



General Assembly

Amendment

February Session, 2006

LCO No. 5445

SB0003405445SR0

Offered by:

SEN. FASANO, 34th Dist.

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To: Subst. Senate Bill No. 34

File No. 260

Cal. No. 221

"AN ACT REVISING THE PROCESS FOR THE TAKING OF REAL PROPERTY BY MUNICIPALITIES FOR REDEVELOPMENT AND ECONOMIC DEVELOPMENT."

1 Strike everything after the enacting clause and substitute the
2 following in lieu thereof:

3 "Section 1. Section 8-193 of the general statutes is repealed and the
4 following is substituted in lieu thereof (*Effective July 1, 2006*):

5 (a) After approval of the development plan as provided in this
6 chapter, the development agency may proceed by purchase, lease,
7 exchange or gift with the acquisition or rental of real property within
8 the project area and real property and interests therein for rights-of-
9 way and other easements to and from the project area. [The
10 development agency may, with the approval of the legislative body,
11 and in the name of the municipality, acquire by eminent domain real
12 property located within the project area and real property and interests
13 therein for rights-of-way and other easements to and from the project

14 area, in the same manner that a redevelopment agency may acquire
15 real property under sections 8-128 to 8-133, inclusive, as if said sections
16 specifically applied to development agencies.] The development
17 agency may, with the approval of the legislative body and, of the
18 commissioner if any grants were made by the state under section 8-190
19 or 8-195 for such development project, and in the name of such
20 municipality, transfer by sale or lease at fair market value or fair rental
21 value, as the case may be, the whole or any part of the real property in
22 the project area to any person, in accordance with the project plan and
23 such disposition plans as may have been determined by the
24 commissioner.

25 (b) A development agency shall have all the powers necessary or
26 convenient to undertake and carry out development plans and
27 development projects, including the power to clear, demolish, repair,
28 rehabilitate, operate, or insure real property while it is in its
29 possession, to make site improvements essential to the preparation of
30 land for its use in accordance with the development plan, to install,
31 construct or reconstruct streets, utilities and other improvements
32 necessary for carrying out the objectives of the development project,
33 and, in distressed municipalities, as defined in section 32-9p, to lend
34 funds to businesses and industries in a manner approved by the
35 commissioner.

36 Sec. 2. Subsection (g) of section 32-224 of the general statutes is
37 repealed and the following is substituted in lieu thereof (*Effective July*
38 *1, 2006*):

39 (g) After approval of the development plan pursuant to sections 32-
40 220 to 32-234, inclusive, the implementing agency may by purchase,
41 lease, exchange or gift acquire or rent real property necessary or
42 appropriate for the project as identified in the development plan and
43 real property and interests therein for rights-of-way and other
44 easements to and from the project area. [The implementing agency
45 may, with the approval of the legislative body of the municipality, and
46 in the name of the municipality, condemn in accordance with section

47 8-128 to 8-133, inclusive, any real property necessary or appropriate for
48 the project as identified in the development plan, including real
49 property and interests in land for rights-of-way and other easements to
50 and from the project area.]

51 Sec. 3. Subdivision (3) of subsection (c) of section 7-148 of the
52 general statutes is repealed and the following is substituted in lieu
53 thereof (*Effective July 1, 2006*):

54 (3) (A) Take or acquire by gift, purchase, grant, including any grant
55 from the United States or the state, bequest or devise and hold,
56 condemn, lease, sell, manage, transfer, release and convey such real
57 and personal property or interest therein absolutely or in trust as the
58 purposes of the municipality or any public use or purpose, including
59 that of education, art, ornament, health, charity or amusement,
60 cemeteries, parks or gardens, or the erection or maintenance of statues,
61 monuments, buildings or other structures, [or the encouragement of
62 private commercial development,] require, except that no property
63 may be condemned for purposes of a development project as defined
64 in section 8-187. Any lease of real or personal property or any interest
65 therein, either as lessee or lessor, may be for such term or any
66 extensions thereof and upon such other terms and conditions as have
67 been approved by the municipality, including without limitation the
68 power to bind itself to appropriate funds as necessary to meet rent and
69 other obligations as provided in any such lease;

70 (B) Provide for the proper administration of gifts, grants, bequests
71 and devises and meet such terms or conditions as are prescribed by the
72 grantor or donor and accepted by the municipality.

