

RESOLUTION NO. 2015271

RE: ACCEPTING THE DETERMINATION AND FINDINGS RELATING TO THE PROPOSED PUBLIC PROJECT ENTITLED REPLACEMENT OF BRIDGE S-37 (B.I.N. 3343850) CR 19 (BULLS HEAD ROAD) OVER LITTLE WAPPINGER CREEK IN THE TOWN OF STANFORD, DUTCHESS COUNTY

Legislators HUTCHINGS, FARLEY, and PULVER offer the following and move its adoption:

WHEREAS, CR 19 (Bulls Head Road) is owned by the County of Dutchess and maintained by the Dutchess County Department of Public Works; and

WHEREAS, Bridge S-37, which carries CR 19 (Bulls Head Road) over the Little Wappinger Creek is in a deteriorated condition and needs to be replaced, and

WHEREAS, the County is proposing a highway improvement project that begins approximately 360 feet west of NYS Route 82 and ends approximately 150 west of the Depot Lane intersection, and

WHEREAS, the project objectives include improving vehicular safety by addressing realignment of the road in the vicinity of the bridge by limiting vertical grades, decreasing horizontal curvature and improving site distance, and

WHEREAS, the need for this project was identified by the Dutchess County Department of Public Works based on the deteriorated condition of the current bridge which suffers from rusting and holes in the superstructure due to corrosion. The existing wingwalls are in poor condition and the eastern abutment is undermined, and

WHEREAS, the proposed project objectives are to improve roadway safety through the replacement of the bridge to eliminate structural deficiencies, maintain or increase the hydraulic capacity of the bridge structure; realignment of CR 19 (Bulls Head Road) in the vicinity of the bridge over the Little Wappinger Creek, and

WHEREAS, the Dutchess County Department of Public Works caused to be performed a vehicular traffic accident analysis within a half mile radius of the project area of Bulls Head Road and Bridge S-37 over Little Wappinger Creek, for a 3-year period between May 2011 and April 2013 to document the accident history throughout the project corridor and to identify any accident patterns or clusters; and

WHEREAS, said study identified 16 reported vehicular accidents within a half mile radius of the project area during this period. Thirteen of the accidents were located outside of the project area and were unrelated to Bulls Head Road within the project vicinity. Of the remaining three accidents, two involved drivers using unsafe speeds through the project area, both hitting fixed objects (utility pole & tree) and both while traveling downhill. The third accident involved

a driver on Depot Lane failing to yield the right-of-way while turning onto Bulls Head Road; listing obstructed view as a contributing factor, and

WHEREAS, by Resolution No. 2014122, the County of Dutchess committed to advance the Project for the replacement of Bridge S-37 on CR 19 (Bulls Head Road) over the Little Wappinger Creek and realignment of the road in the vicinity of the bridge, in the Town of Stanford, Dutchess County; and

WHEREAS, the Dutchess County Department of Public Works established project objectives to analyze the feasible alternatives and guide the design process; and

WHEREAS, the project objectives include improving vehicular safety by replacing the bridge on CR 19 (Bulls Head Road) over Little Wappinger Creek and the realignment of the roadway limiting vertical grades, decreasing horizontal curvature and improving sight distance; and

WHEREAS, the Dutchess County Department of Public Works implemented a program to incorporate public involvement which included a public information meeting held on September 23, 2015; and

WHEREAS, notices of the public information meetings were published, mailed and generally distributed throughout the proposed project area, at which time the data was presented, project objectives were discussed and the public was allowed to address important project issues; and

WHEREAS, following consideration of public input, the County of Dutchess and its consultant incorporated mitigation measures into the project design to address stated concerns where warranted; and

WHEREAS, the County of Dutchess and its consultant prepared and periodically revised a project design to accomplish the improvement of the aforementioned bridge on CR 19 (Bulls Head Road) over Little Wappinger Creek in the Town of Stanford, Dutchess County which design included the development and consideration of various preliminary alternatives; and

