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HOUSE BILL 1036

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State of Washington

62nd Legislature

2011 Regular Session

By Representatives Goodman, Angel, Springer, Upthegrove, Eddy, Parker, Warnick, Takko, Hinkle, Ross, Shea, Bailey, Nealey, McCune, Short, Fagan, Taylor, Johnson, Hargrove, Smith, Blake, Kagi, and Moeller; by request of Attorney General

Prefiled 12/15/10. Read first time 01/10/11. Referred to Committee on Judiciary.

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.

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