73 Sec. 4. Section 7-600 of the general statutes is repealed and the
74 following is substituted in lieu thereof (*Effective July 1, 2006*):

75 (a) Any municipality may by resolution of its legislative body
76 establish neighborhood revitalization zones, in one or more
77 neighborhoods, for the development by neighborhood groups of a
78 collaborative process for federal, state and local governments to

79 revitalize neighborhoods where there is a significant number of
80 deteriorated property and property that has been foreclosed, is
81 abandoned, blighted or is substandard or poses a hazard to public
82 safety. The resolution shall (1) provide that the chief executive official
83 facilitate the planning process for neighborhood revitalization zones
84 by assigning municipal staff to make available information to
85 neighborhood groups and to modify municipal procedures to assist
86 neighborhood revitalization zones, and (2) establish a process for
87 determination of the boundaries of neighborhood revitalization zones.

88 (b) Public buildings in the municipality shall be available for
89 neighborhood groups to meet for neighborhood revitalization
90 purposes as determined by the chief executive official.

91 (c) As used in this section "deteriorated property" means property in
92 serious noncompliance with state and local health and safety codes
93 and regulations. Such deteriorated property includes, but is not limited
94 to:

95 (1) Any dwelling that, because it is dilapidated, unsanitary, unsafe,
96 vermin-infested or lacking in the facilities and equipment required by
97 the housing code of the municipality, is unfit for human habitation;

98 (2) Any structure that is a fire hazard, or is otherwise dangerous to
99 the safety of persons or property;

100 (3) Any structure from which the utilities, plumbing, heating,
101 sewerage or other facilities have been disconnected, destroyed,
102 removed or rendered ineffective so that the property is unfit for its
103 intended use; and

104 (4) Any vacant or unimproved lot or parcel of land in a
105 predominantly developed neighborhood that, by reason of neglect or
106 lack of maintenance, has become a place for accumulation of trash and
107 debris, or a haven for rodents or other vermin.

108 Sec. 5. (NEW) (*Effective July 1, 2006*) (a) No person who negotiates

109 the acquisition or rental of real property may represent in such
110 negotiation that the person has the power to acquire the property by
111 eminent domain unless the person has such power.

112 (b) Any violation of subsection (a) of this section shall be deemed an
113 unfair or deceptive trade practice under subsection (a) of section 42-
114 110b of the general statutes.

115 Sec. 6. (NEW) (*Effective July 1, 2006*) (a) There is established an Office
116 of Property Rights Ombudsman which shall be within the Office of
117 Policy and Management for administrative purposes only. The Office
118 of Property Rights Ombudsman shall be under the direction of a
119 Property Rights Ombudsman who shall be appointed in accordance
120 with section 7 of this act.

121 (b) The Office of Property Rights Ombudsman shall:

122 (1) Develop and maintain expertise in, and understanding of, the
123 (A) provisions of the federal and state constitutions governing the
124 taking of private property and provisions of state law authorizing a
125 public agency to take private property, and (B) case law interpreting
126 such provisions;

127 (2) Assist public agencies in applying constitutional and statutory
128 provisions concerning eminent domain;

129 (3) At the request of a public agency, provide assistance in
130 analyzing actions that have potential eminent domain implications;

131 (4) Advise private property owners who have a legitimate potential
132 or actual claim against a public agency with the power of eminent
133 domain;

134 (5) Identify state or local governmental actions that have potential
135 eminent domain implications and, if appropriate, advise the
136 appropriate public agency about such implications;

137 (6) Provide information to private citizens, civic groups and other

138 interested parties about eminent domain law and their rights with
139 respect to eminent domain;

140 (7) If requested to do so by a private property owner: (A) Arbitrate
141 or arrange for the arbitration of disputes concerning the use of eminent
142 domain and related relocation assistance between private property
143 owners and public agencies, and (B) to the extent deemed feasible by
144 the Property Rights Ombudsman, mediate such disputes;

145 (8) Assist private property owners with respect to disputes
146 concerning the effect of municipal regulation of the use and occupancy
147 of real property, except that such assistance shall not include
148 mediation or arbitration unless requested under section 8 of this act;
149 and

150 (9) Recommend to the General Assembly changes that, in the
151 opinion of the Property Rights Ombudsman, should be made to the
152 general statutes related to eminent domain.

153 (c) For purposes of this section and sections 7 to 14, inclusive, of this
154 act, "public agency" means a public agency, as defined in section 1-200
155 of the general statutes, with the power to acquire property through
156 eminent domain and includes an entity authorized to acquire property
157 through eminent domain on behalf of the public agency.