WHEREAS, based on the analysis of data gathered by the Dutchess County Department of Public Works and its consultants and comments received through the public involvement program, Roadway Alignment Alternative #3 (c), and Structure Alternative #4 (b), were deemed to be the preferred alternatives for Final Design Approval; and

WHEREAS, Road Alignment Alternative #3 (c) - 35 mph horizontal alignment criteria with 25 mph HSD / 35 mph comfort vertical alignment criteria was chosen as the preferred alternative as there was a lower impact on adjacent properties and the design speed was considered appropriate given the terrain, number of driveways and proximity to State Route 82, and

WHEREAS, Structure Alternative #2 (b) - Pre-stressed Concrete Next Beams with Semi-integral Abutments was chosen as the preferred alternative as the bridge would not be overbuilt in width, simplicity in construction, and greater efficiencies in construction. It would also provide much safer operating conditions for motorists, and

WHEREAS, this project is classified as an Unlisted project under the State Environmental Quality Review Act (SEQRA), and an Environmental Assessment was completed, and

WHEREAS, the County of Dutchess acting as lead SEQRA agency, has completed all appropriate SEQRA processing in accordance with applicable laws, rules and regulations, and has otherwise considered the general effect of the proposed project on the environment; and

WHEREAS, the County of Dutchess has considered the general effect of the proposed project on the residents of the locality in which the proposed project is to be undertaken; and

WHEREAS, representatives of the County of Dutchess have met with residents who may be affected by the proposed public project and have made every effort to minimize the impact that the proposed public project will have on adjacent properties; and

WHEREAS, the proposed Road Alignment Alternative #3 (c) and Bridge Structure Alternative #4 (b) would require the County of Dutchess to acquire easements and/or fee interests in strips of land from approximately 5 properties along CR 19 (Bulls Head Road) within the proposed project area; and

WHEREAS, in accordance with Article 2 of the Eminent Domain Procedure Law after due notice and publication a public hearing was held beginning at 7:48 p.m. on September 23, 2015 at the Stanford Town Court, Stanfordville, New York, to inform the public and to review the public use to be served by the proposed public project and the impact on the environment and residents of the locality where the project will be constructed and to consider all other matters appropriate to that project; and

WHEREAS, during the course of the public hearing, all matters required by the Eminent Domain Procedure Law and appropriate to such public hearing were identified and explained to persons then in attendance, and such persons in attendance were given an opportunity to, and did, speak and comment on the proposed public project and examined documents presented; and

WHEREAS, at the conclusion of the public hearing, the hearing was adjourned to the close of business on October 6, 2015; and

WHEREAS, the minutes of such public hearing were transcribed and made available, together with the exhibits and other documents, if any, which were identified or made available during the oral presentation phase thereof, for inspection and examination by the public at the offices of the Dutchess County Department of Public Works and the Dutchess County Clerk; and

WHEREAS, additional written public comments regarding the proposed public project were accepted until the close of business on October 6, 2015, and said comments were incorporated into the record of the aforementioned Eminent Domain Procedure Law Public Hearing;

NOW, THEREFORE, IT IS HEREBY RESOLVED, the following constitutes the determination and findings of this Body with respect to the replacement of the Bridge S-37 (B.I.N. 3343850) on CR 19 (Bulls Head Road) over Little Wappinger Creek in the Town of Stanford, Dutchess County:

1. The public use, benefit or purpose to be served by the proposed public project is to replace Bridge S-37 (B.I.N. 3343850), which carries CR 19 (Bulls Head Road) over Little Wappinger Creek, improve traffic safety by realignment of the roadway, limiting vertical grades, decreasing horizontal curvature and improving sight distance. The current bridge suffers from rusting and holes in the superstructure due to corrosion. The existing wingwalls are in poor condition and the eastern abutment is undermined.
2. The proposed project objectives are:
  - a. Improve roadway safety through the realignment of CR 19 (Bulls Head Road) in the vicinity of the bridge over the Little Wappinger Creek. Realign in order to bring the roadway closer to standards:
    - i. Increasing radii of horizontal curves.
    - ii. Decreasing roadway grades.
    - iii. Improving sight distance.
    - iv. Widening roadway to meet current design standards.
    - v. Improving horizontal clearance from buildings adjacent to the roadway.
  - b. Structural Deficiencies – The proposed public project will eliminate structural deficiencies with a new structure that will provide a 75-year service life.
  - c. The proposed public project will maintain or increase the hydraulic capacity of the bridge structure by providing a longer span and a greater vertical clearance between the creek and the bridge.
3. The following different alternatives were considered with respect to road alignment:
  - a. Alignment with horizontal curves appropriate for 45 mph: This alternative provided a horizontal alignment for a 45 mph speed while the vertical alignment would only provide for speeds in the 30-35 mph range. Due to significant property impacts and because of the large discrepancy in design speeds between the vertical and horizontal alignments, this alternative was dismissed.
  - b. Alignment with horizontal curves appropriate for 40 mph: This alternative provided a horizontal alignment for a 40 mph speed while the vertical alignment would provide for speeds in the 25-30 mph range. This alternative was dismissed due to the property impacts that could not be justified including a conflict with embankment near a house close to the existing roadway.
  - c. Alignment with horizontal curves appropriate for 35 mph: This alternative provides for an alignment with a 35 mph horizontal alignment criteria, a 25 mph HSD and a 35 mph comfort vertical alignment criteria.
4. The following alternatives have been considered for bridge replacement:
  - a. Pre-stressed Adjacent Concrete Box Beam with Semi-integral Abutments: This alternative consists of replacing the existing 34-foot-span jack-arch bridge with a new 75 foot span bridge. Prestressed adjacent concrete box beams with a six inch

concrete deck would be used for this alternative with an estimated construction cost of \$1,535,000

- b. Pre-stressed Concrete Next Beams with Semi-integral Abutments would be used for this alternative that would include an asphalt bridge deck rather than a concrete deck. The estimated cost for this alternative is \$1,525,000.

5. Recommended Alternatives:

- a. Roadway Alignment Alternative: Alternative #3 ( c) - Alignment with horizontal curves appropriate for 35mph . This alternative was chosen as the preferred alternative as there was a lower impact on adjacent properties and the design speed was considered appropriate given the terrain, number of driveways and proximity to State Route 82
  - b. Structure Alternative: Alternative #4 (b) was chosen as the preferred alternative as the bridge would not be overbuilt in width, simplicity in construction, and greater efficiencies in construction. It would also provide much safer operating conditions for motorists.
6. The proposed project underwent a thorough and proper State Environmental Quality Review Act (SEQRA) environmental review, during which environmental concerns were addressed. The County of Dutchess, acting as SEQRA lead agency, has issued a Negative Declaration (Notice of Determination of Non-Significance), meaning that the proposed project will not have a significant adverse impact on the environment.
7. It is hereby concluded that the proposed public project will have, among other things, the following effects upon the residents of the locality:
- a. The proposed public project will have a beneficial impact on the residents of the area of the proposed public project. The proposed public project will improve overall public safety by increasing the radii of horizontal curves, decreasing roadway grades, improving sight distance, widening roadway to meet or surpass the roadway widths of adjacent segments and improving horizontal clearance from buildings adjacent to the roadway.
  - b. The proposed public project will not have any long-term impacts on any highway-related businesses, nor will it require any relocations.
  - c. The proposed public project will require strip acquisitions, but will not affect land uses, change travel patterns or have any permanent effect on local planning.
  - d. This proposed project will not have a substantial negative impact on the aesthetics of the area. Rather, various elements of the project will enhance the appearance of the area.
8. The Dutchess County Department of Public Works is hereby authorized and directed to prepare a brief synopsis of the foregoing determination and findings, such synopsis to

include those factors set forth in Eminent Domain Procedure Law §204(B), and, further, such synopsis to state that copies of the determination and findings will be forwarded upon written request without cost.

