

Effective 5/9/2017

17C-1-904 Acquiring single family owner occupied residential property or commercial property -- Acquiring property already devoted to a public use -- Relocation assistance requirement.

- (1) As used in this section:
 - (a) "Commercial property" means real 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.
 - (b) "Owner occupied property" means private real property that is:
 - (i) used for a single-family residential or commercial purpose; and
 - (ii) occupied by the owner of the property.
 - (c) "Relevant area" means:
 - (i) except as provided in Subsection (1)(c)(ii), the project area; or
 - (ii)
 - (A) 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; or
 - (B) the parcel or parcels that are the subject of a community reinvestment project area plan amendment under Subsection 17C-5-112(4).
- (2) An agency may not initiate an action in district court to acquire by eminent domain a residential owner occupied property unless:
 - (a)
 - (i) 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 residential owner occupied property within the relevant area representing at least 70% of the value of residential owner occupied property within the relevant area; or
 - (ii) a written petition of 90% of the owners of real property, including property owned by the agency or a public entity within the project area, is submitted to the agency, requesting the use of eminent domain to acquire the property; and
 - (b) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.
- (3) An agency may not initiate an action in district court to acquire commercial owner occupied property by eminent domain unless:
 - (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) at least two-thirds of all board members vote in favor of using eminent domain to acquire the property.
- (4) For purposes of this section an owner is considered to have signed a petition if:
 - (a) owners representing a majority ownership interest in the property sign the petition; or
 - (b) if the property is owned by joint tenants or tenants by the entirety, 50% of the number of owners of the property sign the petition.
- (5) An agency may not acquire by eminent domain any real property on which an existing building is to be continued on the building's present site and in the building's present form and use unless:
 - (a) the building requires structural alteration, improvement, modernization, or rehabilitation;
 - (b) the site or lot on which the building is situated requires modification in size, shape, or use; or
 - (c)

- (i) it is necessary to impose upon the property a standard, restriction, or control of the project area plan; and
 - (ii) the owner fails or refuses to agree to participate in the project area plan.
- (6) An agency may not acquire by eminent domain property that is owned by a public entity.
- (7) An agency that acquires property by eminent domain shall comply with Title 57, Chapter 12, Utah Relocation Assistance Act.

Amended by Chapter 456, 2017 General Session