

CHAPTER 219

AN ACT to repeal 66.431 (5) (b) 2; and to amend 32.05 (intro. par.), 32.06 (3), (5) and (6) and 66.431 (3) (d), (4) (g) (intro. par.), (5) (b) 3 and (6) (b) 3 of the statutes, relating to clarification of certain procedures in eminent domain actions.

*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

SECTION 1. 32.05 (intro. par.) of the statutes is amended to read:

32.05 (intro. par.) This section does not apply to town highways created or altered under ch. 80 except as to jury trials on appeals ~~provided for by~~ *under* ss. 80.24 and 80.25, nor to proceedings in cities of the 1st class under chapter 275, laws of 1931, as amended (Kline Law). All other condemnation of property for public alleys, streets, highways, airports or storm sewers and sanitary sewers or watercourses ~~undertaken by sewerage commissions governing metropolitan sewerage districts created by s. 59.96 or 66.20~~ shall proceed as follows:

SECTION 2. 32.06 (3), (5) and (6) of the statutes are amended to read:

32.06 (3) The condemnor shall make and serve the jurisdictional offer and notice in the form (insofar as applicable) and manner of service ~~as~~ provided in s. 32.05 (3) and (4), but lis pendens shall not be filed until date of petition under sub. (7). The offer shall state that if it is not accepted within 20 days, the condemnor may petition for a determination of just compensation by county condemnation commissioners and that either party may appeal from ~~such determination~~ *the award of the county condemnation commissioners* to the circuit court within 60 days *as provided in sub. (10)*.

(5) When an owner desires to contest the right of the condemnor to condemn the property described in the jurisdictional offer, for any reason other than that the amount of compensation offered is inadequate, such owner may within 40 days from the date of personal service of the jurisdictional offer or within 40 days from the date of postmark of the certified mail letter transmitting such offer, or within 40 days after date of publication of the jurisdictional offer as to persons for whom such publication was necessary and was made, commence an action in the circuit court of the county wherein the property is located, naming the condemnor as defendant. Such action shall be the only manner in which any issue other than the amount of just compensation or other than proceedings to perfect title under ss. 32.11 and 32.12 may be raised pertaining to the condemnation of the property described in the jurisdictional offer. The trial of the issues raised by the pleadings in such action shall be given precedence over all other actions in said court then not on trial. If such action is not commenced within the time limited the owner or other person having any interest in the property shall be forever barred from raising any such objection in any other manner. The commencement of an action by an owner under this subsection shall not prevent a condemnor from filing the petition provided for in sub. (7) and proceeding thereon. Nothing in this subsection shall be construed to limit in any respect the right to determine the necessity of taking as conferred by s. 32.07 nor to prevent the condemnor from proceeding with condemnation during the pendency of the action to contest the right to condemn. This section shall

not apply to any ~~project initiated under~~ owner who had a right to bring a proceeding pursuant to s. 66.431 (7) prior to its repeal by chapter 526, laws of 1961, effective on October 7, 1961, and, in lieu of this section, s. 66.431 (7) as it existed prior to such effective date of repeal shall ~~govern~~ be his exclusive remedy.

(6) The owner has 20 days from the date of personal service of the jurisdictional offer or 20 days from the date of postmark of the certified mail letter transmitting such offer or 20 days from the date of filing the final judgment order or remittitur in the circuit court of the county in an action commenced under sub. (5), if the judgment permits the taking of the land, in which to accept the jurisdictional offer *and deliver the same to the condemnor*. If the offer is accepted, the transfer of title shall be accomplished within 60 days after acceptance including payment of the consideration stipulated in such offer unless such time is extended by mutual written consent of the condemnor and condemnee. If the jurisdictional offer is rejected in writing by all of the owners of record the condemnor may proceed to petition in condemnation forthwith. If the owner fails to convey the condemnor may proceed as hereinafter set forth.

SECTION 3. 66.431 (3) (d), (4) (g) (intro. par.), (5) (b) 3 and (6) (b) 3 of the statutes are amended to read:

