RESOLUTION NO. 2018-28

Requesting a legislative review of Wisconsin’s eminent domain law

Executive Summary

Condemnation of real property is the process whereby the government, governmental subdivisions, utility companies or other statutorily designated corporations and entities take title to private property for public purposes using the power of eminent domain. The Wisconsin eminent domain law, section 32.02(13), Wis. Stats., has been amended to expand the ability of businesses that transmit oil or related products in pipelines to condemn private property subject to the approval of the Wisconsin Public Service Commission upon a finding that the proposed real estate interests sought to be acquired are in the public interest. Before this amendment, these businesses were limited to corporations licensed to do business in Wisconsin. Now condemnation authority can be exercised by any business entity authorized to do business in Wisconsin. Due to the recently expanded scope of eminent domain law in Wisconsin, the Jefferson County Board of Supervisors finds that a legislative review is appropriate and requests the State of Wisconsin Legislature to conduct such a review which will include the current and future impacts on owners of private property. The Executive Committee met on June 27, 2018, and recommended forwarding this resolution to the County Board for approval.

WHEREAS, the Executive Summary is incorporated into this resolution, and

WHEREAS, condemnation of real property is the process whereby the government takes title to private land for the public good using its power of eminent domain, and

WHEREAS, taking private land against a landowner's objection is a power of the state that should be exercised only when no other alternatives exist, and

WHEREAS, eminent domain has historically been used sparingly for ensuring the public good with a provable need and just compensation, and

WHEREAS, a clearly defined and demonstrated public good has included demonstrating an essential community need for the construction of roadways, schools, public parks, public housing, community centers and public utilities, and

WHEREAS, when the power of eminent domain is expanded to authorize non-corporate business entities to condemn private property, the current and future impacts on owners of private property could be significant, and

WHEREAS, the state legislature possesses the sole power to revise state statutes and conducting a legislative review of the current eminent domain law will assist the legislature in determining whether or not further amendment of the Wisconsin eminent domain law is necessary.
NOW, THEREFORE, BE IT RESOLVED that due to the expanded scope of eminent domain law in Wisconsin, the Jefferson County Board of Supervisors hereby requests the State of Wisconsin Legislature to conduct a legislative review of Wisconsin’s eminent domain law which will include the current and potential future impacts on owners of private property. Additionally, the Board of Supervisors further requests the delay granting petitions to condemn property using eminent domain that would not have been allowed prior to 2015 until the Wisconsin Legislature has conducted a legislative review.

BE IT FURTHER RESOLVED that the County Clerk is directed to forward a copy of this resolution to Governor Scott Walker, the Wisconsin Counties Association, Jefferson County’s Legislative Representatives and to the Public Service Commissioners with the request that they assist in this endeavor.

Fiscal Note: This resolution will have no fiscal impact.

STATE OF WISCONSIN )
COUNTY OF JEFFERSON ) ss

I, Barbara A. Frank, County Clerk of Jefferson County, Jefferson, Wisconsin, do hereby certify that the attached is a true and correct copy of Resolution No. 2018-28, adopted at the July 10, 2018, Session of the County Board of Supervisors at the County Courthouse in the City of Jefferson.

WITNESS MY HAND AND SEAL this 11th day of July 2018.

Barbara A. Frank
Jefferson County Clerk
Jefferson, Wisconsin
Noes 4: Schroeder, Jaeckel, Lindl, Foelker.
Absent 3: Braughler, Morris, Hartz.

Requested by Executive Committee 07-10-18

J. Blair Ward: 05-31-18; 06-01-18 REVIEWED: Administrator: bw; Corp. Counsel: jbw; Finance Director: md