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HOUSE BILL NO. 184

Offered January 11, 2006

Prefiled December 30, 2005

A BILL to amend and reenact § 36-49.1:1 of the Code of Virginia, relating to spot blight abatement; condemnation.

Patron—Marshall, R.G.

Referred to Committee on Counties, Cities and Towns

Be it enacted by the General Assembly of Virginia:

1. That § 36-49.1:1 of the Code of Virginia is amended and reenacted as follows:

§ 36-49.1:1. Spot blight abatement authorized; procedure.

A. Notwithstanding any other provision of this article, an authority, or any locality, shall have the power to acquire or repair any blighted property, as defined in § 36-49, whether inside or outside of a conservation or redevelopment area, by exercise of the powers of eminent domain provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, and, further, shall have the power to hold, clear, repair, manage or dispose of such property for purposes consistent with this title. In addition, the locality shall have the power to recover the costs of any repair or disposal of such property from the owner. This power shall be exercised only in accordance with the procedures set forth in this section.

B. The chief executive or designated agency or authority of the locality shall make a preliminary determination that a property is blighted in accordance with this article. It shall notify the owner, specifying the reasons why the property is considered blighted. The owner shall have 30 days within which to respond with a plan to cure the blight within a reasonable time.

C. If the owner fails to respond within the 30-day period with a plan that is acceptable to the chief executive of the agency, authority or locality, the agency, authority or locality (i) may request the local planning commission to conduct a public hearing and make findings and recommendations that shall be reported to the governing body of the locality concerning the repair or other disposition of the property in question and (ii) in the event a public hearing is scheduled, shall prepare a plan for the repair or other disposition of the property.

D. Not less than three weeks prior to the date of the public hearing before the planning commission, the commission shall provide by regular and certified mail, notice of such hearing to (i) the owner of the blighted property or the agent designated by him for receipt of service of notices concerning the payment of real estate taxes within the locality; (ii) the abutting property owners in each direction, including those property owners immediately across the street or road from the property; and (iii) the representative neighborhood association, if any, for the immediate area. The notice shall include the plan for the intended repair or other disposition of the property. The notice of the public hearing shall be published at least twice, with not less than six days elapsing between the first and second publication in a newspaper published or having general circulation in the locality in which the property is located. The notice also shall be posted on the property. The notice shall specify the time and place of the hearing at which persons affected may appear and present their views, not less than six days nor more than 21 days after the second publication.

E. The planning commission shall determine whether:

1. The owner has failed to cure the blight or present a reasonable plan to do so;

2. The property is blighted;

3. The plan for the repair or other disposition of the property is in accordance with the locally adopted comprehensive plan, zoning ordinances, and other applicable land use regulations; and

4. The property is located within an area listed on the National Register of Historic Places. In such instances, the planning commission shall consult with the locally established architectural review board, if any, regarding the proposed repair or other disposition of the property by the authority or governing body.

F. The planning commission shall report its findings and recommendations concerning the property to the governing body. The governing body, upon receipt of such findings and recommendations, may, after an advertised public hearing, affirm, modify, or reject the planning commission's findings and recommendations. If the repair or other disposition of the property is approved, the authority, agency or locality may carry out the approved plan to repair or acquire and dispose of the property in accordance with the approved plan, the provisions of this section, and applicable law. The locality shall have a lien on all property so repaired or acquired under an approved plan to recover the cost of (i) improvements made by such locality to bring the blighted property into compliance with applicable building codes and

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(ii) disposal, if any. The lien authorized by this subsection shall be filed in the circuit court where the property is located and shall be subordinate to any prior liens of record. The governing body may recover its costs of repair from the owner of record of the property when the repairs were made at such time as the property is sold or disposed of by such owner. If the property is acquired by the governing body through eminent domain, the cost of repair may be recovered when the governing body sells or disposes of the property. In either case, the costs of repair shall be recovered from the proceeds of any such sale.

G. Notwithstanding the provisions of this section, unless otherwise provided for in Title 36, if the blighted property is occupied for personal residential purposes, the governing body, in approving the plan, shall not allow for an acquisition of such property if it would result in a displacement of the person or persons living in the premises. The provisions of this subsection shall not apply to acquisitions, under an approved plan, by any locality of property which has been condemned for human habitation for more than one year. In addition, such locality exercising the powers of eminent domain in accordance with Title 25.1, may provide for temporary relocation of any person living in the blighted property provided the relocation is within the financial means of such person.

H. Any property acquired by eminent domain pursuant to this section shall not be rezoned by a locality to a more intensive use than that which existed at the time of the condemnation.

~~H~~*I.* In lieu of the acquisition of blighted property by the exercise of the powers of eminent domain as herein provided, and in lieu of the exercise of other powers granted in subsections A through F, a locality may, by ordinance, declare any blighted property as defined in § 36-49 to constitute a nuisance, and thereupon abate the nuisance pursuant to § 15.2-900 or § 15.2-1115. Such ordinance shall be adopted only after written notice by certified mail to the owner or owners at the last known address of such owner as shown on the current real estate tax assessment books or current real estate tax assessment records.

~~I~~*J.* The provisions of this section shall be cumulative and shall be in addition to any remedies for spot blight abatement that may be authorized by law.