

STATE OF NEW YORK

1343

2021-2022 Regular Sessions

IN SENATE

January 11, 2021

Introduced by Sen. BROOKS -- read twice and ordered printed, and when printed to be committed to the Committee on Local Government

AN ACT to amend the town law, in relation to the acquisition of real property by eminent domain

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 64 of the town law is amended by adding a new
2 subdivision 2-b to read as follows:

3 2-b. Acquisition of real property by eminent domain. a. Notwithstand-
4 ing any provision of the eminent domain procedure law to the contrary,
5 in any proceeding brought pursuant to subdivision two of this section,
6 title shall vest in the town and compensation shall be paid only:

7 1. upon a decision by the state supreme court that compensation for
8 the real property so condemned shall be determined solely by the income
9 capitalization method of valuation, based on the actual net income as
10 allowed by the public service commission; and

11 2. upon such court's determination of the amount of such compensation,
12 based upon the income capitalization method, entry of the final judg-
13 ment, filing of the final decree, and the conclusion of any appeal or
14 expiration of the time to file an appeal related to the condemnation
15 proceeding.

16 b. If any court shall utilize any method of compensation other than
17 the income capitalization method, or if the proposed compensation is
18 more than the rate base of the assets taken in condemnation as utilized
19 by the public service commission in setting rates and as certified by
20 the public service commission, the town may withdraw the condemnation
21 proceeding without prejudice or costs to any party.

22 § 2. Section 215 of the town law is amended by adding a new subdivi-
23 sion 5-a to read as follows:

24 5-a. a. Notwithstanding any provision of the eminent domain procedure
25 law to the contrary, in any proceeding brought pursuant to subdivision

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 five of this section, title shall vest in the district and compensation
2 shall be paid only:

3 1. upon a decision by the state supreme court that compensation for
4 the real property so condemned shall be determined solely by the income
5 capitalization method of valuation, based on the actual net income as
6 allowed by the public service commission; and

7 2. upon such court's determination of the amount of such compensation,
8 based upon the income capitalization method, entry of the final judg-
9 ment, filing of the final decree, and the conclusion of any appeal or
10 expiration of the time to file an appeal related to the condemnation
11 proceeding.

12 b. If any court shall utilize any method of compensation other than
13 the income capitalization method, or if the proposed compensation is
14 more than the rate base of the assets taken in condemnation as utilized
15 by the public service commission in setting rates and as certified by
16 the public service commission, the district may withdraw the condemna-
17 tion proceeding without prejudice or costs to any party.

18 § 3. This act shall take effect immediately.