not blighted property unless, in addition,~~ at least one of the following applies:

History: 1973 c. 305; 1975 c. 68; 1979 c. 175 s. 53; 1983 a. 27; 1983 a. 236 s. 12; 1983 a. 338 s. 3; 1985 a. 30 s. 42; 1985 a. 187; 1993 a. 246, 490; 1997 a. 204; 2003 a. 89; 2005 a. 233.

note: **** → ^(CS) NOTE I used "not zoned or used for agricultural purposes" because that is the phrase used in s. 32.09 (6) OK?

and to which

****: This subsection, s. 32.03(6) allows the condemnation of property that the condemnor intends to transfer to a private entity under certain conditions. How should that be reconciled with the restrictions created in s. 32.015, created above?

SEC. # CR. 32003 (c)(c) 50 to 70

(B) 32.03(6)(c) 50 (6) A finding that the owner's property has been cited for one or more violations of applicable building codes involving the roof and roof framing elements, support walls, beams, and headers, the foundation, footings, and subgrade conditions, light and ventilation, fire protection, public utilities, flooring, or walls, insulation, and exterior envelope.

(6) (b) The ~~code~~ code violations have not been remedied despite 2 notices to ~~the~~ ^{owner} ~~owner~~ ^{owner} under subd. 5.

7. (7) (a) The cost of remedying the code violations would exceed an amount equal to ~~the~~ ^{the} 50 percent of the ^{most recent} assessed value of the property, excluding the value of the land.

that issued the citations, of at least

NOTE
S. 32.03(6)
A(c) S. (a) → NOTE (CS) ☺ Do the items listed in proposed
constitute an exhaustive list of possible
building code violations? If so, the list
is unnecessary ☺ If not, does the list capture
all the code violations you wish to
include? Do you want to include plumbing?

Section #. 32.06 (intro.) of the statutes is amended to read:

32.06 Condemnation procedure in other than transportation matters. (intro.) The procedure in condemnation in all matters except acquisitions under s. 32.05 [↓] or ~~32.22~~ [↓], acquisitions under subch. II, acquisitions under subch. II of ch. 157, and acquisitions under ch. 197, shall be as follows:

History: 1973 c. 244; 1975 c. 68, 410, 422; 1977 c. 29; 1977 c. 187 s. 134; 1977 c. 438, 440, 447, 449; 1979 c. 37; 1979 c. 110 s. 60 (13); 1981 c. 390; 1983 a. 27; 1983 a. 219 ss. 4, 46; 1983 a. 236 s. 13; 1983 a. 302 s. 8; 1985 a. 316 s. 25; 1987 a. 378; 1991 a. 39, 316; 1993 a. 184; 1997 a. 204; 2005 a. 387.

No
II

Failure to raise specific objections to the condemnation before the service of the jurisdictional offer does not preclude any claims in an action under this subsection.

Section #. 32.06 (5) of the statutes is amended to read:

32.06 (5) COURT ACTION TO CONTEST RIGHT OF CONDEMNATION. When an owner desires to contest the right of the condemnor to condemn the property described in the jurisdictional offer for any reason other than that the amount of compensation offered is inadequate, ^{↓ the} such owner may within 40 days from the date of personal service of the jurisdictional offer or within 40 days from the date of postmark of the certified mail letter transmitting such offer, or within 40 days after date of publication of the jurisdictional offer as to persons for whom such publication was necessary and was made, commence an action in the circuit court of the county ^{↓ in which} wherein the property is located, naming the condemnor as defendant. Such action shall be the only manner in which any issue other than the amount of just compensation or other than proceedings to perfect title under ss. 32.11 and 32.12 may be raised pertaining to the condemnation of the property described in the jurisdictional offer. [↓] The trial of the issues raised by the pleadings in such action shall be given precedence over all other actions in said court then not on trial. If such action is not commenced within the time limited the owner or other person having any interest in the property shall be forever barred from raising any such objection in any other manner. The commencement of an action by an owner under this subsection shall not prevent a condemnor from filing the petition provided for in sub. (7) and proceeding thereon. Nothing in this subsection shall be construed to limit in any respect the right to determine the necessity of taking as conferred by s. 32.07 nor to prevent the condemnor from proceeding with condemnation during the pendency of the action to contest the right to condemn. This section shall not apply to any owner who had a right to bring a proceeding pursuant to s. 66.431 (7), 1959 stats., prior to its repeal by chapter 526, laws of 1961, effective on October 8, 1961, and, in lieu of this section, s. 66.431 (7), 1959 stats., as it existed prior to such effective date of repeal shall be the owner's exclusive remedy.

