

By: Jackson

H.B. No. 1432

A BILL TO BE ENTITLED

AN ACT

relating to a landowner's repurchase of real property from an entity that acquired the property through condemnation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 21.023, Property Code, is amended to read as follows:

Sec. 21.023. DISCLOSURE OF INFORMATION REQUIRED AT TIME OF ACQUISITION. An [A governmental] entity with eminent domain authority shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:

(1) the owner or the owner's heirs, successors, or assigns may be [are] entitled to:

(A) repurchase the property under Subchapter E [if the public use for which the property was acquired through eminent domain is canceled before the 10th anniversary of the date of acquisition]; or

(B) request from the entity certain information relating to the use of the property and any actual progress made toward that use; and

(2) the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain [~~fair market value of the property at the time the public use was canceled~~].

SECTION 2. Subchapter E, Chapter 21, Property Code, is

1 amended to read as follows:

2 SUBCHAPTER E. REPURCHASE OF REAL PROPERTY FROM CONDEMNING
3 [GOVERNMENTAL] ENTITY

4 Sec. 21.101. RIGHT OF REPURCHASE [APPLICABILITY]. (a) A
5 person from whom [~~Except as provided in Subsection (b), this~~
6 ~~subchapter applies only to~~] a real property interest is acquired by
7 an [a governmental] entity through eminent domain for a public use,
8 or that person's heirs, successors, or assigns, is entitled to
9 repurchase the property as provided by this subchapter if:

10 (1) the public use for which the property was acquired
11 through eminent domain is [that was] canceled;

12 (2) no actual progress is made toward the public use
13 for which the property was acquired between the date of acquisition
14 and the fifth anniversary of that date; or

15 (3) the property becomes unnecessary for the public
16 use for which the property was acquired [~~before the 10th~~
17 ~~anniversary of the date of acquisition].~~

18 (b) In this section, "actual progress" means the completion
19 of two or more of the following actions:

20 (1) the performance of a significant amount of labor
21 to develop the property or other property acquired for the same
22 public use project for which the property owner's property was
23 acquired;

24 (2) the furnishing of a significant amount of
25 materials to develop the property or other property acquired for
26 the same public use project for which the property owner's property
27 was acquired;

1 (3) the hiring of and performance of a significant
2 amount of work by an architect, engineer, or surveyor to prepare a
3 plan or plat that includes the property or other property acquired
4 for the same public use project for which the property owner's
5 property was acquired;

6 (4) application for state or federal funds to develop
7 the property or other property acquired for the same public use
8 project for which the property owner's property was acquired;

9 (5) voter approval of a proposition authorizing the
10 issuance of bonds or other public securities or the issuance of
11 revenue bonds related to funding the public use project for which
12 the property was acquired; or

13 (6) the acquisition of a tract or parcel of real
14 property adjacent to the property for the same public use project
15 for which the owner's property was acquired [~~This subchapter does~~
16 ~~not apply to a right-of-way under the jurisdiction of:~~

17 ~~[(1) a county,~~

18 ~~[(2) a municipality, or~~

19 ~~[(3) the Texas Department of Transportation].~~

20 (c) A district court may determine all issues in any suit
21 regarding the repurchase of a real property interest acquired
22 through eminent domain by the former property owner or the owner's
23 heirs, successors, or assigns.

24 Sec. 21.102. NOTICE TO PREVIOUS PROPERTY OWNER REQUIRED [~~AT~~
25 ~~TIME OF CANCELLATION OF PUBLIC USE~~]. Not later than the 180th day
26 after the date an entity that acquired a real property interest
27 through eminent domain determines that the former property owner is

1 entitled to repurchase the property under Section 21.101 [~~of the~~
2 ~~cancellation of the public use for which real property was acquired~~
3 ~~through eminent domain from a property owner under Subchapter B~~],
4 the [~~governmental~~] entity shall send by certified mail, return
5 receipt requested, to the property owner or the owner's heirs,
6 successors, or assigns a notice containing:

7 (1) an identification, which is not required to be a
8 legal description, of the property that was acquired;

9 (2) an identification of the public use for which the
10 property had been acquired and a statement that:

11 (A) the public use has been canceled;

12 (B) no actual progress was made toward the public
13 use; or

14 (C) the property has become unnecessary for the
15 public use; and

16 (3) a description of the person's right under this
17 subchapter to repurchase the property.

18 Sec. 21.1021. REQUESTS FOR INFORMATION REGARDING CONDEMNED
19 PROPERTY. (a) On or after the fifth anniversary of the date on
20 which real property was acquired by an entity through eminent
21 domain, a property owner or the owner's heirs, successors, or
22 assigns may request that the condemning entity make a determination
23 and provide a statement and other relevant information regarding:

24 (1) whether the public use for which the property was
25 acquired has been canceled;

26 (2) whether any actual progress was made toward the
27 public use between the date of acquisition and the fifth

1 anniversary of that date, including an itemized description of the
2 progress made, if applicable; and

3 (3) whether the property has become unnecessary for
4 the public use of the property.

5 (b) A request under this section must contain sufficient
6 detail to allow the entity to identify the specific tract of land in
7 relation to which the information is sought.

8 (c) Not later than the 90th day following the receipt of the
9 request for information, the entity shall send a written response
10 by certified mail, return receipt requested, to the requestor.

11 Sec. 21.103. RESALE OF PROPERTY; PRICE. (a) Not later than
12 the 180th day after the date of the postmark on a [the] notice sent
13 under Section 21.102 or a response to a request made under Section
14 21.1021 that indicates that the property owner or the owner's
15 heirs, successors, or assigns is entitled to repurchase the
16 property interest in accordance with Section 21.101, the property
17 owner or the owner's heirs, successors, or assigns must notify the
18 [governmental] entity of the person's intent to repurchase the
19 property interest under this subchapter.

20 (b) As soon as practicable after receipt of a notice of
21 intent to repurchase [the notification] under Subsection (a), the
22 [governmental] entity shall offer to sell the property interest to
23 the person for the price paid to the owner by the entity at the time
24 the entity acquired the property through eminent domain [fair
25 market value of the property at the time the public use was
26 cancelled]. The person's right to repurchase the property expires
27 on the 90th day after the date on which the [governmental] entity

1 makes the offer.

2 SECTION 3. Chapter 21, Property Code, as amended by this
3 Act, applies only to a condemnation proceeding in which the
4 petition is filed on or after the effective date of this Act and to
5 any property condemned through the proceeding. A condemnation
6 proceeding in which the petition is filed before the effective date
7 of this Act and any property condemned through the proceeding is
8 governed by the law in effect immediately before that date, and that
9 law is continued in effect for that purpose.

10 SECTION 4. This Act takes effect immediately if it receives
11 a vote of two-thirds of all the members elected to each house, as
12 provided by Section 39, Article III, Texas Constitution. If this
13 Act does not receive the vote necessary for immediate effect, this
14 Act takes effect September 1, 2009.