9. The Dutchess County Department of Public Works is further hereby authorized and directed to publish the aforementioned synopsis of the foregoing resolution in at least two (2) successive issues of an official newspaper designated by the County of Dutchess and in at least two successive issues of a newspaper of general circulation in Dutchess County.
10. The Dutchess County Department of Public Works is further hereby authorized and directed to serve, by personal service or certified mail, return receipt requested, a notice of the aforementioned brief synopsis upon each assessment record billing owner (as that term is defined in Eminent Domain Procedure Law §103(B-1) or his or her attorney of record whose property may be acquired, such notice to:
  - a. include the information required by Eminent Domain Procedure Law §204(B)(2); and
  - b. state that copies of the determination and findings will be forwarded upon written request without cost; and
  - c. state that pursuant to Eminent Domain Procedure Law §207, such individual shall have thirty (30) days from the completion of the publication of the aforementioned brief synopsis in the newspapers as aforesaid, to seek judicial review of the County of Dutchess' determination and findings relating to the proposed public project; and
  - d. inform such individual that, under Eminent Domain Procedure Law §§207 and 208, the exclusive venue for judicial review of the County of Dutchess' determination and findings relating to the proposed public project is the appellate division of the supreme court in the judicial department where any part of the property to be condemned is located.

CA-186-15  
CAB/kvh R-0958-A  
11/17/15  
Fiscal Impact: Attached.

STATE OF NEW YORK  
COUNTY OF DUTCHESS

ss:

This is to certify that I, the undersigned Clerk of the Legislature of the County of Dutchess have compared the foregoing resolution with the original resolution now on file in the office of said clerk, and which was adopted by said Legislature on the 3<sup>rd</sup> day of December 2016, and that the same is a true and correct transcript of said original resolution and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said Legislature this 3<sup>rd</sup> day of December 2016.

CAROLYN MORRIS, CLERK OF THE LEGISLATURE

## FISCAL IMPACT STATEMENT

NO FISCAL IMPACT PROJECTED

### APPROPRIATION RESOLUTIONS

*(To be completed by requesting department)*

Total Current Year Cost \$ \_\_\_\_\_

Total Current Year Revenue \$ \_\_\_\_\_  
and Source

Source of County Funds *(check one)*:  Existing Appropriations,  Contingency,  
 Transfer of Existing Appropriations,  Additional Appropriations,  Other *(explain)*.

Identify Line Items(s):

Related Expenses: Amount \$ \_\_\_\_\_

Nature/Reason:

Publication costs for synopsis of findings.

Anticipated Savings to County: \_\_\_\_\_

Net County Cost (this year): \_\_\_\_\_  
Over Five Years: \_\_\_\_\_

#### Additional Comments/Explanation:

REPLACEMENT OF BRIDGE S-37, CR 19 (BULLS HEAD ROAD)  
OVER LITTLE WAPPINGER CREEK, TOWN OF STANFORD

This Fiscal Impact Statement is related to the Resolution Request to authorize the Dutchess County Legislature to adopt the attached resolution which accepts the Eminent Domain Procedure Law (EDPL) Determination and Findings.

Prepared by: Matthew W. Davls

Prepared On: 11/5/2015

DISCUSSION ONLY 5-8-14  
PUBLIC WORKS & CAPITAL PROJECTS

RESOLUTION NO. 2014122

BOND RESOLUTION DATED JUNE 9, 2014.

A RESOLUTION AUTHORIZING THE ISSUANCE OF \$5,050,000 SERIAL BONDS OF THE COUNTY OF DUTCHESS, NEW YORK, TO PAY THE COST OF RECONSTRUCTION OF BRIDGES, IN AND FOR SAID COUNTY

WHEREAS, all conditions precedent to the financing of the capital project hereinafter described, including compliance with the provisions of the State Environmental Quality Review Act as a Type II Action, have been performed; and

WHEREAS, it is now desired to authorize the financing of such capital project; NOW,  
THEREFORE

BE IT RESOLVED, by the County Legislature of the County of Dutchess, New York, as follows:

Section 1. The cost of the reconstruction of bridges, in and for the County of Dutchess, New York, including incidental improvements and expenses in connection therewith, is hereby authorized at a maximum estimated cost of \$5,050,000.

