

LEGISLATURE OF NEBRASKA

NINETY-NINTH LEGISLATURE

SECOND SESSION

LEGISLATIVE BILL 924

Introduced by Fischer, 43; Baker, 44; Burling, 33; Combs, 32;
Cudaback, 36; Cunningham, 40; Erdman, 47; Flood, 19;
Heidemann, 1; Hudkins, 21; Kremer, 34; Louden, 49;
McDonald, 41; Dw. Pedersen, 39; Schrock, 38; Smith,
48; Stuhr, 24; Stuthman, 22; Wehrbein, 2

Read first time January 5, 2006

Committee: Judiciary

A BILL

1 FOR AN ACT relating to real property; to amend sections
2 18-2103, 18-2123, and 76-701, Reissue Revised Statutes
3 of Nebraska; to change provisions of the Community
4 Development Law; to provide restrictions on the use of
5 eminent domain; to harmonize provisions; and to repeal
6 the original sections.

7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 18-2103, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 18-2103 For purposes of the Community Development Law,
4 unless the context otherwise requires:

5 (1) An authority shall mean any community redevelopment
6 authority created pursuant to section 18-2102.01 and a city or
7 village which has created a community development agency pursuant
8 to the provisions of section 18-2101.01 and shall not mean a
9 limited community redevelopment authority;

10 (2) Limited community redevelopment authority shall mean
11 a community redevelopment authority created pursuant to section
12 18-2102.01 having only one single specific limited pilot project
13 authorized;

14 (3) City shall mean any city or incorporated village in
15 the state;

16 (4) Public body shall mean the state or any municipality,
17 county, township, board, commission, authority, district, or other
18 political subdivision or public body of the state;

19 (5) Governing body or local governing body shall mean the
20 city council, board of trustees, or other legislative body charged
21 with governing the municipality;

22 (6) Mayor shall mean the mayor of the city or chairperson
23 of the board of trustees of the village;

24 (7) Clerk shall mean the clerk of the city or village;

25 (8) Federal government shall mean the United States of

1 America, or any agency or instrumentality, corporate or otherwise,
2 of the United States of America;

3 (9) Area of operation shall mean and include the area
4 within the corporate limits of the city and such land outside the
5 city as may come within the purview of section 18-2123;

6 (10) Substandard areas shall mean an area in which
7 there is a predominance of buildings or improvements, whether
8 nonresidential or residential in character, which, by reason
9 of dilapidation, deterioration, age or obsolescence, inadequate
10 provision for ventilation, light, air, sanitation, or open spaces,
11 high density of population and overcrowding, or the existence
12 of conditions which endanger life or property by fire and other
13 causes, or any combination of such factors, is conducive to
14 ill health, transmission of disease, infant mortality, juvenile
15 delinquency, and crime, (which cannot be remedied through
16 construction of prisons), and is detrimental to the public
17 health, safety, morals, or welfare. Agricultural land shall not be
18 designated as substandard;

19 (11) Blighted area shall mean an area, which (a) by
20 reason of the presence of a substantial number of deteriorated
21 or deteriorating structures, existence of defective or inadequate
22 street layout, faulty lot layout in relation to size, adequacy,
23 accessibility, or usefulness, insanitary or unsafe conditions,
24 deterioration of site or other improvements, diversity of
25 ownership, tax or special assessment delinquency exceeding the

1 fair value of the land, defective or unusual conditions of title,
2 improper subdivision or obsolete platting, or the existence of
3 conditions which endanger life or property by fire and other
4 causes, or any combination of such factors, substantially impairs
5 or arrests the sound growth of the community, retards the provision
6 of housing accommodations, or constitutes an economic or social
7 liability and is detrimental to the public health, safety, morals,
8 or welfare in its present condition and use and (b) in which there
9 is at least one of the following conditions: (i) Unemployment in
10 the designated area is at least one hundred twenty percent of the
11 state or national average; (ii) the average age of the residential
12 or commercial units in the area is at least forty years; (iii)
13 more than half of the plotted and subdivided property in an area
14 is unimproved land that has been within the city for forty years
15 and has remained unimproved during that time; (iv) the per capita
16 income of the area is lower than the average per capita income
17 of the city or village in which the area is designated; or (v)
18 the area has had either stable or decreasing population based
19 on the last two decennial censuses. In no event shall a city
20 of the metropolitan, primary, or first class designate more than
21 thirty-five percent of the city as blighted, a city of the second
22 class shall not designate an area larger than fifty percent of the
23 city as blighted, and a village shall not designate an area larger
24 than one hundred percent of the village as blighted. Agricultural
25 land shall not be designated as blighted;

