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.