



**OPPONENT TESTIMONY ON SUBSTITUTE HOUSE BILL 64
HOUSE CIVIL JUSTICE COMMITTEE | MAY 23, 2023**

Chair Hillyer, Vice Chair Mathews, Ranking Member Galonski, and members of the House Civil Justice Committee, thank you for the opportunity to submit written opponent testimony regarding Substitute House Bill 64. We wish to express our appreciation to Representatives Kick and Creech for inviting us and other local government associations to participate in interested party meetings regarding this bill. Ultimately, however, we cannot support a bill that limits local governments' ability to protect their residents, keep neighborhoods safe, and ensure adequate public infrastructure and economic development opportunities.

As bipartisan mayors of 30 of Ohio's largest cities and suburbs, we recognize that eminent domain is an extreme remedy and we fully support ensuring that property owners are adequately protected against takings without just compensation. This bill, however, unnecessarily and unfairly skews the balance so far against local governments that it makes the eminent domain remedy largely ineffective for a variety of necessary and important uses. Existing eminent domain processes are codified and authorized by the Ohio Constitution.¹ Such uses protect property owners to ensure that they will be fairly compensated—not that they have the right to keep their property no matter what.

We outline below our concerns. We worked with one of our members, the City of Cleveland, to identify some examples of the unintended negative consequences of the substitute bill.

1. Cities Must Have Access to Eminent Domain to Ensure Public Safety

Sub. H.B. 64 would complicate the ability of cities to use their police powers to acquire easements that would ensure, for example, safe school bus pickup and drop off locations for Ohio children. Ensuring our children can safely get to school and back every day is one of our most important priorities, and this bill would empower third parties to challenge cities' efforts to manage school bus pick up and drop off based *not* on the safety of children, but rather whether a location is desirable to them personally. This is an unacceptable limitation on our ability to keep our kids safe.

¹ *Article 1, Section 19: Inviolability of private property (1851)*

Private property shall ever be held inviolate, but subservient to the public welfare. When taken in time of war or other public exigency, imperatively requiring its immediate seizure or for the purpose of making or repairing roads, which shall be open to the public, without charge, a compensation shall be made to the owner, in money, and in all other cases, where private property shall be taken for public use, a compensation therefor shall first be made in money, or first secured by a deposit of money; and such compensation shall be assessed by a jury, without deduction for benefits to any property of the owner.

2. Burdening Local Governments' Use of Eminent Domain Will Stymy Economic Development and Infrastructure Improvements in Ohio's Job Creation Centers

Ohio cities anchor networks of businesses, employers, local governments, and communities that power Ohio's economic success. In 2021, Ohio's metro economies generated 83.8% of Ohio jobs and accounted for 86.2% of real Gross State Product. One of our cities' biggest needs when it comes to creating more good jobs for Ohioans and supporting local small businesses of all types is the need to consolidate properties to create developable parcels for redevelopment. The City of Cleveland, for example, has thousands of acres of vacant land. Redevelopment and infrastructure upgrade plans that encompass more than one property are critical to ensuring that Cleveland can ensure the highest and best use of its available land under its zoning powers. In other words, the need for a privately-held parcel adjacent to a redevelopment site is often required to ensure that the public gets needed improvements in infrastructure and utilities in addition to ensuring the highest and best use of vacant land. Sub. H.B. 64 empowers third parties to challenge a city's publicly-approved redevelopment plan based *not* on the city's and the public's needs but on that which is undesirable to that individual personally. That is not how eminent domain works or should work.

3. Complicating and Limiting Cities' "Friendly Takings" Authority Harms All Parties Involved

Our cities frequently engage in what are colloquially known as "friendly takings" —situations where the property owner is willing to sell, but there are title issues or unclear ownership interests that need to be cleared from the title to facilitate the transaction. The provisions of Sub. H.B. 64 that slow down the process and increase burdens on our cities will unnecessarily complicate, delay, and potentially foreclose such transactions, frustrating both the local governments and the property owners involved and delaying the speedy conclusion of a transaction that will benefit the public.

4. Sub. H.B. 64 is an Unconstitutional Incursion on Cities' Home Rule Authority

America's federalist system of government has long emphasized the value and authority of the form of government that is closest to the people. The Ohio Constitution, in addition to laying out local governments' specific eminent domain powers, explicitly grants Ohio municipalities the right to home rule.

Local officials elected by their neighbors are in the best position to determine what is best for their communities. Sub. H.B. 64 imposes the state legislature's view of what is best on every community in Ohio, regardless of how residents of different municipalities might feel about it and regardless of local leaders' plans for their communities' safety and development. Not every community in Ohio is the same, and local leaders must have the flexibility to establish innovative policy solutions to the unique challenges of their communities. This concept is the modern expression of our federalist form of government. We believe, therefore, that Sub. H.B. 64 violates both the letter and spirit of the Ohio Constitution's preservation of home rule for municipal governments.

Conclusion

For all of the foregoing reasons, we respectfully request that you decline to advance Sub. H.B. 64. Thank you.