Section 2. It is hereby determined that the plan for the financing of the aforesaid class of objects or purposes is by the issuance of \$5,050,000 serial bonds of said County hereby authorized to be issued therefor pursuant to the provisions of the Local Finance Law.

Section 3. It is hereby determined that the period of probable usefulness of the aforesaid class of objects or purposes is 40 years, pursuant to subdivision 10 of paragraph a of Section 11.00 of the Local Finance Law.

Section 4. Subject to the provisions of the Local Finance Law, the power to authorize the issuance of and to sell bond anticipation notes in anticipation of the issuance and sale of the

serial bonds herein authorized, including renewals of such notes, is hereby delegated to the Commissioner of Finance, the chief fiscal officer. Such notes shall be of such terms, form and contents, and shall be sold in such manner, as may be prescribed by said Commissioner of Finance, consistent with the provisions of the Local Finance Law.

Section 5. The faith and credit of said County of Dutchess, New York, are hereby irrevocably pledged for the payment of the principal of and interest on such bonds as the same respectively become due and payable. An annual appropriation shall be made in each year sufficient to pay the principal of and interest on such bonds becoming due and payable in such year. There shall annually be levied on all the taxable real property of said County a tax sufficient to pay the principal of and interest on such bonds as the same become due and payable.

Section 6. Such bonds shall be in fully registered form and shall be signed in the name of the County of Dutchess, New York, by the manual or facsimile signature of the Commissioner of Finance and a facsimile of its corporate seal shall be imprinted or impressed thereon and may be attested by the manual or facsimile signature of the County Clerk.

Section 7. The powers and duties of advertising such bonds for sale, conducting the sale and awarding the bonds, are hereby delegated to the Commissioner of Finance, who shall advertise such bonds for sale, conduct the sale, and award the bonds in such manner as she shall deem best for the interests of the County; provided, however, that in the exercise of these delegated powers, she shall comply fully with the provisions of the Local Finance Law and any order or rule of the State Comptroller applicable to the sale of municipal bonds. The receipt of the Commissioner of Finance shall be a full acquittance to the purchaser of such bonds, who shall not be obliged to see to the application of the purchase money.

Section 8. All other matters, except as provided herein relating to such bonds including determining whether to issue such bonds having substantially level or declining annual debt service and all matters related thereto, prescribing whether manual or facsimile signatures shall appear on said bonds, prescribing the method for the recording of ownership of said bonds, appointing the fiscal agent or agents for said bonds, providing for the printing and delivery of said bonds (and if said bonds are to be executed in the name of the County by the facsimile signature of the Commissioner of Finance, providing for the manual countersignature of a fiscal agent or of a designated official of the County), the date, denominations, maturities and interest payment dates, place or places of payment, and also including the consolidation with other issues, shall be determined by the Commissioner of Finance. It is hereby determined that it is to the financial advantage of the County not to impose and collect from registered owners of such serial bonds any charges for mailing, shipping and insuring bonds transferred or exchanged by the fiscal agent, and, accordingly, pursuant to paragraph c of Section 70.00 of the Local Finance Law, no such charges shall be so collected by the fiscal agent. Such bonds shall contain substantially the recital of validity clause provided for in section 52.00 of the Local Finance Law and shall otherwise be in such form and contain such recitals in addition to those required by section 52.00 of the Local Finance Law, as the Commissioner of Finance shall determine.

Section 9. This resolution shall constitute a statement of official intent for purposes of Treasury Regulations Section 1.150 - 2. Other than as specified in this resolution, no monies are, or are reasonably expected to be, reserved, allocated on a long-term basis, or otherwise set aside with respect to the permanent funding of the object or purpose described herein.

Section 10. The validity of such bonds and bond anticipation notes may be contested only if:

1) Such obligations are authorized for an object or purpose for which said County is not authorized to expend money, or

2) The provisions of law which should be complied with at the date of publication of this resolution are not substantially complied with, and an action, suit or proceeding contesting such validity is commenced within twenty days after the date of such publication, or

3) Such obligations are authorized in violation of the provisions of the Constitution.

