Approved: March 23, 1999
Date

MINUTES OF THE HOUSE COMMITTEE ON ECONOMIC DEVELOPMENT .

The meeting was called to order by Chairperson Bill Mason at 3:30 p.m. on March11, 1999 in Room 522-S of the Capitol.

All members were present except: Representative Gatewood
Representative Henderson
Representative Sharp

Committee staff present: April Holman, Legislative Research Department
Lynne Holt, Legislative Research Department
Renae Jefferies, Office of Revisor of Statutes
Rose Marie Glatt, Committee Secretary

Conferees appearing before the committee:
Proponents:
Representative Franklin
Opponents:
Gary Anderson, Gilmore & Bell
Don Moler, KS League of Municipalities
Paul Glaves, Community Development Director, Merriam, KS

Others attending: See Attached

HB 2531: An act concerning tax increment financing and the use of eminent domain powers within a redevelopment district.

April Holman, Legislative Research Department, briefed the committee on the bill. Discussion followed regarding the number of times that the TIF bill has been used and the definition of "blighted area". **HB 2531** would have no fiscal impact.

Representative Franklin said that the intent of the bill was to provide a starting place for an investigative effort by a sub-committee or committee. His amendments offer two changes: develop a better definition of "public good" and develop a better guideline for the use of eminent domain(Attachment1) He believes that the laws are too broad and **HB 2531** would tighten and narrow the use of eminent domain for economic development initiatives.

Discussion followed regarding the automobile dealership case in Merriam, KS, language used in the bill, use of eminent domain for economic development projects, the role of government in the purchase of land for economic development and the time requirements of the bill.

Gary Anderson, Gilmore & Bell, stated that in their opinion **HB 2531** would make it virtually impossible for cities in Kansas to use tax increment financing if eminent domain was necessary (Attachment 2). He explained the current TIF bill as well as two technical problem areas in the proposed amendment that would consequently destroy the abilities of cities to use tax increment financing to redevelop blighted areas of their communities. Discussion followed regarding eminent domain used by KDOT.

Don Moler, General Counsel, League of Kansas Municipalities, stated that they believe that the proposed amendments would significantly increase the complexity and difficulty of using the eminent domain authority by a city and is not in the public interest (Attachment 3). Discussion followed regarding the insignificant amount of projects (statewide) that have used this law and the probable effects of tightening the law. Discussion continued regarding the car dealership scenario in Merriam, KS.

Paul Glaves, Community Development Director, Merriam, KS stated that the issue is how to balance the needs of the many residents and property owners in a community when they conflict with the desires of a single, individual property owner (Attachment 4). **HB 2531** would place into effect restrictions and procedures which would render impractical the use of Redevelopment Districts and Tax Increment Financing by cities.. He provided written testimony of Pete Heaven, City Attorney of Merriam, (Attachment 5). He gave details on the Merriam automobile dealership project.

Written testimony was submitted by Larry Winn (Attachment 6).

Chairman Mason closed the hearing on **HB 2531**.

The next meeting will be March 16, 1999. The Chairman adjourned the meeting at 4:45 p.m.

JOINT COMMITTEE ON ECONOMIC DEVELOPMENT
COMMITTEE GUEST LIST

DATE: March 11, 99

NAME	REPRESENTING
Paul Graves	City of Merriam
Eric Wade	City of Merriam
Carol McDowell	Kansas Preservation Alliance
Cliff Franklin	State Rep.
Trish Heim	SBG
Don Moler	LKM
Whitney Damron	Wico/KCP&S
Harland Priddle	Priddle & Associates
Doug Formoe	DOB
Mike Rouse	Smoot & Associates
John C Peterson	KS Governmtl Consulting
Don Seifert	City of Olathe
Trudy Aron	Am Inst of Architects
Tuck Dugan	
Erik Sartorius	Johnson Co. Board of Realtors

