(Reprinted with amendments adopted on April 19, 2005)
FIRST REPRINT **A.B. 143**

ASSEMBLY BILL NO. 143–ASSEMBLYMEN HORNE, GIUNCHIGLIANI, PARKS, CONKLIN, ALLEN, ARBERRY JR., ATKINSON, BUCKLEY, CHRISTENSEN, DENIS, GANSERT, GERHARDT, GOICOECHEA, GRADY, HARDY, HOGAN, KIRKPATRICK, LESLIE, MABEY, MANENDO, MCCLAIN, MORTENSON, MUNFORD, OCEGUERA, OHRENSCHALL, PARNELL, PERKINS, PIERCE, SEALE AND SIBLEY

FEBRUARY 25, 2005

JOINT SPONSORS: SENATORS AMODEI, CARE, CARLTON, WIENER, BEERS, CEGAVSKE, HARDY, HORSFORD, MCGINNESS, NOLAN, TITUS AND WASHINGTON

Referred to Committee on Judiciary

SUMMARY—Makes various changes concerning community redevelopment and eminent domain proceedings. (BDR 22-44)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~[omitted material]~~ is material to be omitted.

AN ACT relating to property; establishing certain requirements that a redevelopment agency must meet before commencing an eminent domain proceeding against a property owner; making various changes concerning factors characterizing a blighted area for purposes of the Community Redevelopment Law; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law allows a redevelopment agency to exercise the power of eminent domain to acquire property for a redevelopment project. (Chapters 37 and 279 of NRS)

This bill requires a redevelopment agency to follow certain procedures before exercising the power of eminent domain to acquire property for a redevelopment project, such as attempting to negotiate in good faith with a property owner and attempting to reach an agreement with the owner regarding the amount of compensation to be paid for the property. A redevelopment agency is required to provide a written offer of compensation and notice to an owner that the property is necessary for redevelopment as well as other information.

This bill provides that an agency must give an owner at least 30 days to accept or reject a written offer of compensation before the agency may commence an eminent domain proceeding.

Existing law allows an agency to prepare plans for the redevelopment of a "blighted area," which is currently defined as an area characterized by at least one of several factors set forth in NRS 279.388. (NRS 279.468)

This bill adds environmental contamination of buildings or property to the factors which characterize a blighted area and increases the number of factors necessary to constitute a blighted area from one or more to at least four.

Existing law provides that in certain larger counties a redevelopment agency may exercise the power of eminent domain for a redevelopment project only if: (1) necessary to carry out the redevelopment plan; (2) the agency adopts a resolution of necessity; and (3) the agency complies with certain other requirements.

This bill makes those provisions applicable to all counties in this State.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 279 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 and 3 of this act.

Sec. 2. ***1. Before an agency may exercise the power of eminent domain to acquire property for a redevelopment project, the agency must:***

(a) Attempt to negotiate in good faith with the owner of the property and to reach an agreement regarding the amount of compensation to be paid for the property;

(b) Provide the owner with a written offer of compensation in the manner set forth in subsection 2 and allow the owner at least 30 days after the date he receives the offer to respond to the offer, unless the offer is returned as undeliverable; and

(c) Provide the owner with a summary of the appraisal report upon which the offer of compensation is based at the time the offer is made.

2. A written offer of compensation required pursuant to subsection 1:

(a) Must include written notice to the owner of the property informing him of the following:

(1) That all or a portion of his property is necessary to carry out the redevelopment plan;

(2) The nature of the intended redevelopment, at the time of the written offer, for which the property is considered necessary;

(3) The parcel number or other reasonably detailed description of the property sought to be acquired;

(4) That the agency has provided a summary of the appraisal report upon which the offer of compensation is based and the location of the office of the agency where the owner may review the full appraisal report;

(5) That the agency will provide copies, to the extent prepared, of any preliminary plans or redevelopment plans within 15 days upon request;

(6) That the agency will provide the owner with a full copy of the agency's appraisal report in exchange for a full copy of an appraisal report of an appraisal performed on behalf of the owner; and

(7) The rights and responsibilities of the owner pursuant to this section.

(b) Must include the value of the property sought to be acquired plus damages, if any, as appraised by the agency.

(c) Must be sent by certified mail, return receipt requested, to the last known address of the owner of the property as shown in the records of the county assessor or by personal delivery. Except as otherwise provided in this paragraph, if there is more than one owner of the property, notice to one owner shall be deemed to be notice to all owners of the property. If the written offer of compensation is returned as undeliverable, no additional notice is required, unless there is another owner and then the written offer of compensation must be sent to or served upon the other owner. The agency is not required to provide an additional written offer of compensation to a person who acquires title to the property after the written offer of compensation has been provided in the manner required pursuant to this paragraph.

