

Senators announce amendments to eminent domain legislation

By Evelyn Lee

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State Senate majority leader **Steve Sweeney** (D-West Deptford) and state Sen. **Ronald Rice** (D-Newark) on Monday unveiled amendments to their merged eminent domain legislation. The bill, SCS-559/757, would allow redevelopment in the state while still providing protection and fair compensation to property owners if eminent domain is required.

The New Jersey Constitution grants local governments the authority to take private property as long as the parties affected receive “just compensation,” Sweeney said. But eminent domain “is an awesome power and responsibility that must be limited to the most extreme circumstances,” he said. “People of limited means and seniors are frequently caught in the middle when redevelopment leads to taking of private property.”

At the same time, “in most cases, communities that have used eminent domain to redevelop have created new affordable housing and job opportunities,” Rice said. “It would be a mistake to change the law in a way that makes the redevelopment process so cumbersome and expensive that towns become economically stagnant, unable to bring in new investors.”

The proposed amendments would establish tougher eminent domain standards by limiting the use of eminent domain and tightening the definition of a property in need of redevelopment — such as adding a 20 percent cap on nonblighted areas within designated redevelopment areas.

The changes would improve notice provisions for property owners and tenants affected by eminent domain, and significantly increase the financial compensation to parties displaced during the process. Businesses, for example, would receive payment for the loss of a location with heavy foot traffic and for capital improvements that were done at the site.

The revised bill also would require more transparency during the process, and require that a municipality or redevelopment agency exercise the power of eminent domain within five years of adoption of a redevelopment plan.

“You really need a good compromise by making certain that redevelopment is allowed to go forward in some areas such as inner cities, while curbing abuses in areas that are truly not blighted,” said **Timothy Duggan**, chair of the eminent domain and real estate tax appeal group at law firm Stark & Stark in Lawrenceville.

But “the economy has really shut down a lot of redevelopment plans,” he said. “In the short term, we’re not going to see an impact” from the legislation. However, in the long term, the bill would cut back on redevelopment projects in the state, he said.

“The way the redevelopment process currently works, it needs improvement — it hasn’t been substantially tweaked in a long time,” said **Michael McGuinness**, chief executive officer of the New Jersey chapter of the National Association of Industrial and Office Properties, in New Brunswick.

But eminent domain hasn’t been a focus for the lobbying group, he said. “It pales in comparison to other issues,” such as the Council on Affordable Housing, or COAH, regulations; transportation infrastructure; and streamlining the permitting process of the Department of Environmental Protection, McGuinness said. Such issues are “more pressing,” and present a greater impediment to development in the state, he said.