

HOUSE BILL 186

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9lr0493

By: **Delegates Shewell, Schuh, Aumann, Bates, Beitzel, Boteler, Carr, Dwyer, Eckardt, George, Impallaria, Kach, Krebs, Kullen, Love, Manno, McComas, McDonough, Miller, Riley, Serafini, Stocksedale, Stull, Walkup, and Weir**

Introduced and read first time: January 26, 2009

Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Real Property – Condemnation Proceedings – Valuation of Property**

3 FOR the purpose of establishing that damages awarded for the taking of property used
4 for a business may include certain damages for the loss of goodwill under
5 certain circumstances; including certain costs in calculating diminution of value
6 for certain property; making stylistic changes; altering a certain definition;
7 defining a certain term; and generally relating to the valuation of property in a
8 condemnation proceeding.

9 BY repealing and reenacting, without amendments,
10 Article – Real Property
11 Section 12–104(a) and 12–105(c)
12 Annotated Code of Maryland
13 (2003 Replacement Volume and 2008 Supplement)

14 BY adding to
15 Article – Real Property
16 Section 12–104(h)
17 Annotated Code of Maryland
18 (2003 Replacement Volume and 2008 Supplement)

19 BY repealing and reenacting, with amendments,
20 Article – Real Property
21 Section 12–105(a) and (b)
22 Annotated Code of Maryland
23 (2003 Replacement Volume and 2008 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article – Real Property**

4 12–104.

5 (a) The damages to be awarded for the taking of land is its fair market value.

6 (H) (1) IN THIS SUBSECTION, “GOODWILL” MEANS BENEFITS THAT
7 ACCRUE TO A BUSINESS AS A RESULT OF ITS LOCATION, REPUTATION FOR
8 DEPENDABILITY, SKILL, OR QUALITY, AND ANY OTHER CIRCUMSTANCES
9 RESULTING IN PROBABLE RETENTION OF OLD OR ACQUISITION OF NEW
10 PATRONAGE.

11 (2) THE DAMAGES TO BE AWARDED FOR THE TAKING WHERE
12 LAND, OR ANY PART OF IT, IS USED FOR A BUSINESS SHALL INCLUDE THE LOSS
13 OF GOODWILL IF THE OWNER OF THE BUSINESS PROVES THAT:

14 (I) THE LOSS:

15 1. IS CAUSED BY THE TAKING OF THE PROPERTY OR
16 INJURY TO THE REMAINDER; AND

17 2. MAY NOT REASONABLY BE PREVENTED BY
18 RELOCATING THE BUSINESS OR BY TAKING STEPS AND ADOPTING PROCEDURES
19 THAT A REASONABLY PRUDENT PERSON WOULD TAKE AND ADOPT IN
20 PRESERVING GOODWILL; AND

21 (II) COMPENSATION FOR THE LOSS WILL NOT BE INCLUDED
22 IN RELOCATION PAYMENTS UNDER SUBTITLE 2 OF THIS TITLE OR DUPLICATED
23 IN ANY OTHER COMPENSATION AWARDED TO THE OWNER.

24 12–105.

25 (a) In this section, the phrase “the effective date of legislative authority for
26 the acquisition of the property,” means, with respect to a condemnor vested with
27 continuing power of condemnation, the **EARLIER OF THE DATE OF THE FIRST**
28 **OFFICIAL GOVERNMENTAL ANNOUNCEMENT OF A PUBLIC PROJECT INVOLVING**
29 **THE PROPERTY OR THE** date of specific administrative determination to acquire the
30 property.

31 (b) (1) The fair market value of property in a condemnation proceeding is
32 the price as of the valuation date for the highest and best use of the property which a
33 vendor, willing but not obligated to sell, would accept for the property, and which a

1 purchaser, willing but not obligated to buy, would pay, excluding any increment in
2 value proximately caused by the public project for which the property condemned is
3 needed.

4 **(2) (I)** [In addition, fair] **FAIR** market value includes any amount
5 by which the price reflects a diminution in value occurring between the effective date
6 of legislative authority for the acquisition of the property and the date of actual taking
7 if the trier of facts finds that the diminution in value was **BEYOND THE REASONABLE**
8 **CONTROL OF THE PROPERTY OWNER AND WAS** proximately caused by:

9 **1.** [the] **THE** public project for which the property
10 condemned is needed[, or by]; **OR**

11 **2.** [announcements] **ANNOUNCEMENTS** or acts of the
12 plaintiff or its officials concerning the public project[, and was beyond the reasonable
13 control of the property owner].

14 **(II) DIMINUTION IN VALUE INCLUDES:**

15 **1. A DIMINUTION IN A VALUE RESULTING FROM A**
16 **LOSS OF RENTAL INCOME; AND**

17 **2. THE ONGOING OBLIGATION FOR THE PAYMENT OF**
18 **PROPERTY TAXES, MORTGAGE INTEREST, INSURANCE, AND OTHER COSTS**
19 **ASSOCIATED WITH MAINTAINING THE PROPERTY.**

20 (c) The defendant property owner may elect to present as evidence in a
21 condemnation proceeding, the assessed value of the property, as determined by the
22 Department of Assessments and Taxation, if the assessed value is greater than the
23 appraised value placed on the property by the condemning authority.

24 **SECTION 2. AND BE IT FURTHER ENACTED,** That this Act shall take effect
25 October 1, 2009.