158 Sec. 7. (NEW) (*Effective July 1, 2006*) The Property Rights
159 Ombudsman shall be appointed by the Governor in accordance with
160 sections 4-5 to 4-8, inclusive, of the general statutes, as amended by
161 this act. The Property Rights Ombudsman shall be an elector of the
162 state with expertise and experience in the field of real estate sales, real
163 estate appraisals or land use regulation. The Property Rights
164 Ombudsman shall not have been employed or served in an official
165 capacity with respect to any eminent domain procedure for a period of
166 one year prior to appointment.

167 Sec. 8. (NEW) (*Effective July 1, 2006*) (a) (1) The Property Rights
168 Ombudsman shall adopt regulations, in accordance with chapter 54 of

169 the general statutes, to establish an arbitration procedure for the
170 settlement of disputes between private property owners and public
171 agencies concerning (A) the use of eminent domain, and (B) relocation
172 assistance.

173 (2) The Property Rights Ombudsman may adopt regulations, in
174 accordance with chapter 54 of the general statutes, to establish a
175 mediation procedure for requests filed pursuant to this section.

176 (b) Any private property owner may file a request with the Property
177 Rights Ombudsman to have an eminent domain or relocation
178 assistance dispute between the private property owner and a public
179 agency heard before an arbitrator or arbitration panel. The private
180 property owner shall file the request, in writing, on forms prescribed
181 by the Property Rights Ombudsman or by calling a toll-free telephone
182 number that the Property Rights Ombudsman shall establish for such
183 purpose. Not later than fifteen days after filing the initial request for
184 arbitration, the private property owner shall file, on forms prescribed
185 by the Property Rights Ombudsman, any information the Property
186 Rights Ombudsman requires to determine whether to grant the
187 request, except that the Property Rights Ombudsman may grant an
188 extension of time for filing such information.

189 (c) (1) Not later than five days after receiving the request for
190 arbitration and information pursuant to subsection (b) of this section,
191 the Property Rights Ombudsman shall conduct an initial review of the
192 request and information and determine whether the dispute should be
193 accepted or rejected for arbitration based on criteria established by
194 regulations adopted under section 12 of this act. If the Property Rights
195 Ombudsman declines to arbitrate or appoint an arbitrator, the
196 Property Rights Ombudsman shall issue a written decision to the
197 property owner who filed the request specifying the reasons for the
198 decision.

199 (2) The Property Rights Ombudsman may appoint an individual
200 arbitrator or an arbitration panel to arbitrate a dispute, at the option of

201 the Property Rights Ombudsman or upon agreement of the parties,
202 when: (A) Any party objects to the Property Rights Ombudsman
203 serving as the arbitrator and agrees to pay for the services of the
204 arbitrator or panel; (B) the Property Rights Ombudsman declines to
205 arbitrate the dispute for a reason stated on the record and one or more
206 parties are willing to pay for the services of an arbitrator or panel; or
207 (C) the Property Rights Ombudsman finds it appropriate to appoint
208 another person or persons to arbitrate the dispute with no charge to
209 the parties for the services of the appointed arbitrator or panel. In
210 appointing an arbitrator or panel to arbitrate a dispute, the Property
211 Rights Ombudsman shall appoint arbitrators who are agreeable to the
212 parties and the Property Rights Ombudsman.

213 (3) Upon granting a request for arbitration, the Property Rights
214 Ombudsman shall notify each relevant public agency of the filing and
215 granting of the request for arbitration. The private property owner
216 who filed the request and each such public agency shall submit, in
217 writing, on a form prescribed by the Property Rights Ombudsman, any
218 information the Property Rights Ombudsman deems relevant to the
219 arbitration and resolution of the dispute.

220 (4) The Property Rights Ombudsman may, in his or her discretion,
221 mediate a dispute filed under this section if (A) the parties consent to
222 such mediation, and (B) regulations are adopted for such purpose
223 pursuant to subsection (a) of this section.

224 (5) The parties may agree in advance of arbitration that the
225 arbitration shall be binding and that no de novo trial by a court may
226 occur.

227 (6) The Property Rights Ombudsman shall investigate, gather and
228 organize all information necessary for a fair and timely resolution of
229 each dispute to be mediated or arbitrated under this section. The
230 Property Rights Ombudsman may issue subpoenas on behalf of the
231 Property Rights Ombudsman, arbitrator or arbitration panel to compel
232 the attendance of witnesses and the production of documents, papers

233 and records relevant to the dispute. The Property Rights Ombudsman
234 may forward a copy of all written testimony, including all
235 documentary evidence, to an independent technical expert or to any
236 person having a degree or other credentials from a nationally
237 recognized organization or institution attesting to relevant expertise,
238 for such person's review and to facilitate such person's assistance to the
239 Property Rights Ombudsman, arbitrator or arbitration panel. The
240 Property Rights Ombudsman, arbitrator or arbitration panel shall, not
241 later than sixty days after the date the request is filed under subsection
242 (b) of this section, render a decision based on the information and issue
243 written findings and reasons for the decision.

