
SUBSTITUTE SENATE BILL 5078

State of Washington

62nd Legislature

2011 Regular Session

By Senate Government Operations, Tribal Relations & Elections (originally sponsored by Senators Shin, Swecker, Becker, Benton, Honeyford, Schoesler, Stevens, Hewitt, Carrell, and Roach; by request of Attorney General)

READ FIRST TIME 02/08/11.

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 (1) A municipality shall have the right to acquire by condemnation,
8 in 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.)) Any municipality condemning real property
18 for community renewal of blighted areas must use the real property for
19 a public purpose as enumerated in RCW 8.12.030.

1 (2)(a) If the real property which is the subject of the
2 condemnation poses an identifiable threat to public health, safety, or
3 welfare by reason of the insanitary, unsafe, or substandard condition
4 of the premises or the unlawful use thereof, the condemnation is
5 declared to be a public use and the property condemned does not have to
6 be used for a public purpose.

7 (b) Whenever a municipality seeks to condemn real property under
8 this subsection, the municipality shall comply with the requirements of
9 section 2 of this act.

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

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

21 (1) The owner or owners in whole or part of any real property
22 subject to an action by a municipality to condemn property because it
23 poses an identifiable threat to public health, safety, or welfare by
24 reason of the insanitary, unsafe, or substandard condition of the
25 premises or the unlawful use thereof may, within ninety days of the
26 adoption of an ordinance under RCW 35.81.050(1), or within ninety days
27 of the effective date of this section, initiate formal mediation
28 procedures in an attempt to determine whether the real property poses
29 an identifiable threat to public health, safety, or welfare by reason
30 of the insanitary, unsafe, or substandard condition of the premises or
31 the unlawful use thereof. The mediation shall be conducted by a
32 trained mediator selected by agreement of the owner or owners of the
33 real property and the municipality. The agreement to mediate shall be
34 in writing and subject to chapter 7.07 RCW. If the owner or owners of
35 the real property and the municipality are unable to agree on a
36 mediator, each party shall nominate a mediator and the mediator shall
37 be selected by lot from among the nominees. The mediator must be

1 selected within five days after formal mediation procedures are
2 initiated. The mediation process must be completed within fourteen
3 days from the time the mediator is selected except that the mediation
4 process may extend beyond fourteen days by agreement of the owner or
5 owners in whole or part of any real property subject to an action by a
6 municipality to condemn property and the municipality. The mediator
7 shall, within the fourteen-day period or within the extension if an
8 extension is agreed to, provide the owner or owners of the real
9 property and the municipality with a written summary of the issues and
10 any agreements reached. If the owner or owners of the real property
11 and the municipality agree, the mediation report shall be made
12 available to the superior court of the county in which the real
13 property is located. The cost of the mediation shall be paid by the
14 municipality.

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

30 (3) In any appeal filed under subsection (2) of this section, the
31 municipality has the burden of showing that its finding that real
32 property which is subject of the condemnation poses an identifiable
33 threat to public health, safety, or welfare was supported by
34 substantial evidence at the time the ordinance was adopted.

35 (4) If the court determines that the condition of the real property
36 does not constitute a threat to public health, safety, or welfare, or
37 that it has been repaired so as to eliminate the threat to public

1 health, safety, or welfare, the court shall enter an order that the
2 real property is not subject to condemnation by reason of a threat to
3 public health, safety, or welfare.

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

19 (6) During the period of time the court grants the owner or owners
20 of the real property to cure and correct the detailed physical
21 conditions of the property, any action by the municipality on the
22 condemnation is stayed. The municipality is not liable for any
23 injuries, losses, or damages resulting from the condition of the
24 property occurring during the stay, or resulting from the delay in or
25 failure to cure, correct, or abate any known or unknown condition on
26 the property.

27 (7) If the owner or owners cannot correct the threat to public
28 health, safety, or welfare within the time provided by the court, the
29 municipality is entitled to pursue the condemnation in the normal
30 course.

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