

1 STATE OF OKLAHOMA

2 1st Session of the 51st Legislature (2007)

3 COMMITTEE SUBSTITUTE

4 FOR

5 HOUSE BILL NO. 1482

6 By: Hickman

7 COMMITTEE SUBSTITUTE

8 An Act relating to eminent domain; amending 11 O.S.
9 2001, Section 38-101, which relates to definitions
10 for the Urban Renewal article; modifying definition;
11 amending 11 O.S. 2001, Section 40-113, which relates
12 to definitions for the Neighborhood Redevelopment
13 Act; modifying definition; amending 62 O.S. 2001,
14 Section 854, as last amended by Section 2, Chapter
15 210, O.S.L. 2005 (62 O.S. Supp. 2006, Section 854),
16 which relates to Local Development Act; expressing
17 that act does not grant certain power; amending 63
18 O.S. 2001, Section 1094, which relates to relocation
19 assistance; requiring certain assistance for any
20 project that involves certain acquisition of
21 property; and declaring an emergency.

22 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

23 SECTION 1. AMENDATORY 11 O.S. 2001, Section 38-101, is
24 amended to read as follows:

Section 38-101. The provisions of this article shall apply to
all municipalities in this state except as otherwise provided. The
following terms whenever used or referred to in Sections 38-101

1 through 38-119 of this title shall have the following meanings,
2 unless a different meaning is clearly indicated by the context:

3 1. "Authority" or "Urban Renewal Authority" ~~shall mean~~ means a
4 public body corporate created by Section 38-107 of this title;

5 2. "Public body" ~~shall mean~~ means the state or any incorporated
6 city, town, board, commission, authority, district, or any
7 subdivision or public body of the state;

8 3. "Municipality" ~~shall mean~~ means any incorporated city or
9 town;

10 4. "Municipal governing body" ~~shall mean~~ means the council,
11 board of trustees, or other body duly charged with governing a
12 municipality;

13 5. "Mayor" ~~shall mean~~ means the mayor of a municipality or
14 other officer or body having the duties customarily imposed upon the
15 executive head of a municipality;

16 6. "Clerk" ~~shall mean~~ means the clerk or other official of a
17 municipality who is the custodian of the official records of the
18 municipality;

19 7. "Federal Government" ~~shall include~~ includes the United
20 States of America or any agency or instrumentality, corporate or
21 otherwise, of the United States of America;

22 8. "Blighted area" ~~shall mean~~ means an area in which there are
23 properties, buildings, or improvements, whether occupied or vacant,
24 whether residential or nonresidential, which by reason of

1 dilapidation, deterioration, age or obsolescence, inadequate
2 provision for ventilation, light, air, sanitation or open spaces;
3 population overcrowding; improper subdivision or obsolete platting
4 of land, inadequate parcel size; arrested economic development;
5 improper street layout in terms of existing or projected traffic
6 needs, traffic congestion or lack of parking or terminal facilities
7 needed for existing or proposed land uses in the area, predominance
8 of defective or inadequate street layouts; faulty lot layout in
9 relation to size, adequacy, accessibility or usefulness; insanitary
10 or unsafe conditions, deterioration of site or other improvements;
11 diversity of ownership, tax or special assessment delinquency
12 exceeding the fair value of the land; defective or unusual
13 conditions of title; any one or combination of such conditions which
14 substantially impair or arrest the sound growth of municipalities,
15 or constitutes an economic or social liability, or which endangers
16 life or property by fire or other causes, or is conducive to ill
17 health, transmission of disease, mortality, juvenile delinquency, or
18 crime and by reason thereof, is detrimental to the public health,
19 safety, morals or welfare; except that such conditions shall not
20 constitute blight in an area primarily devoted to farming, ranching,
21 or forestry;

22 9. "Urban renewal project" or "redevelopment project" may
23 include undertakings and activities of a municipality, an urban
24 renewal authority, redevelopment corporation, person or other

1 corporation, in an urban renewal area for the elimination and for
2 the prevention of the development or spread of blight, and may
3 involve clearance and redevelopment in an urban renewal area, or
4 rehabilitation or conservation in an urban renewal area, or any
5 combination or part thereof in accordance with an urban renewal
6 plan. Such undertakings may include: ~~(a)~~

7 a. acquisition of a blighted area or portions thereof~~;~~

8 ~~(b)~~,

9 b. demolition and removal of buildings and improvements~~;~~

10 ~~(c)~~,

11 c. installation, construction or reconstruction of
12 streets, off-street parking facilities, utilities,
13 parks, playgrounds, and other improvements necessary
14 for carrying out in the urban renewal area the urban
15 renewal objectives of this article in accordance with
16 the urban renewal plan~~;~~ ~~(d)~~,

17 d. disposition of any property for uses in the urban
18 renewal area or the leasing or retention of such
19 property for uses in accordance with the urban renewal
20 plan~~;~~ ~~(e)~~,

21 e. carrying out plans for a program of voluntary or
22 compulsory repair and rehabilitation of buildings or
23 other improvements in accordance with the urban
24 renewal plan~~;~~, or ~~(f)~~

