
SENATE BILL 5078

State of Washington

62nd Legislature

2011 Regular Session

By Senators Shin, Swecker, Becker, Benton, Honeyford, Schoesler, Stevens, Hewitt, Carrell, and Roach; by request of Attorney General

Read first time 01/13/11. Referred to Committee on Government Operations, Tribal Relations & Elections.

1 AN ACT Relating to conditions of threat to public health, safety,
2 or welfare on real property; amending RCW 35.81.080; and adding a new
3 section to chapter 35.81 RCW.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 **Sec. 1.** RCW 35.81.080 and 2002 c 218 s 8 are each amended to read
6 as follows:

7 A municipality shall have the right to acquire by condemnation, in
8 accordance with the procedure provided for condemnation by such
9 municipality for other purposes, any interest in real property, which
10 it may deem necessary for a community renewal project under this
11 chapter after the adoption by the local governing body of a resolution
12 declaring that the acquisition of the real property described therein
13 is necessary for such purpose. Condemnation for community renewal of
14 blighted areas is declared to be a public use, and property already
15 devoted to any other public use or acquired by the owner or a
16 predecessor in interest by eminent domain may be condemned for the
17 purposes of this chapter: PROVIDED, That unless the real property
18 which is subject of the condemnation poses an identifiable threat to
19 public health, safety, or welfare by reason of the insanitary, unsafe,

1 or substandard condition of the premises or the unlawful use thereof,
2 any municipality condemning real property under this chapter shall have
3 a public purpose as enumerated in RCW 8.12.030 for the real property
4 being acquired. Whenever a municipality seeks to condemn real property
5 because it poses an identifiable threat to public health, safety, or
6 welfare by reason of the insanitary, unsafe, or substandard condition
7 of the premises or the unlawful use thereof, the municipality shall
8 comply with the requirements of section 2 of this act.

9 The award of compensation for real property taken for such a
10 project shall not be increased by reason of any increase in the value
11 of the real property caused by the assembly, clearance, or
12 reconstruction, or proposed assembly, clearance, or reconstruction in
13 the project area. No allowance shall be made for the improvements
14 begun on real property after notice to the owner of such property of
15 the institution of proceedings to condemn such property. Evidence
16 shall be admissible bearing upon the insanitary, unsafe, or substandard
17 condition of the premises, or the unlawful use thereof.

18 NEW SECTION. Sec. 2. A new section is added to chapter 35.81 RCW
19 to read as follows:

20 (1) Within one hundred twenty days of the adoption of an ordinance
21 under RCW 35.81.050(1), or within one hundred twenty days of the
22 effective date of this section, the owner or owners in whole or part of
23 any real property subject to an action by a municipality to condemn
24 property because it poses an identifiable threat to public health,
25 safety, or welfare by reason of the insanitary, unsafe, or substandard
26 condition of the premises or the unlawful use thereof may file an
27 appeal in the superior court of the county in which the real property
28 is located to determine whether the real property poses an identifiable
29 threat to public health, safety, or welfare by reason of the
30 insanitary, unsafe, or substandard condition of the premises or the
31 unlawful use thereof, or to give the owner or owners a reasonable
32 opportunity to remove any threat to public health, safety, or welfare
33 by reason of the insanitary, unsafe, or substandard condition of the
34 premises or the unlawful use thereof.

35 (2) In any appeal filed under subsection (1) of this section, the
36 municipality has the burden of showing that its finding that real

1 property which is subject of the condemnation poses an identifiable
2 threat to public health, safety, or welfare was supported by
3 substantial evidence at the time the ordinance was adopted.

4 (3) If the court determines that the condition of the real property
5 does not constitute a threat to public health, safety, or welfare, or
6 that it has been repaired so as to eliminate the threat to public
7 health, safety, or welfare, the court shall enter an order that the
8 real property is not subject to condemnation by reason of a threat to
9 public health, safety, or welfare.

10 (4) Where the municipality meets its evidentiary burden of showing
11 that substantial evidence supports the finding that the real property
12 which is subject of the condemnation poses an identifiable threat to
13 public health, safety, or welfare, the court shall make detailed
14 findings of all physical conditions of the property which directly
15 contribute to the threat to public health, safety, or welfare.
16 However, if the court determines that the real property can be
17 reasonably and timely repaired to eliminate the threat to public
18 health, safety, or welfare, the court shall give the owner or owners of
19 the real property a reasonable, identified period of time to cure and
20 correct those detailed physical conditions of the property which
21 directly contribute to the threat to public health, safety, or welfare,
22 provided that the owner or owners can satisfactorily show the court
23 that the owner or owners can address any immediate health and safety
24 concerns.

25 (5) During the period of time the court grants the owner or owners
26 of the real property to cure and correct the detailed physical
27 conditions of the property, any action by the municipality on the
28 condemnation is stayed. The municipality is not liable for any
29 injuries, losses, or damages resulting from the condition of the
30 property occurring during the stay, or resulting from the delay in or
31 failure to cure, correct, or abate any known or unknown condition on
32 the property.

33 (6) If the owner or owners cannot correct the threat to public
34 health, safety, or welfare within the time provided by the court, the
35 municipality is entitled to pursue the condemnation in the normal
36 course.

--- END ---