1 (12) Redevelopment project shall mean any work or
2 undertaking in one or more community redevelopment areas: (a)
3 To acquire substandard and blighted areas or portions thereof,
4 including lands, structures, or improvements the acquisition
5 of which is necessary or incidental to the proper clearance,
6 development, or redevelopment of such substandard and blighted
7 areas; (b) to clear any such areas by demolition or removal
8 of existing buildings, structures, streets, utilities, or other
9 improvements thereon and to install, construct, or reconstruct
10 streets, utilities, parks, playgrounds, public spaces, public
11 parking facilities, sidewalks or moving sidewalks, convention and
12 civic centers, bus stop shelters, lighting, benches or other
13 similar furniture, trash receptacles, shelters, skywalks and
14 pedestrian and vehicular overpasses and underpasses, and any
15 other necessary public improvements essential to the preparation
16 of sites for uses in accordance with a redevelopment plan; (c)
17 to sell, lease, or otherwise make available land in such areas
18 for residential, recreational, commercial, industrial, or other
19 uses, including parking or other facilities functionally related
20 or subordinate to such uses, or for public use or to retain such
21 land for public use, in accordance with a redevelopment plan;
22 and may also include the preparation of the redevelopment plan,
23 the planning, survey, and other work incident to a redevelopment
24 project and the preparation of all plans and arrangements for
25 carrying out a redevelopment project; (d) to dispose of all real

1 and personal property or any interest in such property, or assets,
2 cash, or other funds held or used in connection with residential,
3 recreational, commercial, industrial, or other uses, including
4 parking or other facilities functionally related or subordinate to
5 such uses, or any public use specified in a redevelopment plan or
6 project, except that such disposition shall be at its fair value
7 for uses in accordance with the redevelopment plan; (e) to acquire
8 real property in a community redevelopment area which, under the
9 redevelopment plan, is to be repaired or rehabilitated for dwelling
10 use or related facilities, repair or rehabilitate the structures,
11 and resell the property; and (f) to carry out plans for a program
12 of voluntary or compulsory repair and rehabilitation of buildings
13 or other improvements in accordance with the redevelopment plan;

14 (13) Redevelopment plan shall mean a plan, as it exists
15 from time to time for one or more community redevelopment areas,
16 or for a redevelopment project, which plan (a) shall conform
17 to the general plan for the municipality as a whole; and (b)
18 shall be sufficiently complete to indicate such land acquisition,
19 demolition and removal of structures, redevelopment, improvements,
20 and rehabilitation as may be proposed to be carried out in the
21 community redevelopment area, zoning and planning changes, if any,
22 land uses, maximum densities, and building requirements;

23 (14) Redeveloper shall mean any person, partnership, or
24 public or private corporation or agency which shall enter or
25 propose to enter into a redevelopment contract;

1 (15) Redevelopment contract shall mean a contract entered
2 into between an authority and a redeveloper for the redevelopment
3 of an area in conformity with a redevelopment plan;

4 (16) Real property shall mean all lands, including
5 improvements and fixtures thereon, and property of any nature
6 appurtenant thereto, or used in connection therewith, and every
7 estate, interest and right, legal or equitable, therein, including
8 terms for years and liens by way of judgment, mortgage, or
9 otherwise, and the indebtedness secured by such liens;

10 (17) Bonds shall mean any bonds, including refunding
11 bonds, notes, interim certificates, debentures, or other
12 obligations issued pursuant to the Community Development Law;

