

Renumbered 5/10/2016

17C-2-601 Use of eminent domain in an urban renewal project area -- Conditions -- Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

- (1) Subject to Section 17C-2-602, an agency may use eminent domain to acquire property:
 - (a) within an urban renewal project area if:
 - (i) the agency board makes a finding of blight under Part 3, Blight Determination in Urban Renewal Project Areas;
 - (ii) the urban renewal project area plan provides for the use of eminent domain; and
 - (iii) the agency commences the acquisition of the property within five years after the effective date of the urban renewal project area plan; or
 - (b) within a project area established after December 31, 2001 but before April 30, 2007 if:
 - (i) the agency board made a finding of blight with respect to the project area as provided under the law in effect at the time of the finding;
 - (ii) the project area plan provides for the use of eminent domain; and
 - (iii) the agency commences the acquisition of the property before January 1, 2010.
- (2)
 - (a) As used in this Subsection (2):
 - (i) "Commercial property" means a property used, in whole or in part, by the owner or possessor of the property for a commercial, industrial, retail, or other business purpose, regardless of the identity of the property owner.
 - (ii) "Owner occupied property" means private real property:
 - (A) whose use is single-family residential or commercial; and
 - (B) that is occupied by the owner of the property.
 - (iii) "Relevant area" means:
 - (A) except as provided in Subsection (2)(a)(iii)(B), the project area; or
 - (B) the area included within a phase of a project under a project area plan if the phase and the area included within the phase are described in the project area plan.
 - (b) For purposes of each provision of this Subsection (2) relating to the submission of a petition by the owners of property, a parcel of real property is included in the calculation of the applicable percentage if the petition is signed by:
 - (i) except as provided in Subsection (2)(b)(ii), owners representing a majority ownership interest in that parcel; or
 - (ii) if the parcel is owned by joint tenants or tenants by the entirety, 50% of the number of owners of that parcel.
 - (c) An agency may not acquire by eminent domain single-family residential owner occupied property unless:
 - (i) the owner consents; or
 - (ii)
 - (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 80% of the owner occupied property within the relevant area representing at least 70% of the value of owner occupied property within the relevant area; and
 - (B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.
 - (d) An agency may not acquire commercial property by eminent domain unless:
 - (i) the owner consents; or
 - (ii)

- (A) a written petition requesting the agency to use eminent domain to acquire the property is submitted by the owners of at least 75% of the commercial property within the relevant area representing at least 60% of the value of commercial property within the relevant area; and
 - (B) 2/3 of all agency board members vote in favor of using eminent domain to acquire the property.
- (3) An agency may not acquire any real property on which an existing building is to be continued on its present site and in its present form and use unless:
- (a) the owner consents; or
 - (b)
 - (i) the building requires structural alteration, improvement, modernization, or rehabilitation;
 - (ii) the site or lot on which the building is situated requires modification in size, shape, or use; or
 - (iii)
 - (A) it is necessary to impose upon the property any of the standards, restrictions, and controls of the project area plan; and
 - (B) the owner fails or refuses to agree to participate in the project area plan.
- (4)
- (a) Subject to Subsection (4)(b), an agency may acquire by eminent domain property that is already devoted to a public use and located in:
 - (i) an urban renewal project area; or
 - (ii) a project area described in Subsection (1)(b).
 - (b) An agency may not acquire property of a public entity under Subsection (4)(a) without the public entity's consent.
- (5) Each agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.