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HOUSE BILL 110

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

James Roger Madalena

AN ACT

RELATING TO PROPERTY; AMENDING THE METROPOLITAN REDEVELOPMENT  
CODE TO ALLOW THE LIMITED USE OF EMINENT DOMAIN TO ACQUIRE  
VACANT PROPERTY TO CORRECT OBSOLETE OR IMPRACTICAL PLANNING AND  
PLATTING OF A SUBDIVISION; IMPOSING LIMITATIONS ON THE USE OF  
EMINENT DOMAIN FOR THE PURPOSES OF A REDEVELOPMENT PLAN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 3-60A-1 NMSA 1978 (being Laws 1979,  
Chapter 391, Section 1) is amended to read:

"3-60A-1. SHORT TITLE.--~~[This act]~~ Chapter 3, Article 60A  
NMSA 1978 may be cited as the "Metropolitan Redevelopment  
Code"."

SECTION 2. A new section of the Metropolitan  
Redevelopment Code is enacted to read:

"[NEW MATERIAL] USE OF EMINENT DOMAIN IN BLIGHTED AREAS--

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1       LIMITATIONS.--

2                   A. Notwithstanding the provisions of Sections  
3       3-60A-3 and 3-60A-10 NMSA 1978 to the contrary, a municipality  
4       may acquire any interest in real property, including fee simple  
5       title to the property, in a blighted area by eminent domain if:

6                   (1) the property is located within the  
7       boundaries of the municipality on or before July 1, 2011;

8                   (2) the municipality has a population greater  
9       than seventy-five thousand according to the most recent federal  
10      decennial census;

11                  (3) more than ten thousand vacant or  
12      unimproved subdivision lots are located within the municipal  
13      boundaries;

14                  (4) the property to be condemned is part of a  
15      subdivision platted prior to 1973;

16                  (5) the property to be condemned does not  
17      include existing homes, businesses or other habitable  
18      structures;

19                  (6) condemnation is necessary to correct  
20      obsolete or impractical planning and platting of the  
21      subdivision within which the property is located;

22                  (7) the property is located in an area that is  
23      part of a metropolitan redevelopment plan adopted by the  
24      municipality pursuant to the Metropolitan Redevelopment Code;

25                  (8) the municipality, to the greatest feasible

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1 extent, affords maximum opportunity for the rehabilitation or  
2 redevelopment of the metropolitan redevelopment areas by  
3 private enterprise pursuant to the provisions of Section  
4 3-60A-6 NMSA 1978;

5 (9) in accordance with the provisions of  
6 Sections 42A-1-5 and 42A-1-16 NMSA 1978, a condemnee is  
7 provided sixty days after written notice by the condemnor of  
8 its intent to file a condemnation action in district court to  
9 give written notice to the condemnor requesting an appraisal to  
10 determine the amount that would constitute just compensation  
11 for the taking of the condemnee's property; and

12 (10) any final judgment of condemnation  
13 pursuant to the provisions of this section awarding an amount  
14 higher than the appraised value tendered by the municipality or  
15 the private enterprise on behalf of the municipality is  
16 required to result in an award to the condemnee of all the  
17 condemnee's litigation expenses, as that term is used in the  
18 Eminent Domain Code.

19 B. If a municipality is authorized to acquire real  
20 property by condemnation pursuant to Subsection A of this  
21 section, but the process of redevelopment results in the  
22 conditions of Paragraph (3) of Subsection A of this section no  
23 longer being met, that municipality may continue to use the  
24 power of eminent domain in accordance with the provisions of  
25 this section if all other conditions imposed by Subsection A of

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1 this section are met.

2 C. If the metropolitan redevelopment plan includes  
3 provisions for private interests in a metropolitan  
4 redevelopment project and the property owner rejects the  
5 municipality's offer of an amount of money equal to the  
6 appraised value of the owner's property as just compensation  
7 for acquisition of the property, the municipality may offer to  
8 the owner a participatory interest in the project equal to the  
9 percentage of the appraised value of the owner's property in  
10 the project. As used in this subsection, "participatory  
11 interest" includes all the rights, duties, obligations and  
12 risks of the owner of the project, including the right to  
13 transfer the interest to a third party. The metropolitan  
14 redevelopment plan shall set forth the specific terms and  
15 conditions of any included participatory interest rights.

16 D. After June 30, 2031, a municipality shall not  
17 use the provisions of this section to acquire any interest in  
18 real property by eminent domain; provided that a metropolitan  
19 redevelopment plan action begun before July 1, 2031 pursuant to  
20 the provisions of this section but not yet completed may be  
21 completed using the powers granted by the provisions of this  
22 section."

23 **SECTION 3.** Section 42A-1-5 NMSA 1978 (being Laws 1980,  
24 Chapter 20, Section 5) is amended to read:

25 "42A-1-5. APPRAISAL--OFFER.--

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1           A. If the parties are unable to negotiate a  
2 settlement, the condemnee may, within twenty-five days after  
3 written notice by the condemnor of its intent to file a  
4 condemnation action in district court, or within sixty days in  
5 the case of a municipality that files a condemnation notice  
6 pursuant to the Metropolitan Redevelopment Code, give written  
7 notice to the condemnor requesting an appraisal to determine  
8 the amount that would constitute just compensation for the  
9 taking of the condemnee's property and obtained from:

10                         (1) one appraiser appointed by the condemnor;

11                         (2) one appraiser appointed by the condemnee;

12 and

13                         (3) one appraiser jointly appointed by the  
14 appraisers for the condemnor and the condemnee.

15           B. The condemnee and condemnor shall appoint their  
16 respective appraisers within fifteen days after notice has been  
17 given by the condemnee to the condemnor pursuant to the  
18 provisions of Subsection A of this section, and the third  
19 appraiser shall be jointly appointed within fifteen days  
20 thereafter.

21           C. The appraisals shall be in writing and signed by  
22 the appraisers. The appraisers shall deliver copies to each  
23 party personally or by registered mail or certified mail,  
24 return receipt requested.

25           D. The fees and expenses of the appraisers shall be

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1 paid by the appointing parties; provided, however, that the  
2 condemnee and condemnor shall share equally in paying the fees  
3 and expenses of the jointly appointed appraiser.

4 E. After receiving a copy of the appraisals  
5 provided for pursuant to this section, the condemnor may  
6 establish an amount [~~which~~] that it believes to be just  
7 compensation and may submit to the condemnee an offer to  
8 acquire the property for the full amount so established. If  
9 the condemnor tenders an offer pursuant to this section, the  
10 amount offered for the property shall not be less than the  
11 amount of compensation shown by the final common appraisal of  
12 the three appraisers, or, if all three appraisers do not agree,  
13 the offer shall not be less than the appraisal prepared by the  
14 condemnor's appraiser. The condemnee must reject or accept the  
15 offer made by the condemnor pursuant to this section within  
16 fifteen days after the offer is tendered."

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