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TOPEKA

HOUSE OF
REPRESENTATIVES

COMMITTEE ASSIGNMENTS
MEMBER: EDUCATION
FEDERAL & STATE AFFAIRS
TAXATION
JT COMMITTEE ON GAMING COMPACTS

March 11, 1999

Mr. Chairman and members of the Economic Development Committee, thank you for making time in your busy schedule to consider the issue of eminent domain and its use for economic development. My purpose in providing you this testimony is not to hurt my friends on the Merriam City government but to suggest some improvements in the Tax Increment Financing TIF. Basically I have two suggestions; develop a better definition of "public good" and develop a better guideline for the use of eminent domain. The criteria needs proper balance between private property rights of existing property owners in re-development districts and economic development interests.

The first suggestion is to come up with a more comprehensive and clear definition of "public good" for using eminent domain in TIF projects. HB 2531 offers a starting place for narrowing the definition. Under current law, Merriam City Officials believe they can condemn any property as long as estimates show an increase of the tax base resulting from re-development. Frankly, this assumption concerns me because this makes all property in an enterprise zone or re-development district open to eminent domain. Governmental bodies can condemn property, at will, as long as there is a better use for the property, even if the existing property has been profitable for thirty plus years. I don't believe the legislative intent of "public good" includes increasing the tax base for city, county, or state governments. This definition is way too broad since any property has a theoretical better use.

Bill Gross operated a car dealership in Merriam for 20 years until he sold the franchise to another dealership. Since then, he has rented the lot to a rug dealership for a couple of years and car dealerships for the last several years. Rent income from this property constitutes 2/3rds of the Gross's retirement income. They have been offered $1 million for the property 7 years ago from an Oriental rug retailer but the Gross's declined. A recent appraisal had the property valued at $1.2 million. The Gross's just want wanted to be left alone to maintain their retirement income stream. The Gross's have been established in Merriam for 32 years.

The City of Merriam took eminent domain of Mr. Gross's property because he would not accept a $630,000 offer from a dealership next door wishing to expand their dealership. Since that time, the Gross's have accepted a $1 million settlement through condemnation proceedings. We can argue about the value of the property for quite a while but the point is the Gross's were honest business people in Merriam for 32 years and had their property taken from them through eminent domain.

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Attachment 1

The 1-acre Gross property sits on prime commercial real estate on the corner of Shawnee Mission Parkway and is clearly visible from a major off-ramp of I-35. The property includes a 6000 square foot showroom/body shop.

The 4.5-acre luxury car dealership next door to Mr. Gross has promised the City of Merriam $1.2 million annual tax revenue if they are allowed to re-develop their land lords property along with the Gross's property. The $1.4 million of tax revenue would require the dealership to generate approximately $120 million per year revenue from car sales and automotive repair. That's a tall order considering they would need to sell approximately 10 luxury cars per day or 3600 cars per year in order to meet their revenue projections. This is why our TIF statues needs to prescribe that all condemning authorities should seek objective revenue projections for proposed re-developments and the existing property so that fair comparisons can be made.

The second point I ask you to consider is to establish clear criteria for entertaining competing re-development options. HB 2531 seeks to make sure existing property owners have an opportunity to submit re-development plans and for them to be given "good faith" consideration. It was concerning that Mr. Gross offered a re-development plan utilizing no public assistance and it was ignored. According to Mr. Gross, the plan was not given any consideration. I am also asking you to clarify the intent of our re-development laws that I believe is to provide incentives for developers to invest in properties that reside in economically depressed business districts and neighborhoods. I don't think TIF laws were ever intended to oust profitable businesses just because someone comes along saying they can produce more tax revenue for government.