244 (d) Mediation or arbitration by or through the Office of Property
245 Rights Ombudsman shall not be required prior to bringing an action to
246 adjudicate any claim.

247 (e) The lack of mediation or arbitration by or through the Office of
248 Property Rights Ombudsman shall not constitute (1) a failure to obtain
249 a final decision under chapter 54 of the general statutes, or otherwise
250 exhaust available administrative remedies, or (2) a bar to any legal
251 action. Not more than thirty days after the issuance of a final decision
252 under this section, any party may submit the decision or any issue
253 upon which the decision is based to the Superior Court for de novo
254 review, unless otherwise agreed as provided in subdivision (5) of
255 subsection (c) of this section.

256 (f) Except as provided in section 14 of this act, the filing with the
257 Property Rights Ombudsman of a request for mediation or arbitration
258 of an eminent domain or relocation assistance matter shall not stay any
259 land use decision by a public agency.

260 (g) No employee of the Office of Property Rights Ombudsman may
261 be compelled to testify in a civil action with regard to the subject
262 matter of any dispute before the Office of Property Rights
263 Ombudsman.

264 (h) Evidence of a review by the Property Rights Ombudsman and

265 the opinions, writings, findings and decisions of the Property Rights
266 Ombudsman or any arbitrator or arbitration panel pursuant to this
267 section shall not be admissible as evidence in any action brought in
268 court with respect to the same dispute.

269 (i) The Property Rights Ombudsman may not represent a private
270 property owner or public agency in any dispute before a court or
271 public agency.

272 Sec. 9. (NEW) (*Effective July 1, 2006*) Each public agency shall comply
273 with reasonable requests of the Office of Property Rights Ombudsman
274 for information and assistance.

275 Sec. 10. (NEW) (*Effective July 1, 2006*) No employee in the Office of
276 Property Rights Ombudsman may:

277 (1) Be employed by, or hold a position on, any public agency other
278 than the Office of Property Rights Ombudsman;

279 (2) Receive or have the right to receive, directly or indirectly,
280 remuneration under a compensation arrangement with respect to an
281 eminent domain procedure; or

282 (3) Knowingly accept employment with a public agency for a period
283 of one year following termination of that person's services with the
284 Office of Property Rights Ombudsman.

285 Sec. 11. (NEW) (*Effective July 1, 2006*) (a) The Property Rights
286 Ombudsman may apply for and accept grants, gifts and bequests of
287 funds from other states, federal and interstate agencies and
288 independent authorities and private firms, individuals and
289 foundations, for the purpose of carrying out the responsibilities of the
290 Office of Property Rights Ombudsman.

291 (b) There is established, within the General Fund, a Property Rights
292 Ombudsman account that shall be a separate nonlapsing account. Any
293 funds received under this section shall, upon deposit in the General
294 Fund, be credited to said account and may be used by the Office of

295 Property Rights Ombudsman in the performance of its duties.

296 Sec. 12. (NEW) (*Effective July 1, 2006*) The Property Rights
297 Ombudsman shall adopt regulations, in accordance with chapter 54 of
298 the general statutes, to implement sections 6 to 11, inclusive, of this act.
299 Such regulations shall establish criteria to be used by the Property
300 Rights Ombudsman in determining whether to accept or reject a
301 request for arbitration filed pursuant to section 8 of this act.

302 Sec. 13. (NEW) (*Effective July 1, 2006*) Each public agency seeking to
303 acquire property by eminent domain shall: (1) Before initiating the
304 eminent domain action, make a reasonable effort to negotiate with the
305 property owner for the purchase of the property; and (2) as early in the
306 negotiation process for the real property as practicable, but not later
307 than fourteen days before the filing of an eminent domain action,
308 unless the court for good cause allows a shorter period before filing:
309 (A) Advise the property owner of available mediation and arbitration
310 under section 8 of this act, including the name, address and telephone
311 number of the Property Rights Ombudsman appointed pursuant to
312 section 7 of this act, and (B) provide the property owner with a written
313 statement explaining that oral representations or promises made
314 during the negotiation process are not binding on the public agency
315 seeking to acquire the property by eminent domain. The information
316 provided under subparagraphs (A) and (B) of this subdivision shall be
317 in such form as the Property Rights Ombudsman prescribes.

