

HOUSE BILL 258

N1
HB 1039/06 – ENV

CONSTITUTIONAL AMENDMENT

71r1350

By: **Delegates Impallaria, McDonough, Boteler, and Kach**
Introduced and read first time: January 29, 2007
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Baltimore County – Eminent Domain – Limitation on Condemnation**
3 **Authority**

4 FOR the purpose of proposing amendments to the Maryland Constitution to limit the
5 condemnation of private property in Baltimore County under certain
6 circumstances; defining a certain term; making stylistic changes; and
7 submitting this amendment to the qualified voters of the State of Maryland for
8 their adoption or rejection.

9 BY proposing an amendment to the Maryland Constitution
10 Article III – Legislative Department
11 Section 40, 40A, and 61

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, (Three-fifths of all the members elected to each of the two Houses
14 concurring), That it be proposed that the Maryland Constitution read as follows:

15 **Article III – Legislative Department**

16 40.

17 (A) The General Assembly shall enact no Law authorizing private property,
18 to be taken for public use, without just compensation, as agreed upon between the
19 parties, or awarded by a Jury, being first paid or tendered to the party entitled to such
20 compensation.

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **(B) FOR PURPOSES OF THIS SECTION, IN BALTIMORE COUNTY:**

2 **(1) "PUBLIC USE" MEANS:**

3 **(I) PUBLIC OWNERSHIP OR CONTROL; OR**

4 **(II) PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC;**

5 **AND**

6 **(2) "PUBLIC USE" DOES NOT INCLUDE USE FOR ECONOMIC**
7 **DEVELOPMENT PURPOSES, INCLUDING:**

8 **(I) URBAN RENEWAL;**

9 **(II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;**

10 **(III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;**

11 **(IV) JOB CREATION; OR**

12 **(V) GENERATION OF TAX REVENUE.**

13 40A.

14 **(A) (1)** The General Assembly shall enact no law authorizing private
15 property to be taken for public use without just compensation, to be agreed upon
16 between the parties, or awarded by a jury, being first paid or tendered to the party
17 entitled to such compensation, but where such property is situated in:

18 **(I)** Baltimore City and is desired by this State or by the Mayor
19 and City Council of Baltimore, the General Assembly may provide that such property
20 may be taken immediately upon payment therefor to the owner or owners thereof by
21 the State or by the Mayor and City Council of Baltimore, or into court, such amount as
22 the State or the Mayor and City Council of Baltimore, as the case may be, shall
23 estimate to be the fair value of said property, provided such legislation also requires
24 the payment of any further sum that may subsequently be added by a jury; and
25 further provided that the authority and procedure for the immediate taking of
26 property as it applies to the Mayor and City Council of Baltimore on June 1, 1961,
27 shall remain in force and effect to and including June 1, 1963[, and where such
28 property is situated in];

1 (II) Baltimore County and is desired by Baltimore County,
 2 Maryland, the County Council of Baltimore County, Maryland, may provide for the
 3 appointment of an appraiser or appraisers by a Court of Record to value such property
 4 and that upon payment of the amount of such evaluation, to the party entitled to
 5 compensation, or into Court, and securing the payment of any further sum that may
 6 be awarded by a jury, such property may be taken; and

7 (III) [where such property is situated in] Montgomery County
 8 and in the judgment of and upon a finding by the County Council of said County that
 9 there is immediate need therefor for right of way for County roads or streets, the
 10 County Council may provide that such property may be taken immediately upon
 11 payment therefor to the owner or owners thereof, or into court, such amount as a
 12 licensed real estate broker or a licensed and certified real estate appraiser appointed
 13 by the County Council shall estimate to be the fair market value of such property,
 14 provided that the Council shall secure the payment of any further sum that may
 15 subsequently be awarded by a jury.

16 (2) In the various municipal corporations within Cecil County, where
 17 in the judgment of and upon a finding by the governing body of said municipal
 18 corporation that there is immediate need therefor for right of way for municipal roads,
 19 streets and extension of municipal water and sewage facilities, the governing body
 20 may provide that such property may be taken immediately upon payment therefor to
 21 the owner or owners thereof, or into court, such amount as a licensed real estate
 22 broker appointed by the particular governing body shall estimate to be a fair market
 23 value of such property, provided that the municipal corporation shall secure the
 24 payment of any further sum that subsequently may be awarded by a jury.

25 (3) [This Section 40A] **PARAGRAPHS (1)(III) AND (2) OF THIS**
 26 **SUBSECTION** shall not apply in Montgomery County or any of the various municipal
 27 corporations within Cecil County, if the property actually to be taken includes a
 28 building or buildings.

29 **(B) FOR PURPOSES OF THIS SECTION, IN BALTIMORE COUNTY:**

30 (1) **“PUBLIC USE” MEANS:**

31 (I) **PUBLIC OWNERSHIP OR CONTROL; OR**

32 (II) **PHYSICAL USE OR ACCESS BY THE GENERAL PUBLIC;**

33 **AND**

1 **(2) “PUBLIC USE” DOES NOT INCLUDE USE FOR ECONOMIC**
2 **DEVELOPMENT PURPOSES, INCLUDING:**

3 **(I) URBAN RENEWAL;**

4 **(II) COMMUNITY REVITALIZATION OR REDEVELOPMENT;**

5 **(III) COMMERCIAL OR INDUSTRIAL DEVELOPMENT;**

6 **(IV) JOB CREATION; OR**

7 **(V) GENERATION OF TAX REVENUE.**

8 61.