1 f. acquisition of any other real property in the area
2 where necessary to eliminate unhealthful, insanitary
3 or unsafe conditions, lessen density, eliminate
4 obsolete or other uses detrimental to the public
5 welfare, or otherwise to remove or prevent the spread
6 of blight or deterioration, or to provide land for
7 needed public facilities;

8 10. "Urban renewal area" means a blighted area within which the
9 governing body of a municipality designates an area appropriate for
10 an urban renewal project;

11 11. "Urban renewal plan" means a plan officially adopted by the
12 municipal governing body, as it exists or is changed from time to
13 time, for an urban renewal project, which plan shall: (a) conform
14 to the general plan for the municipality as a whole except as
15 provided in subsection I of Section 38-106(e) of this title; and (b)
16 be sufficiently complete to indicate such land acquisition,
17 demolition and removal of structures, redevelopment, improvements,
18 and rehabilitation as may be proposed to be carried out in the urban
19 renewal area, zoning and planning changes, if any, land uses,
20 maximum densities, building requirements, and the plan's
21 relationship to definite local objectives respecting appropriate
22 land uses, traffic, public transportation, public utilities,
23 recreational and community facilities, and other public

1 improvements, and plans for financing the project, and plans for the
2 relocation of families and businesses to be displaced;

3 12. "Real property" ~~shall include~~ includes all lands, including
4 improvements and fixtures thereon, and property of any nature
5 appurtenant thereto, or used in connection therewith, and every
6 estate, interest, right and use, legal or equitable, therein,
7 including terms for years and liens by way of judgment, mortgage or
8 otherwise;

9 13. "Notes" ~~shall mean~~ means any notes (including refunding
10 notes), interim certificates of indebtedness, debentures or other
11 obligations;

12 14. "Obligee" ~~shall include~~ includes any bondholder, agents or
13 trustees for any bondholders, or lessor demising to the municipality
14 property used in connection with an urban renewal project, or any
15 assignee or assignees of such lessor's interest or any part thereof,
16 and the Federal Government when it is a party to any contract with
17 the Urban Renewal Authority or the municipality;

18 15. "Person" ~~shall mean~~ means any individual, firm,
19 partnership, corporation, company, association, joint stock
20 association, or body politic; and shall include any trustee,
21 receiver, assignee, or other person acting in a similar
22 representative capacity;

23 16. "Area of operation" ~~shall mean~~ means the area within the
24 corporate limits of the municipality;

1 17. "Board" or "Commission" ~~shall mean~~ means a board,
2 commission, department, division, office, body or other unit of the
3 municipality;

4 18. "Public officer" ~~shall mean~~ means any officer who is in
5 charge of any department or branch of the government of a
6 municipality relating to health, fire, building regulations, or to
7 other activities concerning dwellings in its area of operation; and

8 19. "Redevelopment corporation" ~~shall mean~~ means a corporation
9 organized under the provisions of Section 38-117 of this title.

10 SECTION 2. AMENDATORY 11 O.S. 2001, Section 40-113, is
11 amended to read as follows:

12 Section 40-113. The following terms, whenever used or referred
13 to in this act, shall, unless a different intent clearly appears
14 from the context, be constructed to have the following meaning:

15 1. "Blighted conditions" means conditions which, except in an
16 area primarily devoted to farming, ranching, or forestry purposes,
17 because of the presence of a majority of the following factors,
18 substantially impair or arrest the sound development and growth of
19 the municipality or constitute an economic or social liability or
20 are a menace to the public health, safety, morals or welfare in its
21 present condition and use:

22 a. a substantial number of deteriorated or deteriorating
23 structures,

24 b. predominance of defective or inadequate street layout,

- c. unsanitary or unsafe conditions,
- d. deterioration of site improvements,
- e. absentee ownership,
- f. tax or special assessment delinquency exceeding the fair value of the land,
- g. defective or unusual conditions of title,
- h. improper subdivision or obsolete platting or land uses,
- i. the existence of conditions which endanger life or property by fire and other causes, or
- j. conditions which create economic obsolescence, or areas containing obsolete, nonfunctioning or inappropriately developed structures;

2. "Governing body" means the city council, city commission or town board of trustees;

3. "Neighborhood" means a contiguous geographic area within a city or town that is characterized by a predominant building style or function, and may apply to residential, commercial or industrial areas;

4. "Program plan" means a plan for the redevelopment of all or a portion of a redevelopment district, which the governing body of a city or town has found to contain blighted conditions, so that the clearance, replatting, rehabilitation or reconstruction thereof is necessary to effectuate the purposes of this act;

1 5. "Project plan" means a specific work or improvement to
2 effectuate all or a portion of a program plan;

3 6. "Redevelopment" shall mean the clearance, planning,
4 construction, rehabilitation, or renovation of all or a portion of a
5 redevelopment district, and the provision for such industrial,
6 commercial, retail, residential or public structures and spaces as
7 may be appropriate, including recreational and other facilities
8 incidental or appurtenant thereto;

9 7. "Redevelopment district" means that portion of a city or
10 town which the governing body of such city or town has found to
11 contain blighted conditions;

12 8. "Redevelopment plan" means a plan for the redevelopment of
13 all or a portion of a redevelopment district; and

14 9. "Redevelopment trust" means a public trust established in
15 accordance with Section 176 et seq. of Title 60 of the Oklahoma
16 Statutes which has the power to undertake redevelopment activities.