History: 1973 c. 244; 1975 c. 68, 410, 422; 1977 c. 29; 1977 c. 187 s. 134; 1977 c. 438, 440, 447, 449; 1979 c. 37; 1979 c. 110 s. 60 (13); 1981 c. 390; 1983 a. 27; 1983 a. 219 ss. 4, 46; 1983 a. 236 s. 13; 1983 a. 302 s. 8; 1985 a. 316 s. 25; 1987 a. 378; 1991 a. 39, 316; 1993 a. 184; 1997 a. 204; 2005 a. 387.

Note:
~~XXXX~~

⑥
 → ~~XXXX~~ NOTE: I'm not sure why the added sentence shown above is necessary. I'm not aware of any provision that would currently bar a claim under s. 32.06(5) because the issue was not raised before service of the jurisdictional offer.

⑦ 20 I did not include your second sentence (For condemnations to remediate blight the condemnor must show by a preponderance of the evidence in circuit court that the condemnor meets the requirements of s. 32.03(6) because it's not clear to me what those requirements are. Section 32.03(6) provides a definition of "blighted property," which prohibits the condemnation of blighted property.

if the condemnor intends to convey the
 acquired property to a private entity,[^]
 and requires the condemnor to make
 certain findings prior to condemning
 blighted property that the condemnor intends to
 convey to a private entity^o

⑨ ³⁰ Do you want to amend
 s_o 32005 (5) in the same manner that
 s_o 32006 (5) is amended?

~~SEC. # RP; 32.07(2)~~

SEC. # RP; 32.07 (2) ✓

Section #. 32.07 (3)[√] of the statutes is amended to read:

32.07 (3) In all other cases, the judge shall determine the necessity.

History: 1973 c. 305; 1975 c. 68; 1979 c. 175 s. 53; 1981 c. 346; 1983 a. 27; 1985 a. 187; 1993 a. 134, 263; 1997 a.

184, 204; 1999 a. 65; 1999 a. 150 s. 672; 2009 a. 28.

^, which shall be
established by a
preponderance of the
evidence

↓
Section #. 32.07 (4) of the statutes is amended to read:

32.07 (4) The determination of the public service commission of the necessity of taking any undeveloped water power site made pursuant to s. 32.03 (3) shall be conclusive.

History: 1973 c. 305; 1975 c. 68; 1979 c. 175 s. 53; 1981 c. 346; 1983 a. 27; 1985 a. 187; 1993 a. 134, 263; 1997 a. 184, 204; 1999 a. 65; 1999 a. 150 s. 672; 2009 a. 28.

unless the determination
is arbitrary, or
unreasonable

Note:

→ ~~****~~ NOTE (S) IS the standard provided for
↓ abuse of discretion ↓ the one you intend?

SEC. RP; 32.22 ↓

Section #. 32.71 of the statutes is amended to read:

(title) strict
32.71 Liberal construction. This subchapter shall be liberally construed to provide the city with the largest possible power and leeway of action.
being in derogation of the common law
strictly

History: 1983 a. 236.

Note: ****

CS
**** NOTE: Is your intent here may be clearer if this section is simply repealed in addition, that would make this subchapter and subchapter the same by amending this section you may be calling into question the strict construction of provisions in subchapter

20 See 550 6601327(1), 6601331(15), and 6601333(11)(c) Do you want to amend or repeal these provisions?

and (17)

Section #. 66.1311 (3) of the statutes is amended to read:

66.1311 (3) The provisions of ss. 66.1301 to 66.1329 with respect to the condemnation of real property by a city for a redevelopment corporation ~~prevail over the provisions of any other law.~~

History: 1999 a. 150 s. 415; Stats. 1999 s. 66.1311.

are subject to the requirements in ch 32

Note: ****

→ **** NOTE 1. I did not amend this section to cross-reference ss 66.1301 to 66.1333. Instead, I amended the relevant portions of ss 66.1331 and 66.1333. see below ok?
2. Would you also like to amend ss 66.1201 (10) (a)?

Section #. 66.1313 (1) of the statutes is amended to read:

66.1313 (1) Condemnation proceedings for a redevelopment corporation shall be initiated by a petition to the city to institute proceedings to acquire for the redevelopment corporation any real property in the development area. The petition shall be granted or rejected by the local governing body, and the resolution or resolutions granting the petition shall require that the redevelopment corporation pay the city all sums expended or required to be expended by the city in the acquisition of the real property, or for any real property to be conveyed to the corporation by the city in connection with the plan, and the time of payment and manner of securing payment, and may require that the city receive, before proceeding with the acquisition of the real property, such assurances as to payment or reimbursement by the redevelopment corporation, or otherwise, as the city deems advisable. Upon the passage of a resolution by the local governing body granting the petition, the redevelopment corporation shall make 3 copies of surveys or maps of the real property described in the petition, one of which shall be filed in the office of the redevelopment corporation, one in the office of the city attorney of the city, and one in the office in which instruments affecting real property in the county are recorded. The filing of copies of surveys or maps constitutes acceptance by the redevelopment corporation of the terms and conditions contained in the resolution. The city ^{shall} ~~may~~ conduct condemnation proceedings ~~either~~ ^{under} under ch. 32 ~~or under other laws applicable to the city.~~ ^{shall} When title to real property vests in the city, it shall convey or lease the real property, with any other real property to be conveyed or leased to the redevelopment corporation by the city in connection with the redevelopment plan, to the redevelopment corporation upon payment by the redevelopment corporation of the sums and the giving of the security required by the resolution granting the petition.

History: 1991 a. 316; 1995 a. 225; 1999 a. 150 s. 416; Stats. 1999 s. 66.1313.

SEC. # RC; 66.1331 (3)(a) ✓

(B) 66.1331 (3)(a) ✓ Blighted area ✓ means an area, including a slum area but excluding any area that is zoned or used for agricultural purposes, in which ~~all~~ all of the following apply to a majority of the buildings (i)

(ii) they have been cited for ^{one or more} state or local violations of ~~the~~ applicable building codes involving the roof and roof framing elements; support walls; beams; and headers; the foundation; footings; and subgrade conditions; light and ventilation; fire protection; ^{public} utilities; flooring; or walls, insulation, and exterior envelope. ^{under subd. 1.}

(iii) The code violations have not been remedied despite the issuance by the local governmental unit that issued the citations of at least 2 notices to do so.

① 30 The cost of remedying the ^{code} violations under subd. 1. would exceed an amount equal to 50 percent of the most recent assessed value of the buildings, [↑] excluding the value of the land.

Note: ****

② NOTE ① 10 I did not include the ^{provision} provision relating to developers who contributed to the existence of blight because ①

④ 20 I'm not sure how to define [↓] developer involved in a redevelopment project.

④ 60 I'm not sure how to determine [↑]; or who would determine; whether a developer contributed to the existence of blight.

④ c I don't understand what is meant by [↑] the ^{contribution} contribution by the developer.

must not be used in the determination
of blighted[✓]

④ 20 Would you prefer to add
a definition of ^{blighted property} ~~blighted property~~ and
structure these two definitions as they are
structured
λ in so 66.1333 (2m)(b) ↓ and (6m) ↓ ↑ as
repealed and recreated in this draft?

Section #. 66.1331 (4) (b) [↓] of the statutes is amended to read:

66.1331 (4) (b) Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32 [↓] ~~or any other laws applicable to the city.~~

History: 1975 c. 94, 311; 1981 c. 112; 1983 a. 24; 1983 a. 189 ss. 58, 329 (7); 1983 a. 207 s. 95; 1991 a. 156, 316; 1993 a. 112, 184, 213; 1995 a. 225; 1999 a. 150 ss. 297, 434 to 440; Stats. 1999 s. 66.1331; 2001 a. 30, 103; 2009 a. 95.

SEC. # RC; 66.1333 (2m) (b) [↓]

66.1333 ^(B) (2m) (b) [↓] Blighted area [↓] means
 an area [↑] including a ⁼ slum area but
[△] excluding any area that is zoned or
 used for agricultural purposes; [↑] in which a
 majority of the buildings ^{are} are blighted properties [⊙]

SEC # RC; 66.1333 (2m) (bm) [↓]

66.1333 ^(B) (2m) (bm) [↓] Blighted property [↓] means
 any property within a city; [↑] other than land
 zoned or used for agricultural purposes; [↑] that
 by reason of abandonment; [↑] dilapidation; [↑] deterioration; [↑]
 or the existence of conditions that endanger life or
 property by fire or other causes; [↑] or any combination
 of such factors; [↑] is ^{detrimental} detrimental to the public
 health; [↑] safety; [↑] or welfare; [↑] and to which all
 of the following apply ^(⊖)

(9) 10 The property has been cited for ^{one or} ~~one~~ or
 more violations of ~~the~~ applicable building codes
 involving the roof and roof framing elements;
 support walls; beams; and headers; the
 foundation; footings; and subgrade conditions;
 light and ventilation; fire protection; ^{public} utilities;
 flooring; ^{or} walls; insulation; and
 exterior envelope.

(9) 20 The code violations ^{under subd. 1.} have not been
 remedied despite the issuance by the local
 governmental unit that issued the citations of
 at least 2 notices to do so.

