

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 540

An Act to amend the Code of Virginia by adding in Chapter 1 of Title 25.1 a section numbered 25.1-107, relating to condemnation of lands within conservation plans.

[H 820]

Approved April 12, 2004

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 25.1 a section numbered 25.1-107 as follows:

§ 25.1-107. Condemnation of lands within adopted conservation or redevelopment plans.

A. After the adoption of a conservation or redevelopment plan pursuant to Article 7 (§ 36-48 et seq.) of Chapter 1 of Title 36, should any property located within the area of the conservation or redevelopment plan be downzoned without the expressed consent of the property owner and should the locality initiate condemnation proceedings against that owner after any such downzoning, the date of valuation shall be the date of adoption of the conservation or redevelopment plan. However, if the owner of the property on the date of the downzoning no longer owns the property on the date condemnation proceedings are initiated, then the date of valuation shall be the date of the filing of the petition for a condemnation or a certificate pursuant to Chapter 3 of this title, as the case may be.

B. If property located within a conservation or redevelopment plan adopted pursuant to Article 7 (§ 36-48 et seq.) of Chapter 1 of Title 36 was downzoned without the expressed consent of the property owner within a period of five years prior to the adoption of the conservation or redevelopment plan and if such downzoning was not part of a comprehensive rezoning of the locality, then, if the locality should initiate condemnation proceedings within five years after the adoption of the conservation or redevelopment plan against the same owner who owned the property at the time of the downzoning, the date of valuation shall be the day before the date the property was downzoned. However, if the owner of the property on the date condemnation proceedings are initiated is not the same owner on the date the property is downzoned, then the date of valuation shall be the date of the filing of a petition for condemnation or a certificate pursuant to Chapter 3 (§ 25.1-300 et seq.) of this title, as the case may be.

C. Where the date of valuation in condemnation proceedings governed by this section predates the date of any downzoning action, the locality may introduce into evidence before the body determining just compensation the estimated difference between the amount of real estate taxes that the owner would have paid had the downzoning not occurred and the amount of real estate taxes assessed against the property since the date of the downzoning and the body determining just compensation may offset the award by that amount.