Introduced by		_
First Reading	Second Reading	
Ordinance No.	Council Bill No.	B 322-12

# AN ORDINANCE

proposing an amendment to the Home Rule Charter for the City of Columbia, Missouri pertaining to the use of eminent domain for economic development and blight; calling a special election to be held on April 2, 2013 on the proposed charter amendment; directing notification of the election authority; describing the form of the notice of election; directing publication of notice; and fixing the time when this ordinance shall become effective.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF COLUMBIA, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council proposes that the Home Rule Charter for the City of Columbia, Missouri be amended by adding the following new section:

Section 167. Use of Eminent Domain for Economic Development and Blight

The city shall not exercise the power of eminent domain to acquire property for economic development, specific state, federal, or local economic development initiatives, or for programs related to economic development such as jobs programs, poverty alleviation, or area, community or neighborhood revitalization, with the intent that the property will ultimately be transferred to another person or entity to be used for private purposes.

The designation of property as "blighted" for purposes of qualifying for any state or federal economic development program shall not be used as a step toward the use of eminent domain.

SECTION 2. The proposed Charter amendment set forth above shall become effective and part of the Home Rule Charter upon its approval by a majority of the qualified electors voting thereon.

SECTION 3. A special election is hereby ordered to be held in the City of Columbia, Missouri, on Tuesday April 2, 2013, on the following question:

## **PROPOSITION 1**

Shall the Columbia Home Rule Charter be amended to add a section that would prohibit the City from using eminent domain to acquire property for economic development with the intent that the property will ultimately be transferred to another person or entity to be used for private purposes?

The designation of property as "blighted" for purposes of qualifying for any state or federal economic development program shall not be used as a step toward the use of eminent domain.

SECTION 4. The City Clerk is hereby authorized and directed to notify the Clerk of the County Commission of Boone County, Missouri, of the adoption of this ordinance no later than 5 o'clock p.m. on January 22, 2013, and to include in the notification all of the terms and provisions required by Chapter 115, RSMo. as amended.

SECTION 5 The form of the notice of election shall be substantially as set forth on "Exhibit A" attached hereto and made a part hereof as fully as if set forth herein verbatim.

SECTION 6. The City Clerk is authorized and directed to publish notice that the text of the proposed Charter amendment is available for inspection and copying in the office of the City Clerk. This notice shall be published at least one time, at least one week before the election, in a daily newspaper in general circulation in the City of Columbia, Missouri.

SECTION 7. This ordinance shall be in full force and effect from and after its passage.

PASSI	ED this	day of	, 2012.
ATTEST:			
City Clerk			Mayor and Presiding Officer
APPROVED	AS TO FORM:		
City Counseld	or		

# NOTICE OF SPECIAL ELECTION City of Columbia, Missouri

Notice is hereby given to the qualified voters of the City of Columbia, Missouri, that the City Council of the City has called an election to be held in the City on Tuesday, April 2, 2013, commencing at six o'clock a.m. and closing at seven o'clock p.m., on the question contained in the following sample ballot:

OFFICIAL BALLOT Special Election City of Columbia, Missouri Tuesday, April 2, 2013

# PROPOSITION 1

Shall the Columbia Home Rule Charter be amended to add a section that would prohibit the City from using eminent domain to acquire property for economic development with the intent that the property will ultimately be transferred to another person or entity to be used for private purposes?

The designation of property as "blighted" for purposes of qualifying for any state or federal economic development program shall not be used as a step toward the use of eminent domain.

	YES
	NO
If you are in favor of the question, place opposed to the question, place an "X" in	ce an "X" in the box opposite "Yes." If you are the box opposite "No."
The election will be held at the following	polling places in the City:
[polling places to be	e added by election authority]
Dated this day of	, 2013.
	Wendy Noren Clerk of the County Commission



Source: Law

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Agenda Item No:

To: <u>City Council</u> From: <u>City Manager and Sta</u>

Council Meeting Date:

Nov 5, 2012

Re: Charter Amendment on Use of Eminent Domain for Economic Development

#### **EXECUTIVE SUMMARY:**

Council member Hoppe has proposed ballot language for the April 2, 2013 election that would amend the City Charter to prohibit the City from exercising the power of eminent domain for economic development with the intent that the property will ultimately be transferred to another person or entity for private purposes.

