

# 1998 RECONVENED SESSION

ENROLLED

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact § 36-27 of the Code of Virginia, relating to eminent domain by housing authorities.*

[H 1297]

Approved

**Be it enacted by the General Assembly of Virginia:**

**1. That § 36-27 of the Code of Virginia is amended and reenacted as follows:**

§ 36-27. Eminent domain.

An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which may be necessary for the purposes of such authority under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Chapter 1.1 (§ 25-46.1 et seq.) of Title 25. The ~~court in commissioners before~~ which condemnation proceedings are ~~pending conducted~~ may hear evidence as to the value of the property and may consider including but not limited to the owner's appraisal and the effect that any pending application for a zoning change, special use permit application or variance application may have on the value of the property. The court may also determine whether there has been unreasonable delay in the institution of the proceedings after public announcement by the condemnor of a project which necessitates acquisition by the condemnor of a designated land area consisting of or including the land sought to be condemned. If the court determines that such unreasonable delay has occurred, it shall instruct the commissioners in such proceedings to allow any damages proved to their satisfaction by the landowner or landowners to have been sustained to his or their land during and because of such delay, in addition to and separately from the fair market value thereof, but such damages shall not exceed the actual diminution if any in fair market value of the land in substantially the same physical condition over the period of the delay. This provision shall not apply to any such public announcement made prior to July 1, 1960.

*Prior to the adoption of any redevelopment plan pursuant to § 36-49 or any conservation plan pursuant to § 36-49.1, an authority shall send by certified mail, postage prepaid, to at least one of the owners of every parcel of property to be acquired pursuant to such plan a notice advising such owner that (i) the property owned by such owner is proposed to be acquired and (ii) such owner will have the right to appear in any condemnation proceeding instituted to acquire the property and present any defense which such owner may have to the taking. Such notice shall not be the basis for eligibility for relocation benefits. At the time it makes its price offer, the authority shall also provide to the property owner a certificate signed by a certified general real estate appraiser licensed in accordance with Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1 setting forth the appraiser's opinion of the fair market value, together with two comparable property sales, if available, of the property to be acquired.*

In all such cases the proceedings shall be according to the provisions of ~~such sections~~ Chapter 1.1 (§ 25-46.1 et seq.) of Title 25, so far as they can be applied to the same, the term "company" as used in ~~such sections~~ chapter, and any officers of a "company" referred to therein, to be construed as meaning the authority and the commissioners thereof, respectively. ~~Also,~~ An authority may exercise the power of eminent domain in the manner provided by any other applicable statutory provisions for the exercise of the power of eminent domain. No real property belonging to the city, the county, the Commonwealth or any other political subdivision thereof may be acquired without its consent.

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