13 (18) Obligee shall mean any bondholder, agent, or
14 trustee for any bondholder, or lessor demising to any authority,
15 established pursuant to section 18-2102.01, property used in
16 connection with a redevelopment project, or any assignee or
17 assignees of such lessor's interest or any part thereof, and the
18 federal government when it is a party to any contract with such
19 authority;

20 (19) Person shall mean any individual, firm, partnership,
21 limited liability company, corporation, company, association,
22 joint-stock association, or body politic and shall include any
23 trustee, receiver, assignee, or other similar representative
24 thereof;

25 (20) Community redevelopment area shall mean a

1 substandard and blighted area which the community redevelopment
2 authority designates as appropriate for a renewal project; and

3 (21) Redevelopment project valuation shall mean the
4 valuation for assessment of the taxable real property in a
5 redevelopment project last certified for the year prior to the
6 effective date of the provision authorized in section 18-2147.

7 Sec. 2. Section 18-2123, Reissue Revised Statutes of
8 Nebraska, is amended to read:

9 18-2123 Upon a determination, by resolution, of the
10 governing body of the city in which such land is located, that
11 the acquisition and development of undeveloped vacant land, not
12 within a substandard or blighted area, is essential to the proper
13 clearance or redevelopment of substandard or blighted areas or
14 a necessary part of the general community redevelopment program
15 of the city, or that the acquisition and development of land
16 outside the city, but within a radius of three miles thereof, is
17 necessary or convenient to the proper clearance or redevelopment
18 of one or more substandard or blighted areas within the city
19 or is a necessary adjunct to the general community redevelopment
20 program of the city, the acquisition, planning, and preparation
21 for development or disposal of such land shall constitute a
22 redevelopment project which may be undertaken by the authority in
23 the manner provided in the ~~foregoing sections~~ Community Development
24 Law. Agricultural land shall not be considered undeveloped vacant
25 land.

1 Sec. 3. Section 76-701, Reissue Revised Statutes of
2 Nebraska, is amended to read:

3 76-701 ~~As used in sections 76-701 to 76-724, unless~~
4 ~~the context otherwise requires~~ For purposes of sections 76-701 to
5 76-726 and section 4 of this act:

6 (1) Condemner means any legal entity that by law has been
7 granted the right to exercise the power of eminent domain, and
8 includes the state and any governmental or political subdivision
9 thereof;

10 (2) Condemnee means any person, partnership, limited
11 liability company, corporation, or association owning or having
12 an encumbrance on any interest in property that is sought to be
13 acquired by a condemner or in possession of or occupying any such
14 property;

15 (3) Property means any such interest in real or personal
16 property as the condemner is empowered by law to acquire for public
17 use; and

18 (4) County judge means the county judge of the county
19 where condemnation proceedings provided by such sections 76-701 to
20 76-724 are had.

21 Sec. 4. (1) A condemner may not take property through the
22 use of eminent domain under sections 76-704 to 76-724 if the taking
23 is for an economic development purpose.

24 (2) For purposes of this section, economic development
25 purpose means taking property for subsequent use by a commercial

1 for-profit enterprise or to increase tax revenue, tax base,
2 employment, or general economic conditions.

3 (3) This section does not affect the use of eminent
4 domain for:

5 (a) Public projects or private projects that make the
6 property available for use by the general public as of right or for
7 use as a right-of-way, aqueduct, pipeline, or similar use;

8 (b) Removing harmful uses of property if such uses
9 constitute an immediate threat to public health and safety;

10 (c) Leasing property to a private person who occupies an
11 incidental part of public property or a public facility, such as a
12 retail establishment on the ground floor of a public building;

13 (d) Acquiring abandoned property;

14 (e) Clearing defective property title;

15 (f) Taking private property for use by a public utility;

16 and

17 (g) Taking private property based upon a finding of
18 blighted or substandard conditions under the Community Development
19 Law.

20 Sec. 5. Original sections 18-2103, 18-2123, and 76-701,
21 Reissue Revised Statutes of Nebraska, are repealed.