U.S. Supreme Court Justice Potter Stewart said in 1972, Lynch v. Household Finance Corporation, "A fundamental interdependence exists between the personal right to liberty and the personal right in property. Neither could have any meaning without the other." Chief Justice Salmon Chase said in 1871, "The fundamental principle of all just legislation is that the legislature shall not take the property of A and give it to B." I agree with former Justice Stewart and Chief Justice Chase. The individual ownership of speech, faith, liberty, and property are fundamental to our republic. We can't stray too far from these principles before we place our rights and freedom's in jeopardy.

In closing I would like to quote Robert Hutchins who was president of the University of Chicago, "The death of democracy is not likely to be an assassination from ambush. It will be a slow extinction from apathy, indifference, and undernourishment." With that said, I ask for nourishment, attention, and caring for one of our most fundamental rights. The right to own property and maintain a profitable business or be compensated in whole. I offer you a starting point in HB 2531 to tighten and narrow the use of eminent domain for economic development initiatives.

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Mr. Chairman and Committee Members, my name is Gary Anderson and I am a shareholder with the municipal bond counsel firm of Gilmore & Bell. Gilmore & Bell has acted as Bond Counsel on a number of tax increment financing projects across the State and in fact are the authors of many of the recent amendments to the act.

House Bill 2531would in our opinion make it virtually impossible for cities in Kansas to use tax increment financing if eminent domain was necessary.

First it is unclear how the bill would impact the use of eminent domain in non-blighted areas, such as enterprise zones, major tourism areas and environmentally contaminated areas.

Secondly, the bill creates a number of requirements that practically are impossible to satisfy. For example, all redevelopment plans could not become effective until a 12-month waiting period to allow existing property owners the opportunity to submit an alternative plan. If an alternative plan was proposed, the city would have to make certain findings based on data from similar markets in order for the city to reject the alternative plan. Similar market areas are areas that contain within 15% the same population per square mile, the same per capital income, the same crime rate, the same property valuation and the same state and local tax liability. This similar market area concept would be virtually impossible to meet.

House Bill 2531 would render the use of eminent domain for tax increment financing projects useless and consequently would destroy the abilities of cities to use tax increment financing to redevelop blighted areas of their communities.

I appreciate the opportunity to make you aware of these technical problems with this bill and would be happy to answer any questions.

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Attachment 2

LEAGUE OF KANSAS MUNICIPALITIES

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PHONE: (785) 354-9565 ▫ FAX: (785) 354-4186

TO: House Federal and State Affairs Committee

FROM: Don Moler, General Counsel

RE: Opposition to HB 2531

DATE: March 11, 1999

First I would like to thank the Committee for allowing the League to appear today in opposition to HB 2531. This bill seeks to amend K.S.A. 12-1773 which is part of the tax increment financing (TIF) law and specifically provides for eminent domain authority for a city using the TIF law. After reviewing HB 2531, we believe that the proposed amendments to K.S.A. 12-1773 would significantly increase the complexity and difficulty of using the eminent domain authority by a city. Specifically (1) the current law already imposes an extraordinary vote requirement (2/3) to condemn property under this law. Is additional protection necessary? (2) We think the definition of "blighted" in this bill may conflict with the definition of the same term earlier in the TIF act; (3) HB 2531 would prohibit the use of eminent domain in enterprise zones altogether; (4) The alternative proposal language is unnecessary since it will happen if the owner is interested in redevelopment and we believe 12 months is much too long; (5) Finally, the cost-benefit analysis is incredibly complex and unworkable.

The ability of cities to use the eminent domain authority is an old one and has many inherent safeguards in the process. First and foremost it is a judicial process conducted before a district court judge. The judge controls the process, oversees the appointment of the appraisers and ultimately rules on the fairness of the award. The district court judge is able to preside over the entire process. If an individual feels that eminent domain authority is being misused by a city, they can challenge it at the district court level. Ultimately, once a decision has been reached and an award made, either party may then appeal it to the appellate court level contesting the award, or in the case of a private property owner, the eminent domain proceeding itself. We believe this represents a more than adequate safeguard for private property rights and landowners and continues a long-standing tradition in this state.

