

HOUSE BILL No. 2356

By Committee on Elections and Governmental Organization

2-2

9 AN ACT concerning eminent domain; amending K.S.A. 26-513 and re-
10 pealing the existing section.

11

12 *Be it enacted by the Legislature of the State of Kansas:*

13 Section 1. K.S.A. 26-513 is hereby amended to read as follows: 26-
14 513. (a) *Necessity*. Private property shall not be taken or damaged for
15 public use without just compensation.

16 (b) *Taking entire tract*. If the entire tract of land or interest in such
17 land is taken, the measure of compensation is the fair market value of the
18 property or interest at the time of the taking.

19 (c) *Partial taking*. If only a part of a tract of land or interest is taken,
20 the compensation and measure of damages is the difference between the
21 fair market value of the entire property or interest immediately before
22 the taking, and the value of that portion of the tract or interest remaining
23 immediately after the taking.

24 (d) *Factors to be considered*. In ascertaining the amount of compen-
25 sation and damages, the following nonexclusive list of factors shall be
26 considered if such factors are shown to exist. Such factors are not to be
27 considered as separate items of damages, but are to be considered only
28 as they affect the total compensation and damage under the provisions
29 of subsections (b) and (c) of this section. Such factors are:

30 (1) The most advantageous use to which the property is reasonably
31 adaptable.

32 (2) Access to the property remaining.

33 (3) Appearance of the property remaining, if appearance is an ele-
34 ment of value in connection with any use for which the property is rea-
35 sonably adaptable.

36 (4) Productivity, convenience, use to be made of the property taken,
37 or use of the property remaining.

38 (5) View, ventilation and light, to the extent that they are beneficial
39 attributes to the use of which the remaining property is devoted or to
40 which it is reasonably adaptable.

41 (6) Severance or division of a tract, whether the severance is initial
42 or is in aggravation of a previous severance; changes of grade and loss or
43 impairment of access by means of underpass or overpass incidental to

1 changing the character or design of an existing improvement being con-
2 sidered as in aggravation of a previous severance, if in connection with
3 the taking of additional land and needed to make the change in the
4 improvement.

5 (7) Loss of trees and shrubbery to the extent that they affect the value
6 of the land taken, and to the extent that their loss impairs the value of
7 the land remaining.

8 (8) Cost of new fences or loss of fences and the cost of replacing
9 them with fences of like quality, to the extent that such loss affects the
10 value of the property remaining.

11 (9) Destruction of a legal nonconforming use.

12 (10) Damage to property abutting on a right-of-way due to change of
13 grade where accompanied by a taking of land.

14 (11) Proximity of new improvement to improvements remaining on
15 condemnee's land.

16 (12) Loss of or damage to growing crops.

17 (13) That the property could be or had been adapted to a use which
18 was profitably carried on.

19 (14) Cost of new drains or loss of drains and the cost of replacing
20 them with drains of like quality, to the extent that such loss affects the
21 value of the property remaining.

22 (15) Cost of new private roads or passageways or loss of private roads
23 or passageways and the cost of replacing them with private roads or pas-
24 sageways of like quality, to the extent that such loss affects the value of
25 the property remaining.

26 (e) *Fair market value.* "Fair market value" means the amount in
27 terms of money that a well informed buyer is justified in paying and a
28 well informed seller is justified in accepting for property in an open and
29 competitive market, assuming that the parties are acting without undue
30 compulsion. The fair market value shall be determined by use of the
31 comparable sales, cost or capitalization of income appraisal methods or
32 any combination of such methods.

33 (f) *In no case may the just compensation for property be found to be*
34 *less than 110% of the assessed value of the property for ad valorem tax*
35 *purposes.*

36 Sec. 2. K.S.A. 26-513 is hereby repealed.

37 Sec. 3. This act shall take effect and be in force from and after its
38 publication in the statute book.