



September 25, 2019

Re: HB 288 – Disallowing Eminent Domain re: Recreational Trails

Dear Chair Hambley, Civil Justice Committee Members & the Ohio State Assembly,

On behalf of all Ohioans, I strongly encourage you to oppose the passage of HB 288, which removes the ability to use eminent domain to improve quality of life for your constituents. This bill is an overreaction given that there is no problem to solve; the ORC already includes strong protections for adjacent property owners, ensuring that they receive both due process and just compensation regarding takings for public use/need, including a provision for elected officials to veto the appropriation. There is no justification for declaring an emergency and depriving the general public of a deliberative procedure, notice and due process that would normally accompany the enactment of legislation of broad, general applicability. To the contrary, this bill sets a dangerous precedent of unnecessarily limiting and curtailing a fundamental power to carry out public works projects, solely in reaction to the narrow and parochial interests of a few landowners. HB 288 would, therefore, undermine the ability of an agency or municipality to protect public peace, health, safety and general welfare of its residents. As this testimony will explain, recreational trails – which are linear parks – bring significant economic, health, environmental and safety benefits. Disallowing the ability to use eminent domain to develop recreational trails, an approach that is almost never employed, takes away an important tool and is counter to the interests of citizens, municipalities and agencies. **State legislators must act to preserve home rule.**

The fact that a constitutional amendment to approve the Clean Ohio Recreational Trails Fund was passed in all 88 counties in 2000 and again in 2008 highlights the importance and value of trails to Ohioans. Most state elected officials understand that recreational trails – which also give those unable to drive a way to get access to food, medical care and other essential services – are not frivolous amenities but rather essential assets that expand smart transportation options, fuel strong businesses and create good jobs, help retain and attract talented individuals and families, enhance regional competitiveness and promote social equity. **Trails create healthy, thriving communities.**

Most of Ohio's park districts and other agencies have never used eminent domain for a recreational trail. Local government bodies recognize that this approach should be exercised with great discretion, but there is a general understanding that eminent domain can be an appropriate tool in limited cases. For example, when a property owner or his/her successors cannot be located, or when there is no owner identified in county records, eminent domain is the most effective method to secure the property. The situation with unidentifiable landowners is not unusual in the case of recreational trails, which are often planned in remote areas and along waterways where old property lines shift and ownership documentation can be lost. Should eminent domain be lost to park districts, the alternative is a county foreclosure on the property and a sheriff's sale. A buyer, knowing that the property is perhaps the last piece necessary to complete the trail, could then demand a price that is well above fair market value. A highly valued public amenity could be held hostage and public tax dollars wasted when eminent domain would provide a simple and fair solution.

The situation that has led to the introduction of this bill involves a trail project that has been in the works for over 30 years. Landowners are being fairly compensated for the easements required to move this project benefiting the community, region and state forward. Mill Creek MetroParks has been responsible, transparent and fair throughout this process, emphasizing the greater public good.

Thank you for your consideration & Best Regards,

Brian K. Housh
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Vice President, Ohio Trails Partnership
Midwest Policy Manager, Rails-to-Trails Conservancy