

1975 Assembly Bill 616

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CHAPTER 410, Laws of 1975

AN ACT to renumber 32.09 (5); to amend 32.05 (7) (c) and 32.06 (7); and to create 32.09 (5) (b) of the statutes, relating to the date of evaluation and the rules governing determination of just compensation in condemnation proceedings.

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

SECTION 1. 32.05 (7) (c) of the statutes is amended to read:

32.05 (7) (c) When service of the award has been completed, and after payment of the award as provided in par. (d), the award shall be recorded in the office of the register of deeds of the county wherein the property is located. Thereupon title in fee simple to the property described in the award, or the lesser right in property acquired by the award shall vest in the condemnor as of the time of recording. The date of such recording is the "date of evaluation" and also the "date of taking", ~~but if the condemning authority is a redevelopment authority organized under s. 66.431, the "date of evaluation" shall be the date the resolution is adopted by the local legislative body designating the boundaries of the proposed project area under s. 66.431 (6) (b) †.~~

SECTION 2. 32.06 (7) of the statutes is amended to read:

32.06 (7) PETITION FOR CONDEMNATION PROCEEDINGS. If the jurisdictional offer is not accepted within the periods limited in sub. (6) or the owner fails to consummate an acceptance as provided in sub. (6), the condemnor may present a verified petition to the judge of the circuit or county court of the county in which the property to be taken is located, for proceedings to determine the necessity of taking, where such determination is required, and the amount of just compensation. Such petition shall state that the jurisdictional offer required by sub. (3) has been made and rejected; that it is the intention of the condemnor in good faith to use the property or right therein for the specified purpose. It shall name the parties having an interest of record in such property as near as may be and shall name such parties who are minors or persons of unsound mind or unknown. Such petition shall not disclose the amount of the jurisdictional offer, and if it does so it shall be a nullity. Such petition shall be filed with the clerk of such court. Notice of such petition shall be given as provided in s. 32.05 (4) to all persons having an interest of record in such property, including the special guardian appointed for minors or incompetent persons. A lis pendens shall be filed on the date of filing the petition. The date of filing the lis pendens shall be the "date of evaluation" of the property for purpose of fixing just compensation, ~~but if the condemning authority is a redevelopment authority organized under s. 66.431, the "date of evaluation" shall be the date the resolution is adopted by the local legislative body designating the boundaries of the proposed project area under s. 66.431 (6) (b) †.~~ The hearing on the petition shall not be earlier than 20 days after the date of its filing unless the petitioner has acquired possession of such land pursuant to s. 32.12 (1) in which event this hearing shall not be necessary. If the petitioner is entitled to condemn the property or any portion thereof the judge shall forthwith assign the matter to the chairman of the county condemnation commissioners for hearing pursuant to s. 32.08. An order by the judge determining that the petitioner does not have the right to condemn or refusing to assign the matter to the chairman of the county condemnation commissioners may be appealed directly to the supreme court.

SECTION 3. 32.09 (5) of the statutes is renumbered 32.09 (5) (a).

SECTION 4. 32.09 (5) (b) of the statutes is created to read:

32.09 (5) (b) Any increase or decrease in the fair market value of real property prior to the date of evaluation caused by the public improvement for which such property is acquired, or by the likelihood that the property would be acquired for such improvement, other than that due to physical deterioration within the reasonable

control of the owner, may not be taken into account in determining the just compensation for the property.