17 SECTION 3. AMENDATORY 62 O.S. 2001, Section 854, as last
18 amended by Section 2, Chapter 210, O.S.L. 2005 (62 O.S. Supp. 2006,
19 Section 854), is amended to read as follows:

20 Section 854. In addition to any other powers conferred by law,
21 a city, town or county may exercise any powers necessary to carry
22 out the purpose of ~~this act~~ the Local Development Act, including
23 power to:

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- 1 1. Establish districts and create plans pursuant to the
2 provisions of ~~this act~~ the Local Development Act;
- 3 2. Cause project plans to be prepared, to approve the plans,
4 and to implement the provisions and effectuate the purposes of the
5 plans;
- 6 3. Cause bonds to be issued by public entities as provided for
7 in Section 863 of this title;
- 8 4. Apportion local taxes or local fees and direct the use of
9 local taxes and local fees for the purpose provided for in ~~this act~~
10 the Local Development Act. Pursuant to Section 6C of Article X of
11 the Constitution of the State of Oklahoma, a direction of
12 apportionment may be prospective and may continue for one (1) or
13 more years, and apportioned tax increments may be pledged beyond the
14 current fiscal year to the repayment of indebtedness of other public
15 entities, notwithstanding the provisions of Section 26 of Article X
16 of the Constitution of the State of Oklahoma or any other provisions
17 of law;
- 18 5. Enter into any contracts or agreements determined by the
19 governing body to be necessary or convenient to implement the
20 provisions and effectuate the purposes of project plans;
- 21 6. Receive, from the federal government or the state, loans and
22 grants for, or in aid of a project and to receive contributions from
23 any other source to defray project costs;

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1 7. Grant tax incentives or exemptions in the manner provided
2 for in ~~this act~~ the Local Development Act;

3 8. Acquire by purchase, donation or lease, and own, convey,
4 lease, mortgage, or dispose of land and other property, real or
5 personal, or rights or interests therein;

6 9. Clear and improve property acquired by it pursuant to the
7 project plan and construct public facilities on it or contract for
8 the construction, development, redevelopment, rehabilitation,
9 remodeling, alteration, or repair of the property;

10 10. Cause parks, playgrounds, or schools, including capital
11 improvements to public schools, or water, sewer, or drainage
12 facilities or any other public improvements which it is otherwise
13 authorized to undertake, to be laid out, constructed, or furnished
14 in connection with the project;

15 11. Lay out and construct, alter, relocate, change the grade
16 of, make specific repairs upon, or discontinue public ways and
17 construct sidewalks in, or adjacent to, the project area;

18 12. Cause sidewalks, ways for vehicular travel, playgrounds, or
19 water, sewer, or drainage facilities and similar improvements to be
20 constructed within the project area for the particular benefit of
21 the project area or those dwelling or working in it;

22 13. Adopt ordinances or resolutions or repeal or modify such
23 ordinances or resolutions or establish exceptions to existing
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1 ordinances and resolutions regulating the design, construction, and
2 use of buildings;

3 14. Sell, mortgage, lease, transfer, or dispose of any
4 property, or interest therein, acquired by it pursuant to the
5 project plan for development, redevelopment, or rehabilitation in
6 accordance with the plan, upon such terms and conditions determined
7 by the governing body to be appropriate for achieving the objectives
8 of the project plan; provided, in the event of disposition by lease
9 or sublease to a lessee not entitled to a tax exemption, the
10 improvements placed thereon shall not be entitled to a tax
11 exemption;

12 15. Incur project costs;

13 16. Designate a public entity to exercise the powers enumerated
14 in this section, except paragraphs 1, 4 and 7 of this section;

15 17. Invest project revenues as provided in ~~this act~~ the Local
16 Development Act; and

17 18. Do all things necessary or convenient to carry out the
18 powers granted in ~~this act~~ the Local Development Act and otherwise
19 authorized by the laws of this state. Provided, nothing in the
20 Local Development Act shall be construed to grant a public entity
21 the power of eminent domain or authorize the exercise of such power.

22 SECTION 4. AMENDATORY 63 O.S. 2001, Section 1094, is
23 amended to read as follows:

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1 Section 1094. Funds appropriated or otherwise available to any
2 state agency for the acquisition of real property or any interest
3 therein for a particular program or project shall be available also
4 for obligation and expenditure to carry out the provisions of ~~this~~
5 ~~act~~ the Oklahoma Relocation Assistance Act as applied to that
6 program or project.

7 SECTION 5. It being immediately necessary for the preservation
8 of the public peace, health and safety, an emergency is hereby
9 declared to exist, by reason whereof this act shall take effect and
10 be in full force from and after its passage and approval.

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