## **DISCUSSION:**

The proposed Charter amendment would establish a new section of the City Charter that would prohibit the City from exercising the power of eminent domain to acquire property for economic development, specific state, federal, or local economic development initiatives, or for programs related to economic development such as jobs programs, poverty alleviation, or area, community or neighborhood revitalization, with the intent that the property will ultimately be transferred to another person or entity to be used for private purposes.

The proposed Charter amendment would take effect if approved by a simple majority of those voting on the proposition at the April 2, 2013 election.

A related report on limiting the use of eminent domain that was on the April 2, 2012 agenda is attached.

### **FISCAL IMPACT:**

There would be a slight increase in the cost of the April election for printing the ballot and election notice. Fiscal impact of adopting the Charter amendment is unknown.

## **VISION IMPACT:**

http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php

None.

### SUGGESTED COUNCIL ACTIONS:

If the Council wishes to place the proposed Charter amendment on the April ballot, the ordinance should be passed.

FISCAL and VISION NOTES:								
City Fiscal Impact Enter all that apply		Program Impact		Mandates				
City's current net FY cost	\$0.00	New Program/ Agency?	No	Federal or State mandated?	No			
Amount of funds already appropriated	\$0.00	Duplicates/Expands an existing program?	No	Vision Implementation impact				
Amount of budget amendment needed	\$0.00	Fiscal Impact on any local political subdivision?	No	Enter all that apply: Refer to Web site				
Estimated 2 year net costs: Resources Required		vired	Vision Impact?	No				
One Time	\$0.00	Requires add'I FTE Personnel?	No	Primary Vision, Strategy and/or Goal Item #				
Operating/ Ongoing	\$0.00	Requires add'l facilities?	No	Secondary Vision, Strategy and/or Goal Item #				
		Requires add'l capital equipment?	No	Fiscal year implementation Task #				



Source: Law

To: City Council

From: City Manager and Staff

**Council Meeting Date:** 

Apr 2, 2012

Re: Charter Amendment to Limit Use of Eminent Domain in Enhanced Enterprise Zone Areas (Tracker 3590)

Agenda Item No: REP 57-12

## **EXECUTIVE SUMMARY:**

Executive Summary: An amendment to Columbia's Home Rule charter could be adopted to limit the use of eminent domain in Enhanced Enterprise Zone areas. But the amendment would not prevent the use of eminent domain where a state statute specifically grants cities the right to exercise eminent domain (for example, under the statute authorizing tax increment financing).

#### DISCUSSION:

At the March 19, 2012 City Council meeting, Council Member Hoppe requested a report on the possibility of a charter amendment to restrict the use of eminent domain for any designated Enhanced Enterprise Zone (EEZ) area. This issue arose in reaction to the Council's determination that over half of the City contains inadequacies leading to blight under the EEZ statute and the fear that the City might use this determination to acquire property by the exercise of the power of eminent domain.

The suggested charter amendment presumably is to prevent the City from using the power of eminent domain in the manner allowed by the U.S. Supreme Court in <u>Kelo v. City of New London</u> - taking property from one private owner (paying just compensation) and transferring it to another for economic development.

Article 6, Section 19(a) of the Missouri Constitution sets forth the power of constitutional charter cities:

Any city which adopts or has adopted a charter for its own government, shall have all powers which the general assembly of the state of Missouri has authority to confer upon any city, provided such powers are consistent with the constitution of this state and are not limited or denied either by the charter so adopted or by statute. Such a city shall, in addition to its home rule powers, have all powers conferred by law.

The first sentence of 19(a) allows the charter to limit or deny power that a charter city would otherwise have. But the second sentence provides that a charter city also has all powers conferred by law. A city charter cannot deny power granted by state statute. The Tax Increment Financing Law, for example, authorizes cities to exercise eminent domain in connection with TIF projects. A charter amendment attempting to deny the use of eminent domain in connection with a TIF project would be legally ineffective.

The EEZ statute does not purport to authorize cities or counties to exercise the power of eminent domain in connection with an EEZ. Accordingly, a charter amendment could limit or deny the ability of the City to exercise eminent domain based on a finding of blight under the EEZ statute.

## **FISCAL IMPACT:**

None.

#### VISION IMPACT:

http://www.gocolumbiamo.com/Council/Meetings/visionimpact.php

None.

# SUGGESTED COUNCIL ACTIONS:

This report is informational only.