(9) 3. The cost of remedying the code
 violations ^{under subd. 1.} would exceed an amount equal to
 50 percent of the most recent appraised

value of the property, ^ excluding the
value of the land. (C)

Note: ****

**** NOTE: (C) Please see the
**** NOTE (C) under the section that
repeals and recreates so 6601331 (3)(a) (C)

(9) 20 I added ^ within a
city ^ because that is in the current
definition of ^ blighted property ^ OK?

(9) 30 Do you want to add
^ unsafe conditions ^ as in so 32003 (6)(a) ?

Section #. 66.1333 (3) (f) of the statutes is amended to read:

66.1333 (3) (f) An authority is 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 may take title to real and personal property in its own name. The authority ~~may~~ ^{shall} proceed with the acquisition of property by eminent domain under ch. 32, ~~or any other law relating specifically to eminent domain procedures of redevelopment authorities.~~

History: 1973 c. 172; 1975 c. 4, 94, 350; 1979 c. 89, 110, 221; 1981 c. 20, 112, 232; 1983 a. 24, 189; 1985 a. 219; 1987 a. 27, 403; 1989 a. 31, 89; 1991 a. 316; 1993 a. 16, 112, 172, 184, 268, 301; 1995 a. 27, 225; 1999 a. 9; 1999 a. 150 ss. 441 to 446; Stats. 1999 s. 66.1333; 1999 a. 185 s. 58; 2001 a. 30; 2003 a. 43, 320; 2005 a. 453; 2007 a. 96; 2009 a. 28, 95.

Section #. 66.1333 (5) (b) 1. of the statutes is amended to read:

66.1333 (5) (b) 1. Condemnation proceedings for the acquisition of real property necessary or incidental to a redevelopment project shall be conducted in accordance with ch. 32, ~~or any other law relating specifically to eminent domain procedures of redevelopment authorities.~~

History: 1973 c. 172; 1975 c. 4, 94, 350; 1979 c. 89, 110, 221; 1981 c. 20, 112, 232; 1983 a. 24, 189; 1985 a. 219; 1987 a. 27, 403; 1989 a. 31, 89; 1991 a. 316; 1993 a. 16, 112, 172, 184, 268, 301; 1995 a. 27, 225; 1999 a. 9; 1999 a. 150 ss. 441 to 446; Stats. 1999 s. 66.1333; 1999 a. 185 s. 58; 2001 a. 30; 2003 a. 43, 320; 2005 a. 453; 2007 a. 96; 2009 a. 28, 95.

↓

Section #. 66.1333 (5) (c) 1r. of the statutes is amended to read:

66.1333 (5) (c) 1r. Condemnation proceedings for the acquisition of blighted property shall be conducted under ch. 32 [↓] or ~~under any other law relating specifically to eminent domain procedures~~ [↓] of ~~authorities~~ [↓]. The authority may hold, clear, construct, manage, improve or dispose of the blighted property, for the purpose of eliminating its status as blighted property. Notwithstanding sub. (9), the authority may dispose of the blighted property in any manner. The authority may assist private acquisition, improvement and development of blighted property for the purpose of eliminating its status as blighted property, and for that purpose the authority has all of the duties, rights, powers and privileges given to the authority under this section, as if it had acquired the blighted property.

History: 1973 c. 172; 1975 c. 4, 94, 350; 1979 c. 89, 110, 221; 1981 c. 20, 112, 232; 1983 a. 24, 189; 1985 a. 219; 1987 a. 27, 403; 1989 a. 31, 89; 1991 a. 316; 1993 a. 16, 112, 172, 184, 268, 301; 1995 a. 27, 225; 1999 a. 9; 1999 a. 150 ss. 441 to 446; Stats. 1999 s. 66.1333; 1999 a. 185 s. 58; 2001 a. 30; 2003 a. 43, 320; 2005 a. 453; 2007 a. 96; 2009 a. 28, 95.

(End)

(DN)

Senator Lazich

(9) As requested, this first draft is preliminary in nature. Please note the ~~the~~ ^(CS) NOTES embedded in the drafts.

(9) The first introducible draft will include an initial applicability provision specifying that ~~it is~~ when the changes made by the draft first apply.

(9) If you have questions about the changes made by this draft to the submitted instructions, or to any of the embedded ^(CS) notes, please let me know.

PLG ✓

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-0275/P1dn
PG:wj:rs&md

November 5, 2010

Senator Lazich:

As requested, this first draft is preliminary in nature. Please note the NOTES embedded in the draft.

The first introducible draft will include an initial applicability provision specifying when the changes made by the draft first apply.

If you have questions about the changes made by this draft to the submitted instructions, or to any of the embedded NOTES, please let me know.

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