To unnecessarily encumber the ability of cities to use the eminent domain law in the TIF act would severely impact the ability of cities to utilize this tool to rejuvenate blighted parts of their cities and to act in the public interest to assure a positive direction for the city. We believe HB 2531 is not in the public interest and we would urge the Committee to report it unfavorably.

Thank you very much for allowing the League to appear today and offer our comments on HB 2531.

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Attachment 3

TESTIMONY

COMMITTEE ON FEDERAL AND STATE AFFAIRS
House Bill 2531

My name is Paul Glaves and I am the Community Development Director of the City of Merriam, Kansas, 9000 W. 62nd Terrace, Merriam, Kansas. I am a member of the American Institute of Certified Planners and have been employed as a planning and community development professional since 1976. I have been involved with redevelopment projects in Kansas since 1983. I would like to take this opportunity to provide my observations and conclusions regarding House Bill 2531 involving redevelopment and eminent domain.

Publicity surrounding the use of redevelopment powers and eminent domain by the City of Merriam contributed to the impetus for House Bill 2531. A single property owner opposed a redevelopment project and successfully obtained a great deal of publicity regarding the project. The issues raised are fundamental public policy issues which go to the heart of a city's ability to undertake needed redevelopment. The central issue is how to balance the needs of the many residents and property owners in a community when they conflict with the desires of a single, individual property owner.

The issues raised are an age old question addressed many years ago, most notably in the United States Supreme Court case BERMAN v. PARKER. This is a 1954 case arising out of a 1948 dispute regarding 1945 District of Columbia redevelopment legislation. This case is of interest not because of the legal issues involved but rather because of the clear public policy issues discussed in the case.

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Attachment 4

I would offer for your consideration the following statements from the decision rendered my Mr. Justice Douglas in that case:

"The concept of the public welfare is broad and inclusive. The values it represents are spiritual as well as physical, aesthetic as well as monetary. It is within the power of the legislature to determine that the community should be beautiful as well as healthy, spacious as well as clean, well balanced as well as carefully patrolled..."

"If owner after owner were permitted to resist these redevelopment programs on the ground that his particular property was not being used against the public interest, integrated plans for redevelopment would suffer greatly..."

"Once the question of the public purpose has been decided, the amount and character of land to be taken for the project and the need for a particular tract to complete the integrated plan rests in the discretion of the legislative branch... The rights of these property owners are satisfied when they receive that just compensation which the Fifth Amendment exacts as the price of the taking."

The Kansas Statutes regarding redevelopment and the use of eminent domain have very carefully balanced the needs of cities to undertake redevelopment in the public interest, and the rights of individual property owners. The use of eminent domain requires first a determination that there is a proper public purpose and secondly a determination by a panel of disinterested appraisers as to what fair compensation for the property must be. It is long established, sound, public policy that a single

disgruntled landowner should not be permitted to prevent redevelopment properly found to be for a public purpose and in the public interest.

House Bill 2531 abandons that policy and would place into effect restrictions and procedures which would render impractical the use of Redevelopment Districts and Tax Increment Financing by cities. Not only should a single property owner not be permitted to prevent a redevelopment project which is in the public interest; a single disgruntled property owner should not be permitted to persuade the legislature to take an action which will render many future redevelopment projects impractical or impossible to undertake.

TESTIMONY

COMMITTEE ON FEDERAL AND STATE AFFAIRS
House Bill 2531

My name is Pete Heaven, Holbrook, Heaven & Osborn, P.A., 6700 Antioch, Merriam, Kansas. I have served as City Attorney of Merriam, Kansas since 1983, and the concentration in my private practice is real estate and land use law. I would like to take this opportunity to give my observations regarding House Bill 2531, involving Tax Increment Financing and eminent domain.