Section 11. This resolution, which takes effect immediately, shall be published in summary form in *The Poughkeepsie Journal* and the *Southern Dutchess News*, the official newspapers of said County, together with a notice of the Clerk of the County Legislature in substantially the form provided in Section 81.00 of the Local Finance Law.



Newspaper and/or other news media

Date given

Southern Dutchess News

June 6, 2014

Poughkeepsie Journal

June 6, 2014

and that I further duly caused public notice of the time and place of said meeting to be conspicuously posted in the following designated public location(s) on the following dates:

Designated Location(s)  
of posted notice

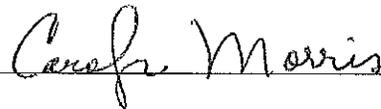
Date of Posting

County Office Building, 6<sup>th</sup> Floor, County Office Building

June 6, 2014

Poughkeepsie, NY 12601

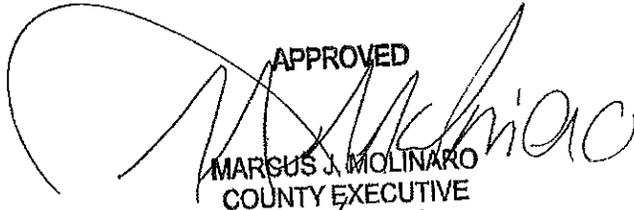
IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the County Legislature this 9 day of June 2014.



Clerk, County Legislature



APPROVED

  
MARCUS J. MOLINARO  
COUNTY EXECUTIVE

Date

6/19/2014

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated  
Eminent Domain Procedure Law (Refs & Annos)  
Chapter 73. Of the Consolidated Laws  
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 204

§ 204. Determination and findings

Effective: January 12, 2005  
Currentness

(A) The condemnor, within ninety days after the conclusion of the public hearings held pursuant to this article, shall make its determination and findings concerning the proposed public project and shall publish a brief synopsis of such determination and findings in at least two successive issues of an official newspaper if there is one designated in the locality where the project will be situated and in at least two successive issues of a newspaper of general circulation in such locality. If the official newspaper is one of general circulation in such locality, publication therein as specified shall be deemed sufficient compliance. The synopsis shall include those factors set forth in subdivision (B) herein, and shall also state that copies of the determination and findings will be forwarded upon written request without cost.

(B) The condemnor, in its determination and findings, shall specify, but shall not be limited to the following:

- (1) the public use, benefit or purpose to be served by the proposed public project;
- (2) the approximate location for the proposed public project and the reasons for the selection of that location;
- (3) the general effect of the proposed project on the environment and residents of the locality;
- (4) such other factors as it considers relevant.

(C) Upon making the determination and findings, the condemnor shall serve, by personal service or certified mail, return receipt requested, a notice of the brief synopsis thereof upon each assessment record billing owner or his or her attorney of record whose property may be acquired. Such notice shall: (1) include the information required by paragraph two of subdivision (B) of this section; (2) state that copies of the determination and findings will be forwarded to such individuals upon written request and without cost; (3) inform such individual that, under section two hundred seven of this article, there are thirty days from the completion of the condemnor's newspaper publication requirement to seek judicial review of the condemnor's determination and findings; and (4) inform such individual that, under sections two hundred seven and two hundred eight of this article, the exclusive venue for judicial review of the condemnor's determination and findings is the appellate division of the supreme court in the judicial department where any part of the property to be condemned is located.

KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated  
Eminent Domain Procedure Law (Refs & Annos)  
Chapter 73. Of the Consolidated Laws  
Article 1. Purpose; Short Title; Definitions; Applicability

McKinney's EDPL § 103

§ 103. Definitions

Effective: January 12, 2005  
Currentness

As used in this law:

(A) "Acquisition" means the act of vesting of title, right or interest to, real property for a public use, benefit or purpose, by virtue of the condemnor's exercise of the power of eminent domain.

