



**OHIO HOUSE CIVIL JUSTICE COMMITTEE  
May 23, 2023**

**Written Opponent Testimony  
House Bill 64**

Chair Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of the Ohio House Civil Justice Committee:

My name is Garry Hunter, and I am the legal counsel for the Ohio Municipal League. With 30 years of experience as an elected Law Director and 25 years serving as an appointed City Attorney, I bring a wealth of experience. Since 2001, I have been honored as a Local Government Fellow. I am here today to express our opposition to testimony regarding House Bill 64, which seeks to alter the state's eminent domain law.

As the representative of the Ohio Municipal League, an association of more than 730 cities and villages in our State of Ohio, we are committed to ensuring the prosperity and vitality of our municipalities and their residents. Our members provide essential services including parks and recreation, public safety, housing services, emergency medical services, municipal courts, transportation services, public works, and economic development. These services not only provide for the basic needs of our residents but also enrich the quality of life in our municipalities, making them attractive, sustainable, and thriving environments.

In the pursuit of delivering these public services, municipalities may occasionally need to acquire private property. The first course of action is always through a fair, negotiated purchase. If such negotiations are not fruitful, as a last resort, we turn to the provisions of eminent domain, as outlined in both the United States and Ohio Constitutions, ensuring just compensation to the property owner.

House Bill 64 aims to curtail the application of eminent domain for recreation trails. However, it is important to understand that recreation trails are not mere luxuries; they are vital community assets. They promote health and wellness, connect neighborhoods, provide safe routes for non-motorized transportation, and enhance the livability of our municipalities.

The proposed restrictions on the use of eminent domain for recreation trails reflect a narrow interpretation of the concept of "public use" as found in our constitutions. The notion of public use is not confined to being adjacent to public roads and within the municipality's right-of-way. In fact, the broad interpretation of "public use" has been upheld by the U.S. Supreme Court in cases like *Kelo v. City of New London*, demonstrating that public use encompasses not just traditional uses like roads and public buildings, but also broader community development projects.

Moreover, the additional proposed changes in House Bill 64, concerning written offers, inverse condemnation, coercive actions, burden of proof, timelines, and attorney fees, create an unbalanced tilt towards property owners, neglecting the need for municipalities to execute public projects in a timely and cost-effective manner. These changes could put essential community projects at risk and increase the cost of appropriating property significantly, potentially rendering many projects unfeasible and thus compromising the welfare of our municipalities and their residents.

In conclusion, while we firmly respect the rights of private property owners, it is crucial to ensure a balanced approach that also considers the public good. The current eminent domain statute provides a more balanced approach than the changes proposed in House Bill 64. We urge you to consider the potential negative impacts of these changes on the quality of life in our municipalities and on the ability of municipal governments to serve their residents effectively.

I appreciate your consideration of our views on behalf of the members of the Ohio Municipal League.