



**The City of
OKLAHOMA
CITY**

Municipal Counselor's Office

TO: Willa Johnson, Ward 7 Councilperson

FROM: Daniel T. Brummitt
Assistant Municipal Counselor

DATE: July 19, 2006

RE: Condemnation of Private Property for Redevelopment

The Federal Government, the State of Oklahoma, Oklahoma County, The City of Oklahoma City and various federal, state and local agencies have the power to condemn or take private property for a public use within Oklahoma City. This memo is limited to the authority of the City to cause property to be condemned for redevelopment purposes and the process involved when this occurs.

The City's power to condemn or take private property for public use is strictly controlled by the Constitution and laws of the State of Oklahoma.

Article 2, Section 24 of the Oklahoma Constitution provides that private property shall not be taken for public use without the payment of just compensation.

This means that if your property is being condemned, the City must pay you the fair market value for the property. The Constitution provides that the City cannot take possession of your property until the fair market value has been paid to you or deposited with the Court for you.

In Oklahoma, private property can only be taken by the City for a public use. There must be a specific state statute or law that gives the City the right to take private property for a specific public use.

In Oklahoma, private property cannot be taken for "economic development" purposes. This means that the City cannot condemn your property solely for the purpose of selling to another private party for development.

However, in Oklahoma, private property can be taken for the elimination of "blight" and for the purpose of having the property redeveloped to prevent the reoccurrence of blight. Oklahoma City is authorized to take blighted property and sell it for redevelopment by the Oklahoma Urban Renewal Law.

Since the 1960's, numerous blighted areas have been redeveloped in Oklahoma City under the provisions of the Oklahoma Urban Renewal Law.

Under Oklahoma Urban Renewal Law, only the Oklahoma City Urban Renewal Authority is authorized to condemn blighted property for redevelopment in Oklahoma City. However, before the Urban Renewal Authority can condemn private property, the City Council must: 1) declare the area in which the property is located is blighted, 2) approve an Urban Renewal Plan for the redevelopment of the area and 3) authorize the Urban Renewal Authority to use the power of condemnation to acquire property within the area.

"Blight" is defined in Oklahoma Urban Renewal Law as one or more of the following conditions: dilapidation, deterioration, inadequate sanitation or open space, population overcrowding, improper or obsolete subdivision, improper street layout, traffic congestion or lack of parking for existing or proposed uses, unsanitary or unsafe conditions, diversity of ownership or unusual conditions of title, tax assessments that exceed the value of the property, or other conditions that substantially impair or arrest growth or constitute an economic or social liability or endangers life or property.

It is important to note that each lot or tract of property does not have to meet the definition of blighted. Conditions of blight as used in the Oklahoma Urban Renewal Law apply generally to the area in which a particular piece of property is located.

An example of such a blighted area would be the area around the old Mercy Hospital site at NW 12th Street and Shartel Avenue, which was vacant and abandoned for many years. The building was dilapidated and contaminated with hazardous materials such as asbestos. It was frequently occupied by transients who set fires in the building. The property was an eyesore, a health and safety hazard and reduced the value of other property in the area. An area around the hospital was declared blighted by the City Council, an Urban Renewal Plan was adopted for the area and the Urban Renewal Authority was authorized to condemn the property. The Urban Renewal Authority condemned the property, the building was demolished and the property was then offered for sale for redevelopment, pursuant to an Urban Renewal Redevelopment Agreement in accordance with the Urban Renewal Plan for the area.

In the condemnation process, the Urban Renewal Authority must first make a good faith attempt to purchase the property from the owner for its appraised value. Only if the owner refuses to sell the property for a fair price is the Urban Renewal Authority allowed to go to Court to take the property by condemnation. The purchase price is negotiable.

If the Urban Renewal Authority cannot reach an agreement with the owner, then it can go to Court to condemn the property. The condemnation process is a lawsuit filed by the Urban Renewal Authority against the property owner. The owner is given notice of the condemnation case like any other lawsuit and the owner may appear in Court to represent themselves or may hire an attorney to do so. The first step in the condemnation process is for the judge to select three appraisers, called Commissioners, to appraise the property and report to the Court their determination of the fair market value of the property.

Fair market value is usually determined based upon the purchase price of similar property recently sold on the open market. The property does not have to be zoned before it can be condemned, but zoning may affect the value of the property.

The Commissioners then agree on a value for the property, which they submit in a Report to the judge. This is called the Commissioners Award. The Urban Renewal Authority then has to deposit the amount of the Commissioners Award with the Court Clerk. The property owner is then entitled to withdraw the Commissioners Award from the Court Clerk at any time. Once the Commissioners Award is deposited with the Court Clerk, the Urban Renewal Authority is entitled to possession of the property. If the property owner does not voluntarily vacate the property, the Urban Renewal Authority can go to Court and request the judge to issue an order to have the property owner evicted. However, this almost never happens. The Urban Renewal Authority will work with the property owner to allow them a reasonable time to relocate.

The Urban Renewal Authority always pays the property owner relocation benefits under the guidelines of the Oklahoma Relocation Assistance Act.

If the property owner is satisfied with the amount of the Commissioners Award, they can accept that amount as payment for the property and the process ends there. If the property owner is not satisfied with the amount of the Commissioners Award, they can demand a jury trial. In this case, a 12-person jury will decide how much the owner will receive for their property. However, the jury verdict may be more or less than the Commissioners Award. If the property owner is not satisfied with the jury verdict, they can appeal the verdict to the Oklahoma Supreme Court.

Finally, the Urban Renewal Authority bears all of the costs of the condemnation process. The property owner is not required to pay anything unless they choose to hire an attorney to represent them.

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