(B) "Acquisition map" means the representation of the real property acquired by either a delineation of the perimeter of the particular project covering the acquisition; together with a description of the project's perimeter boundaries and of the estate, right or interest in and to such property so acquired or an individual property map representing the estate, right or interest in and to such property so acquired.

(B-1) "Assessment record billing owner" means the owner, last known owner, or reputed owner, at such person's tax billing address, of each parcel or portion thereof, of real property which may be acquired by the condemnor for such public project, as shown on the assessment records of the political subdivision in which such parcel or portion thereof is located, as this information, in its most current form, may be obtained from and ascertained by the assessor of each such political subdivision.

(C) "Condemnee" means the holder of any right, title, interest, lien, charge or encumbrance in real property subject to an acquisition or proposed acquisition.

(D) "Condemnor" means any entity vested with the power of eminent domain.

(E) "Person" means any individual, partnership, corporation, association, trust, or legal entity.

(F) "Real property" includes all land and improvements, lands under water, waterfront property, the water of any lake, pond or stream, all easements and hereditaments, corporeal or incorporeal, and every estate, interest and right, legal or equitable, in lands or water, and right, interest, privilege, easement and franchise relating to the same, including terms for years and liens by way of mortgage or otherwise.

 KeyCite Yellow Flag - Negative Treatment  
Proposed Legislation

McKinney's Consolidated Laws of New York Annotated Eminent Domain Procedure Law (Refs & Annos) Chapter 73. Of the Consolidated Laws Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition
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McKinney's EDPL § 207

§ 207. Judicial review

Currentness

(A) Any person or persons jointly or severally, aggrieved by the condemnor's determination and findings made pursuant to section two hundred four of this article, may seek judicial review thereof by the appellate division of the supreme court, in the judicial department embracing the county wherein the proposed facility is located by the filing of a petition in such court within thirty days after the condemnor's completion of its publication of its determination and findings pursuant to section two hundred four herein. Such petition shall be accompanied by proof of service of a demand on the condemnor to file with said court a copy of a written transcript of the record of the proceeding before it, and a copy of its determination and findings. Upon receipt of such petition and demand, the condemnor shall forthwith deliver to the court a copy of the record and a copy of its determination and findings. The proceeding shall be heard on the record without requirement of reproduction. If such proposed public improvement is located in more than one judicial department such proceeding may be brought in any one, but only one of such departments and all such proceedings with relation to any single public project shall be consolidated with that first filed.

(B) The jurisdiction of the appellate division of the supreme court shall be exclusive and its judgment and order shall be final subject to review by the court of appeals in the same manner and form and with the same effect as provided for appeals in a special proceeding. All such proceedings shall be heard and determined by the appellate division of the supreme court, and by the court of appeals, as expeditiously as possible and with lawful preference over other matters.

(C) The court shall either confirm or reject the condemnor's determination and findings. The scope of review shall be limited to whether:

- (1) the proceeding was in conformity with the federal and state constitutions,
- (2) the proposed acquisition is within the condemnor's statutory jurisdiction or authority,
- (3) the condemnor's determination and findings were made in accordance with procedures set forth in this article and with article eight of the environmental conservation law, and
- (4) a public use, benefit or purpose will be served by the proposed acquisition.

McKinney's Consolidated Laws of New York Annotated  
Eminent Domain Procedure Law (Refs & Annos)  
Chapter 73. Of the Consolidated Laws  
Article 2. Determination of the Need and Location of a Public Project Prior to Acquisition

McKinney's EDPL § 208

§ 208. Jurisdiction of courts

Currentness

Except as expressly set forth in section two hundred seven, and except for review by the court of appeals of an order or judgment of the appellate division of the supreme court as provided for therein, no court of this state shall have jurisdiction to hear and determine any matter, case or controversy concerning any matter which was or could have been determined in a proceeding under this article.

**Credits**

(L.1977, c. 839, § 1.)

McKinney's E. D. P. L. § 208, NY EM DOM PROC § 208  
Current through L.2015, chapters 1 to 412.

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