Merriam, as many other Kansas cities, is landlocked and relies upon development incentives to attract redevelopment. It has approved four separate Tax Increment Financing ("TIF") Projects in two TIF Districts. Two of those projects are now completed, one is nearing completion and the remaining one has yet to be started. Through these projects, I have seen first-hand the challenges cities face in stimulating quality redevelopment and yet remaining mindful of the rights of property owners in affected areas. The projects in Merriam have not only created jobs and improved the city tax base, they also have served as a catalyst for increased community pride and restoration of existing developments.

I would like to share with you my observations regarding two of the TIF Projects, both of which required use of eminent domain.

The first project involved a 65 acre area of the City that was in substantial decline. The property included approximately 105 single-family homes, three apartment complexes and a lumber yard. Residents in the area were finding it difficult to sell their homes, primarily because of the decline in neighboring properties, proliferation of rental properties and

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substandard infrastructure. Those residents approached the City and asked for consideration of the creation of a TIF District to induce a developer to acquire the property and redevelop same.

A developer was located and was able to privately acquire all but nine of the properties. This was done through fair market value offers with objective enhancements for the number of years the property was owned, consideration of disabilities of the owner, and others. In addition, a reasonable relocation/moving allowance was provided.

With regard to the nine properties that were not privately acquired, the developer sought the assistance of the City to utilize eminent domain. Most of the comments I received from those whose property was subject to condemnation was that the owner believed that he/she should receive part of the profits to be generated by the commercial developer in addition to the fair market value of the property; thus, the acquisition price demands were substantially higher than appraised values plus enhancements. After much deliberation, and having been satisfied that all reasonable attempts had been made to privately secure the necessary properties, the Governing Body authorized the initiation of eminent domain proceedings.

At the conclusion of the eminent domain proceedings, only one property owner chose to appeal due to dissatisfaction with the award. A jury trial was held with regard to that appeal, and the property owner received an additional award of approximately 10% of the original condemnation award. In that case, the property owner had asked for a 100% increase.

Thus, my experience with the acquisition and redevelopment of over 110 properties in this TIF Project indicates that only one property owner was dissatisfied with the process and the result of that dissatisfaction was a nominal increase in the acquisition price.

This Project, commonly known as Merriam Town Center, is now a 500,000 square foot shopping center which is fully-leased and, from all appearances, very prosperous. All of those individuals and businesses that were displaced in the process have acquired new properties and many of the homeowners with whom I have spoken are greatly relieved to have the opportunity to sell their homes and purchase better homes. Without the power of eminent domain, this Project would not have been possible.

Regarding the second project, in 1994 the City was approached by a BMW automobile dealer with an idea to redevelop an area of approximately 5 acres at the northeast corner of I-35 and Shawnee Mission Parkway. The Project area includes an abandoned church and single family home, an existing BMW dealership and a commercial building being leased for the sale of used cars. Visibility of this property is extremely good, however access is a problem since the used car facility effectively blocks access to the balance of the property.

The developer and landlord of the used car lot engaged in extensive negotiations for private acquisition without success; the City acted as a mediator between the parties in an attempt to reconcile differences in offers, however the appraiser for the developer and appraiser for the used car lot landlord were considerably apart in values. In the meantime, the developer was able to privately acquire the balance of the Project area.

The Governing Body conducted several hearings to consider the feelings of both sides and continued its efforts in mediation. Unfortunately, a stalemate was reached, and the City was asked to exercise its power of eminent domain. The Governing Body, after much deliberation, concluded that without the used car lot the Project could not go forward and therefore authorized the use of eminent domain. Through the eminent domain process and settlement of an appeal,

the used car lot landlord received approximately $1,000,000, which was over twice the county appraisal.

The press and others have opined that it is unfair to take one's home or business for the benefit of another business. This simplistic view is neither accurate nor realistic for two reasons.

