STATE OF NEW YORK

8939

IN SENATE

August 24, 2020

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

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:

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

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

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

2. upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding.

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

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

5-a. a. Notwithstanding any provision of the eminent domain procedure law to the contrary, in any proceeding brought pursuant to subdivision five of this section, title shall vest in the district and compensation shall be paid only:

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

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

2. upon such court's determination of the amount of such compensation, based upon the income capitalization method, entry of the final judgment, filing of the final decree, and the conclusion of any appeal or expiration of the time to file an appeal related to the condemnation proceeding.

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

§ 3. This act shall take effect immediately.