9 (a) **(1)** The General Assembly may authorize and empower any county or
10 any municipal corporation, by public local law:

11 **[(1)] (I) [To] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**
12 **SUBSECTION, TO** carry out urban renewal projects which shall be limited to slum
13 clearance in slum or blighted areas and redevelopment or the rehabilitation of slum or
14 blighted areas, and to include the acquisition, within the boundary lines of such
15 county or municipal corporation, of land and property of every kind and any right,
16 interest, franchise, easement or privilege therein, by purchase, lease, gift,
17 condemnation or any other legal means. The term “slum area” shall mean any area
18 where dwellings predominate which, by reason of depreciation, overcrowding, faulty
19 arrangement or design, lack of ventilation, light or sanitary facilities, or any
20 combination of these factors, are detrimental to the public safety, health or morals.
21 The term “blighted area” shall mean an area in which a majority of buildings have
22 declined in productivity by reason of obsolescence, depreciation or other causes to an
23 extent they no longer justify fundamental repairs and adequate maintenance[.]; **AND**

24 **[(2)] (II)** To sell, lease, convey, transfer or otherwise dispose of any of
25 said land or property, regardless of whether or not it has been developed, redeveloped,
26 altered or improved and irrespective of the manner or means in or by which it may
27 have been acquired, to any private, public or quasi public corporation, partnership,
28 association, person or other legal entity.

29 **(2)** No land or property taken by any county or any municipal
30 corporation for any of the aforementioned purposes or in connection with the exercise

1 of any of the powers which may be granted to such county or municipal corporation
2 pursuant to this section by exercising the power of eminent domain shall be taken
3 without just compensation, as agreed upon between the parties, or awarded by a jury,
4 being first paid or tendered to the party entitled to such compensation.

5 **(3)** All land or property needed, or taken by the exercise of the power
6 of eminent domain, by any county or any municipal corporation for any of the
7 aforementioned purposes or in connection with the exercise of any of the powers which
8 may be granted pursuant to this section is hereby declared to be needed or taken for
9 public uses and purposes. Any or all of the activities authorized pursuant to this
10 section shall constitute governmental functions undertaken for public uses and
11 purposes and the power of taxation may be exercised, public funds expended and
12 public credit extended in furtherance thereof.

13 **(4) IN BALTIMORE COUNTY, PRIVATE PROPERTY MAY NOT BE**
14 **ACQUIRED BY CONDEMNATION TO CARRY OUT AN URBAN RENEWAL PROJECT.**

15 (b) The General Assembly may grant to any county or any municipal
16 corporation, by public local law, any and all additional power and authority necessary
17 or proper to carry into full force and effect any and all of the specific powers authorized
18 by this section and to fully accomplish any and all of the purposes and objects
19 contemplated by the provisions of this section, provided such additional power or
20 authority is not inconsistent with the terms and provisions of this section or with any
21 other provision or provisions of the Constitution of Maryland.

22 (c) The General Assembly of Maryland, by public local law, may establish or
23 authorize the establishment of a public body or agency to undertake in a county or
24 municipal corporation (other than Baltimore City) the activities authorized by this
25 section, and may provide that any or all of the powers, except the power of taxation,
26 herein authorized to be granted to such county or municipal corporation shall be
27 vested in such public body or agency or in any existing public body or agency.

28 (d) The General Assembly may place such other and further restrictions or
29 limitations on the exercise of any of the powers provided for in this section, as it may
30 deem proper and expedient.

31 (e) The provisions of this section are independent of, and shall in no way
32 affect, the powers granted under Article XIB of the Constitution of Maryland, title
33 "City of Baltimore — Land Development and Redevelopment." Also, the power
34 provided in this section for the General Assembly to enact public local laws
35 authorizing any municipal corporation or any county to carry out urban renewal

1 projects prevails over the restrictions contained in Article 11A “Local Legislation” and
2 in Article 11E “Municipal Corporations” of this Constitution.

3 SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly
4 determines that the amendment to the Maryland Constitution proposed by this Act
5 affects only one county and that the provisions of Article XIV, § 1 of the Maryland
6 Constitution concerning local approval of constitutional amendments apply.

7 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
8 proposed as an amendment to the Maryland Constitution shall be submitted to the
9 legal and qualified voters of this State at the next general election to be held in
10 November, 2008 for their adoption or rejection pursuant to Article XIV of the
11 Maryland Constitution. At that general election, the vote on this proposed amendment
12 to the Constitution shall be by ballot, and upon each ballot there shall be printed the
13 words “For the Constitutional Amendment” and “Against the Constitutional
14 Amendment,” as now provided by law. Immediately after the election, all returns shall
15 be made to the Governor of the vote for and against the proposed amendment, as
16 directed by Article XIV of the Maryland Constitution, and further proceedings had in
17 accordance with Article XIV.