318 Sec. 14. (NEW) (*Effective July 1, 2006*) (a) In any dispute between a
319 public agency seeking to acquire real property by eminent domain and
320 a private property owner, the private property owner may submit the
321 dispute for mediation or arbitration to the Property Rights
322 Ombudsman under sections 5 to 12, inclusive, of this act.

323 (b) Except as provided in subsection (c) of this section, an action
324 submitted to the Property Rights Ombudsman under this section shall
325 not bar or stay any action for occupancy or possession of property
326 which is the subject of the dispute.

327 (c) The Property Rights Ombudsman or an arbitrator, acting at the
328 request of the private property owner under section 8 of this act, shall
329 have standing in an action brought in any court concerning the real
330 property that is the subject of the dispute and may file with such court
331 a motion to stay the action during the pendency of the mediation or
332 arbitration. The Property Rights Ombudsman or arbitrator may not file
333 such a motion unless the ombudsman or arbitrator certifies at the time
334 of filing the motion that a stay is reasonably necessary to reach a
335 resolution of the case through mediation or arbitration. If a stay is
336 granted and the order granting the stay does not specify when the stay
337 terminates, the ombudsman or arbitrator shall file with the court a
338 motion to terminate the stay not more than thirty days after: (1) The
339 resolution of the dispute through mediation; (2) the issuance of a final
340 arbitration decision; or (3) a decision by the Property Rights
341 Ombudsman not to grant a request for mediation or arbitration.

342 (d) The private property owner or displaced person may request
343 that the ombudsman or arbitrator authorize an additional appraisal. If
344 the ombudsman or arbitrator determines that an additional appraisal
345 is reasonably necessary to reach a resolution of the case, the
346 ombudsman or arbitrator may: (1) Arrange for an additional appraisal
347 of the property prepared by an independent appraiser; and (2) require
348 the public agency proposing to acquire the property to pay the costs of
349 the first additional appraisal.

350 Sec. 15. Section 4-5 of the general statutes is repealed and the
351 following is substituted in lieu thereof (*Effective July 1, 2006*):

352 As used in sections 4-6, 4-7, as amended, and 4-8, the term
353 "department head" means Secretary of the Office of Policy and
354 Management, Commissioner of Administrative Services,
355 Commissioner of Revenue Services, Banking Commissioner,
356 Commissioner of Children and Families, Commissioner of Consumer
357 Protection, Commissioner of Correction, Commissioner of Economic
358 and Community Development, State Board of Education,
359 Commissioner of Emergency Management and Homeland Security,

360 Commissioner of Environmental Protection, Commissioner of
 361 Agriculture, Commissioner of Public Health, Insurance Commissioner,
 362 Labor Commissioner, Liquor Control Commission, Commissioner of
 363 Mental Health and Addiction Services, Commissioner of Public Safety,
 364 Commissioner of Social Services, Commissioner of Mental Retardation,
 365 Commissioner of Motor Vehicles, Commissioner of Transportation,
 366 Commissioner of Public Works, Commissioner of Veterans' Affairs,
 367 Commissioner of Health Care Access, Chief Information Officer, the
 368 chairperson of the Public Utilities Control Authority, the executive
 369 director of the Board of Education and Services for the Blind, [and] the
 370 executive director of the Connecticut Commission on Culture and
 371 Tourism and the Property Rights Ombudsman."

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>July 1, 2006</i>	8-193
Sec. 2	<i>July 1, 2006</i>	32-224(g)
Sec. 3	<i>July 1, 2006</i>	7-148(c)(3)
Sec. 4	<i>July 1, 2006</i>	7-600
Sec. 5	<i>July 1, 2006</i>	New section
Sec. 6	<i>July 1, 2006</i>	New section
Sec. 7	<i>July 1, 2006</i>	New section
Sec. 8	<i>July 1, 2006</i>	New section
Sec. 9	<i>July 1, 2006</i>	New section
Sec. 10	<i>July 1, 2006</i>	New section
Sec. 11	<i>July 1, 2006</i>	New section
Sec. 12	<i>July 1, 2006</i>	New section
Sec. 13	<i>July 1, 2006</i>	New section
Sec. 14	<i>July 1, 2006</i>	New section
Sec. 15	<i>July 1, 2006</i>	4-5