First, while we commonly refer to an eminent domain proceeding as a "taking" it is in effect a purchase of property for money. The eminent domain statutes provide a complicated yet effective method to ensure that property owners are heard, are allowed to give input and are fairly compensated for the property sought. One need only look at the number of appeals emanating from eminent domain proceedings to immediately conclude that the overwhelming majority of property owners subject to eminent domain are satisfied with the awards they receive from the Court. This is in large part that due to the fact that properties are independently appraised under court supervision by disinterested individuals who understand the needs and desires of property owners. If a property owner is dissatisfied with an award, he/she has the automatic right to ask a jury of twelve to completely reconsider the issue of value without knowledge of the prior proceedings.

Second, those who decry the use of eminent domain in TIF Districts overlook that in <u>all</u> eminent domain proceedings, land is appropriated for a use that is designed to benefit the public. Whether it is a street, drainage area, park or TIF Project, all have the common thread of general benefit to the public. The public benefit in a TIF Project is not only enhancement of the tax base of the city but also the redevelopment and improvement of infrastructure and other public facilities. The value of those benefits to the public cannot and should not be underestimated.

For example, in connection with the Merriam Town Center Project, public streets were widened and improved, modern traffic signalization installed, drainage improved and utilities modernized, which benefited not only surrounding owners but also the public at large. These improvements were done solely at developer expense and without placing a tax burden upon residents of the City.

In my opinion, House Bill No. 2531, amending K.S.A. 12-1773, is not an attempt to protect property rights; its purpose is to make the use of eminent domain in a TIF District impossible. My reasoning is as follows:

- ***In court, a city must establish by a preponderance of the evidence that the property is a blighted area.*** As the Committee is aware, a finding of "blight" is a legislative finding of the governing body of the city; there is abundant case law in Kansas that establishes that courts will not and cannot substitute their judgment for the legislative judgment of cities. Assuming, however, that a court would attempt to do so, the amendment gives no guidance as to how the burden is to be met.

- ***The modified definition of "blighted area" excludes eminent domain in most situations.*** First, it appears that the amendment will preclude the use of eminent domain in enterprise zones, where it is now allowed without a "blight finding". Second, by tying the definition to structures, as opposed to land, and crime, vacant land (regardless of condition) cannot be condemned. This omission (or exclusion) overlooks the obvious fact that much of the property most eligible for redevelopment is "unimproved" land that constitutes a safety or health problem for a city.

- ***The definition of crime as an element of "blight" is unworkable.*** The terms "contiguous and compact" area are not defined and have no independent meaning. Contiguous to what? Who determines what is "compact"? What is "significantly higher" and who makes that determination? If it the governing body that makes the foregoing determinations, is a court in a position to test the validity of same?

- ***"a judge must agree with the cities (sic) allegation that the property is located in a blighted area."*** This statement seems contradictory to the requirement that the blighted area must be established by a "preponderance" of the evidence. Judges do not agree or disagree with a position; they make rulings and orders.

- ***"prior to the adoption of a redevelopment plan in which existing private property owners are planned to be replaced by different private property owners ... the city shall...*** Does this apply to situations where eminent domain is not contemplated (private sale to a developer)? If so, the requirements of (A) and (B) are likely to prevent the private sale. Does this apply to situations where the property owner incorporates into an entity for development purposes? The new entity is a "different" owner.

- ***"prior to the adoption of a redevelopment plan in which ... the real estate which is to be condemned is to be used in a manner which will benefit other specific private property owners disproportionately to the general public ... the city shall...*** Does this include owners of adjacent property whose property values may increase due to the redevelopment? If so, why should (A) and (B) apply? It is also unclear how the "disproportionate" test is determined or met. If it is up to the governing body, does the court also have the power to review the decision?

- *(2) (A) - Offer existing property owners an opportunity to present an alternative redevelopment plan more than 12 months prior to filing a condemnation petition ...* This provision ignores the dynamics of the real estate and development markets, and will discourage developers to propose redevelopments due to the substantial waiting period. To properly analyze a development, a developer must expend substantial sums on engineering, economic viability, design and other matters; it is unlikely that a developer will be willing to expend those sums if a competing developer can, in effect, pre-empt the process and utilize the first developer's work (which will be a matter of public record if an application has been filed for approval of a redevelopment plan).