66.431 (3) (d) Following the adoption of such resolution, such city shall thereafter be precluded from exercising the powers provided in s. 66.43 (4), and the authority ~~shall have~~ *has* exclusive power to proceed to carry on the blight elimination, slum clearance and urban renewal projects in such city. A city which has initiated a redevelopment project may complete, operate and maintain such project, notwithstanding the organization and functioning of an authority in such city. Such authority may, with the consent of the local legislative body of such city, pursuant to an agreement with such city, take over a planned or existing redevelopment project instituted by such city, and upon such terms and conditions as it determines, not inconsistent with this section, contract to assume, exercise, continue, perform and carry out all undertakings, obligations, liabilities, duties, rights, powers, plans and activities of such city relating to such project; but no such action shall be taken if there is evidence of indebtedness of such city issued on account of such project, unless all holders of such evidence of indebtedness have previously consented in writing to such action. In those cases where a redevelopment authority created under this section has by agreement with a city taken over a planned or existing redevelopment project instituted by a city under ss. 66.405 to 66.425, and such city has complied with the provisions of existing statutes, including provisions relating to the designation of the project area for redevelopment, the approval by the local legislative body of the redevelopment plan of the project area, and the holding of a public hearing by the local legislative body on the project plan, it shall not be necessary for the redevelopment authority to comply with the provisions contained in ~~subs. sub. (6) and (7)~~ relating to such provisions, it being the intention of this paragraph that all actions taken by a city under ss. 66.405 to 66.425 in reference to the formulation of a redevelopment project, the approval of plans, the holding of a public hearing on the plan, and all other statutory requirements taken by such city prior to the actual assumption and jurisdiction and control by the redevelopment authority shall be considered to be in compliance with parallel or similar provisions of this section and especially with the pertinent provisions of sub. (6) (a) to (f) and the provisions and requirements of such provisions need not be repeated or again complied with.

(4) (g) (intro. par.) "Blight elimination, slum clearance and urban renewal project", "redevelopment and urban renewal project", "redevelop-

opment or urban renewal project", "redevelopment project", "urban renewal project"; and "project" mean undertakings and activities in a project area for the elimination and for the prevention of the development or spread of slums and blight, and may involve clearance and redevelopment in a project area, or rehabilitation or conservation in a project area, or any combination or part thereof in accordance with a "redevelopment plan", "urban renewal plan", "redevelopment or urban renewal plan", "project area plan", or "redevelopment and urban renewal plan" (either one of which means the redevelopment plan of the project area prepared and approved as provided in ~~sub. (6) and (7)~~). Such undertakings and activities may include:

(5) (b) 3. ~~In the instance~~ Where a public hearing has been held with respect to a project area under this section the authority may proceed with such project and the redevelopment plan by following the procedure set forth in ch. 32. Any owner of property who has filed objections to the ~~inclusion of his property within the redevelopment plan as provided for by~~ ~~under sub. (7) (6)~~ may be entitled to the ~~remedies provided in ch. 32~~ ~~a remedy as determined by s. 32.06 (5)~~.

(6) (b) 3. Approval of a redevelopment plan of a project area by the authority may be given only after a public hearing conducted by the authority and a finding by the authority that such plan is feasible and in conformity with the general plan of the city. Notice of such hearing, describing the time, date, place and purpose of the hearing and generally identifying the project area, shall be given by publication at least once during each of 3 consecutive weeks in a newspaper or newspapers having general circulation in the city, the last publication to be at least 20 days prior to the date set for the hearing. In addition thereto, a notice shall be served at least 20 days prior to the date set for the hearing on the proposed redevelopment plan of the project area upon each owner of real property of record within the boundaries of the redevelopment plan in the same manner as a summons is served. If such owner cannot be found after diligent search, within the county in which such project is located or the contiguous counties, ~~then~~ notice may be given by posting the same at least 20 days prior to the date of hearing on any structure located on the property; or if such property consists of vacant land, a notice may be posted in some suitable and conspicuous place on such land. Such notice shall state the time and place at which the hearing will be held with respect to the redevelopment plan and that the owner's property might be taken for urban renewal. For the purpose of ascertaining the name of the owner of record of the real property within such project boundaries, the records, at the time of the approval of the project boundaries, of the register of deeds of the county in which such project is located shall be deemed conclusive. Failure to receive such notice shall not invalidate the plan. A sheriff's affidavit of service of such notice or posting thereof filed as a part of the records of the authority shall be deemed prima facie evidence of the giving of such notice. All interested parties shall be afforded a full opportunity to express their views respecting the proposed plan at such public hearing, but the hearing shall only be for the purpose of assisting the authority in making its determination and in submitting its report to the local legislative body. Any technical omission in the procedure outlined herein shall not be deemed to invalidate the plan. Any owner of property included within the boundaries of the redevelopment plan and objecting to such plan shall be required to state his objections and the reasons therefor in writing and file the same with the authority either prior to, at the time of the public hearing, or within 15 days thereafter, but not subsequently thereto. He shall state his mailing address and sign his name thereto. The filing of such objections in writing shall be a condition precedent to the ~~filing of a petition under sub. (7) (a)~~ ~~commencement~~

*of an action to contest the right of the redevelopment authority to condemn the property under s. 32.06 (5).*

SECTION 4. 66.431 (5) (b) 2 of the statutes is repealed.

Approved August 18, 1965.

---