# WEST VIRGINIA CODE: §16-18-6A

**§16-18-6a. Municipal nonblighted property in slum or blight areas.**

(a) The municipal authority shall have the burden to show that a property is blighted. If the property owner does not allow the authority to conduct an inspection of the property to determine whether it is appropriate to deem the property blighted or unblighted, then it is a rebuttable presumption that the property is blighted.

(b) When any area has been declared to be slum and blighted, pursuant to the provisions of this article, if a private property within that area is found to not be a blighted property, then to condemn the property pursuant to article two, chapter fifty four of the code, the municipal authority must demonstrate, in addition to all other lawful condemnation requirements, that the project or program requiring the clearance of the slum and blighted area:

(1) Cannot proceed without the condemnation of the private property at issue;

(2) That the private property shown not to be blighted cannot be integrated into the proposed project or program once the slum and blighted area surrounding such property is taken and cleared;

(3) That the condemnation of the unblighted property is necessary for the clearance of an area deemed to be slum or blighted;

(4) That other alternatives to the condemnation of the unblighted property are not reasonably practical;

(5) That every reasonable effort has been taken to ensure that the unblighted property and its owners have been given a reasonable opportunity to be included in the redevelopment project or plan without the use of eminent domain;

(6) That no alternative site within the slum and blighted area is available for purchase by negotiation that might substitute as a site for the unblighted property;

(7) That the redevelopment project or plan could not be restructured to avoid the taking of the unblighted property;

(8) That the redevelopment project or plan could not be carried out without the use of eminent domain; and

(9) That there is specific use for the unblighted property to be taken and a plan to redevelop and convert the unblighted property from its current use to the stated specific use basically exists.

(c) In any case when the municipal authority has decided to pursue condemnation, the

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property owner shall have the right to seek review in the circuit court within the county wherein the property lies. Prior to authorizing condemnation as provided pursuant to article two, chapter fifty-four of the code, the court must find that the property is blighted, or if unblighted, that the authority has met the requirements of subsection (b) of this section.

(d) All of the rights and remedies contained in article three, chapter fifty-four of this code concerning relocation assistance are available to the private property owner whose unblighted property is being condemned, and if the property to be condemned contains a business owned by the property owner, the property owner is entitled to the amount, if any, which when added to the acquisition cost of the property acquired by the condemning authority, equals the reasonable cost of obtaining a comparable building or property having substantially the same characteristics of the property sought to be taken.

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