

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1993

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HOUSE BILL 897*

Short Title: Cary Street Taking.

(Local)

Sponsors: Representative Stamey.

Referred to: Judiciary II.

April 12, 1993

A BILL TO BE ENTITLED

AN ACT TO CLARIFY THE LAW RELATING TO ACQUISITION BY THE TOWN OF CARY OF STREET RIGHT-OF-WAY OUTSIDE THE CORPORATE LIMITS.

The General Assembly of North Carolina enacts:

Section 1. G.S. 160A-240.1 reads as rewritten:

"§ 160A-240.1. Power to acquire property.

(a) A city may acquire, by gift, grant, devise, bequest, exchange, purchase, lease, or any other lawful method, the fee or any lesser interest in real or personal property for use by the city or any department, board, commission or agency of the city. In exercising the power of eminent domain a city shall use the procedures of Chapter 40A.

(b) A city may acquire by purchase or eminent domain the fee or any lesser interest in real property, which is located outside the corporate limits of the city, for use under G.S. 160A-296(a)(3) only if the street for which right-of-way is to be acquired is in a comprehensive plan adopted pursuant to G.S. 136-66.2, and for which an agreement for right-of-way acquisition has been reached pursuant to G.S. 136-66.3."

Sec. 2. G.S. 40A-3(b) reads as rewritten:

"(b) Local Public Condemnors. – For the public use or benefit, the governing body of each municipality or county shall possess the power of eminent domain and may acquire by purchase, gift or condemnation any property, either inside or outside its boundaries, for the following purposes.

(1) Opening, widening, extending, or improving roads, streets, alleys, and sidewalks. The authority contained in this subsection is in addition to the authority to acquire rights-of-way for streets, sidewalks and

1 highways under Article 9 of Chapter 136. The provisions of this
2 subdivision (1) shall not apply to counties.

3 (2) Establishing, extending, enlarging, or improving any of the public
4 enterprises listed in G.S. 160A-311 for cities, or G.S. 153A-274 for
5 counties.

6 (3) Establishing, enlarging, or improving parks, playgrounds, and other
7 recreational facilities.

8 (4) Establishing, extending, enlarging, or improving storm sewer and
9 drainage systems and works, or sewer and septic tank lines and
10 systems.

11 (5) Establishing, enlarging, or improving hospital facilities, cemeteries, or
12 library facilities.

13 (6) Constructing, enlarging, or improving city halls, fire stations, office
14 buildings, courthouse jails and other buildings for use by any
15 department, board, commission or agency.

16 (7) Establishing drainage programs and programs to prevent obstructions
17 to the natural flow of streams, creeks and natural water channels or
18 improving drainage facilities. The authority contained in this
19 subdivision is in addition to any authority contained in Chapter 156.

20 (8) Acquiring designated historic properties, designated as such before
21 October 1, 1989, or acquiring a designated landmark designated as
22 such on or after October 1, 1989, for which an application has been
23 made for a certificate of appropriateness for demolition, in pursuance
24 of the purposes of G.S. 160A-399.3, Chapter 160A, Article 19, Part
25 3B, effective until October 1, 1989, or G.S. 160A-400.14, whichever is
26 appropriate.

27 (9) Opening, widening, extending, or improving public wharves.

28 The board of education of any municipality or county or a combined board may
29 exercise the power of eminent domain under this Chapter for purposes authorized by
30 other statutes.

31 The power of eminent domain shall be exercised by local public condemnors under
32 the procedures of Article 3 of this Chapter.

33 Acquisition of property outside the corporate limits by purchase or condemnation
34 pursuant to subdivision (1) of this subsection may be exercised only as provided by
35 G.S. 160A-240.1(b)."

36 Sec. 3. G.S. 160A-296 reads as rewritten:

37 **"§ 160A-296. Establishment and control of streets; center and edge lines.**

38 (a) A city shall have general authority and control over all public streets,
39 sidewalks, alleys, bridges, and other ways of public passage within its corporate limits
40 except to the extent that authority and control over certain streets and bridges is vested
41 in the Board of Transportation. General authority and control includes but is not limited
42 to:

43 (1) The duty to keep the public streets, sidewalks, alleys, and bridges in
44 proper repair;

- 1 (2) The duty to keep the public streets, sidewalks, alleys, and bridges open
2 for travel and free from unnecessary obstructions;
- 3 (3) The power to open new streets and alleys, and to widen, extend, pave,
4 clean, and otherwise improve existing streets, sidewalks, alleys, and
5 bridges, and to acquire the necessary land therefor by dedication and
6 acceptance, purchase, or eminent domain;
- 7 (4) The power to close any street or alley either permanently or
8 temporarily;
- 9 (5) The power to regulate the use of the public streets, sidewalks, alleys,
10 and bridges;
- 11 (6) The power to regulate, license, and prohibit digging in the streets,
12 sidewalks, or alleys, or placing therein or thereon any pipes, poles,
13 wires, fixtures, or appliances of any kind either on, above, or below the
14 surface;
- 15 (7) The power to provide for lighting the streets, alleys, and bridges of the
16 city; and
- 17 (8) The power to grant easements in street rights-of-way as permitted by
18 G.S. 160A-273.
- 19 (b) Repealed by Session Laws 1991, c. 530, s. 6.
- 20 (c) A city may acquire property outside its corporate limits by purchase or
21 eminent domain under subdivision (a)(3) of this section only as provided by G.S. 160A-
22 240.1(b)."
- 23 Sec. 4. This act applies to the Town of Cary only.
- 24 Sec. 5. This act is effective upon ratification.