- *(2) (A) - comparison of the original and competing development plans.* This subsection is confusing and fraught with practical difficulties; it further places the city in a position of having to accept the competing development plan unless it is found (and supported by a "neutral third party") that the original development plan creates twice as many jobs and twice the tax revenue of the existing use. These requirements, aside from divesting the city of discretion in approving a development plan, overlook the many other benefits of redevelopment. Those benefits transcend jobs and tax revenues, and include civic pride, attracting businesses that fulfill a city need, improvement of the city infrastructure, and serving as an engine for further redevelopment.

In conclusion, it is my opinion that eminent domain must remain a part of TIF laws, and without it, TIF will no longer be a viable means of attracting redevelopment and new commerce. House Bill No. 2531 appears to be ill-conceived, complex and no more than special legislation to cure a perceived (however nonexistent) problem. Decisions regarding the use of TIF and

eminent domain should be made at the local level, where the unique attributes of each TIF project can be carefully and closely analyzed, and the best interests of property owners and the city at large preserved. To limit the ability of cities to encourage redevelopment and the infusion of new commerce will lead to the continued decay.

Thank you for your time and attention.

TESTIMONY BEFORE THE HOUSE, STATE AND FEDERAL AFFAIRS COMMITTEE HOUSE BILL 2531

Ladies and Gentleman:

The legislation that this bill seeks to amend has been used only a handful of times since it was put into law. The constraints of the marketplace, the difficulties of acquiring multiple parcels of land for redevelopment and the political difficulties in acquiring this land, have resulted in very rare usage of the authorities granted in the statute. The problem with the bill as proposed is, that to the extent that it has limited but valuable tools for economic redevelopment, those tools and the authority granted by the statute will have been effectively gutted. I believe the bill was drafted intentionally to make it virtually impossible for a municipality to use the statute. It obfuscates existing definitions of blight that are well understood in our communities. It by statute attempts to overrule in my mind the recent decision decided July 10, 1998 by the Kansas Supreme Court in the case of *State of Kansas ex rel. Nick A. Tomasic, Wyandotte County District Attorney, Relator v. The Unified Government of Wyandotte County/Kansas City, Kansas, Respondent* which found that economic development can be a valid exercise of powers of eminent domain. This twenty-four page decision makes a comprehensive analysis of the balancing of power between a municipality's desire for growth and economic development versus an appropriate balancing for those whose land is sought to be taken for such purposes.

It appears to me that this legislation may have been drafted in response to a particular business owner's objection to having his land included in a redevelopment district in the City of Merriam. I am fairly familiar with that case, and notwithstanding all the hew and cry, I would suggest to you that the system worked flawlessly. The City accomplished its economic development goals and the landowner put $1,000,000 in his pocket for a 3,000 square foot used car sales building that had not only featured used cars, but Elvis paintings and oriental rugs. I think it is always a mistake to overreact to a particular situation when in fact some of the landowners strategy may have been to create exactly the type of hysteria that was created.

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Attachment 6

period of time in which to submit his, hers or its own competing redevelopment plan. In other words, the condemnee could say, "Don't condemn me." I in fact will initiate a redevelopment plan and I will not only redevelopment my own property, but redevelop other property within the proposed redevelopment district. I can do it better and cheaper than the approved redeveloper. As long as the process doesn't drag on for another six months or a year, it might afford the condemnee an opportunity to put his money where his mouth is in terms of assuming the risk for the larger scale and the newer economic development project.

In any event, I would suggest the old colloguialism to you, "If it ain't broke, don't fix it" and I think this statute is a classic example of one that is not broken.

18009 / 28473
LWINN 104462 LARRY WINN