Sec. 3. *Before a person who seeks to purchase, lease or otherwise acquire or increase an interest in any property within a redevelopment area may request an agency to exercise the power of eminent domain to acquire the property, the person requesting the redevelopment must negotiate in good faith with the owner of the property to reach an agreement to purchase the property from the owner of the property.*

Sec. 4. NRS 279.382 is hereby amended to read as follows:

279.382 The provisions contained in NRS 279.382 to 279.685, inclusive, *and sections 2 and 3 of this act* may be cited as the Community Redevelopment Law.

Sec. 5. NRS 279.388 is hereby amended to read as follows:

279.388 "Blighted area" means an area which is characterized by ~~[one or more]~~ *at least four* of the following factors:

1. The existence of buildings and structures, used or intended to be used for residential, commercial, industrial or other purposes,

or any combination thereof, which are unfit or unsafe for those purposes and are conducive to ill health, transmission of disease, infant mortality, juvenile delinquency or crime because of one or more of the following factors:

(a) Defective design and character of physical construction.

(b) Faulty arrangement of the interior and spacing of buildings.

(c) Overcrowding.

(d) Inadequate provision for ventilation, light, sanitation, open spaces and recreational facilities.

(e) Age, obsolescence, deterioration, dilapidation, mixed character or shifting of uses.

2. An economic dislocation, deterioration or disuse, resulting from faulty planning.

3. The subdividing and sale of lots of irregular form and shape and inadequate size for proper usefulness and development.

4. The laying out of lots in disregard of the contours and other physical characteristics of the ground and surrounding conditions.

5. The existence of inadequate streets, open spaces and utilities.

6. The existence of lots or other areas which may be submerged.

7. Prevalence of depreciated values, impaired investments and social and economic maladjustment to such an extent that the capacity to pay taxes is ***substantially*** reduced and tax receipts are inadequate for the cost of public services rendered.

8. A growing or total lack of proper utilization of some parts of the area, resulting in a stagnant and unproductive condition of land which is potentially useful and valuable for contributing to the public health, safety and welfare.

9. A loss of population and a reduction of proper use of some parts of the area, resulting in its further deterioration and added costs to the taxpayer for the creation of new public facilities and services elsewhere.

10. The environmental contamination of buildings or property.

Sec. 6. NRS 279.470 is hereby amended to read as follows:

279.470 Within the redevelopment area or for purposes of redevelopment ***,*** an agency may:

1. Purchase, lease, obtain option upon ~~[,]~~ ***or*** acquire by gift, grant, bequest, devise or otherwise, any real or personal property, any interest in property and any improvements thereon.

2. Except as otherwise provided in NRS 279.471, ***and section 2 of this act,*** acquire real property by eminent domain.

3. Clear buildings, structures or other improvements from any real property acquired.

4. Sell, lease, exchange, subdivide, transfer, assign, pledge, encumber by mortgage, deed of trust or otherwise, or otherwise dispose of any real or personal property or any interest in property.

5. Insure or provide for the insurance of any real or personal property or operations of the agency against risks or hazards.

6. Rent, maintain, manage, operate, repair and clear such real property.

Sec. 7. NRS 279.471 is hereby amended to read as follows:

279.471 1. ~~[In a county whose population is 100,000 or more, an]~~ ***An*** agency may exercise the power of eminent domain to acquire property for a redevelopment project only if:

(a) The property sought to be acquired is necessary to carry out the redevelopment plan;

(b) The agency has adopted a resolution of necessity that complies with the requirements set forth in subsection 2; and

(c) The agency has ~~[made every reasonable effort to negotiate the purchase of the property.]~~ ***complied with the provisions of section 2 of this act.***

2. A resolution of necessity required pursuant to paragraph (b) of subsection 1 must set forth:

(a) A statement that the property will be acquired for purposes of redevelopment as authorized pursuant to subsection 17 of NRS 37.010 and subsection 2 of NRS 279.470;

(b) A reasonably detailed description of the property to be acquired;

(c) A finding by the agency that the public interest and necessity require the acquisition of the property;

(d) A finding by the agency that acquisition of the property will be the option for redevelopment that is most compatible with the greatest public good and the least private injury; and

(e) A finding by the agency that acquisition of the property is necessary for purposes of redevelopment.

3. After an agency adopts a resolution of necessity, the resolution so adopted and the findings set forth in the resolution are final and conclusive and are not subject to judicial review unless credible evidence is adduced to suggest that the resolution or the findings set forth therein were procured through bribery or fraud.

Sec. 8. The amendatory provisions of this act apply to an action in eminent domain that is filed on or after the effective date of this act.

Sec. 9. The amendatory provisions of section 5 of this act do not apply to a redevelopment area that is adopted by a governing body before the effective date of this act, but do apply to any annexations thereto that are adopted by the governing body on or after the effective date of this act.

Sec. 10. This act becomes effective upon passage and approval.

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