



MID-OHIO REGIONAL **MORPC** PLANNING COMMISSION

111 Liberty Street, Suite 100
Columbus, Ohio 43215
morpc.org

T. 614. 228.2663
TTY. 1.800.750.0750
info@morpc.org

MEMORANDUM

To: Central Ohio Greenways Members
From: Kyle Probert, Public Policy Coordinator
Date: May 18, 2023
Subject: Urgent Update on House Bill 64 (Revise the Eminent Domain Law)

Ohio House Bill 64 (Kick, Creech) would substantially shift eminent domain law to favor private property owners in appropriation proceedings. Consequently, public infrastructure improvement projects would likely increase in cost and take more time to complete, and local governments would be subject to additional litigation. The bill would also remove local government authority to use eminent domain to obtain right-of-way for recreational trails.

Key Provisions:

- Generally disallows use of eminent domain for recreational trail projects
- Eliminates rebuttable presumptions that property taking is necessary
- Increases the burden of proof for an agency to take property
- Gives property owners a cause of action (with a low burden of proof) against agencies if they prove the agency did not follow proper procedures
- Requires agencies to pay property owners' attorney's fees in various circumstances
- Retroactive to January 1, 2019

Analysis:

Current law generally provides local governments authority to seize private property for public purposes if just compensation is awarded. If this bill becomes law, governments would have to prove the necessity of public projects with *clear and convincing evidence* and overcome new rights afforded to property owners.

This would have multiple downstream effects for MORPC members:

1. It would be more difficult to prove necessity for projects, and property owners would likely dispute more offers in court
2. More litigation costs will be incurred and projects may take longer to complete
3. Property owners may seek damages from local governments, leading to even more litigation costs
4. Local governments may be forced to re-visit liabilities they previously counted as extinguished

Due to the increased costs to MORPC members and their taxpayers, the likely delays to public projects, the possibility of new legal liability, and the ban on land appropriations for recreational trails, House Bill 64 would be detrimental to a local government's ability to conduct public infrastructure improvements, and may further discourage such improvements before they can begin. For these reasons, MORPC will be submitting testimony as **opponents** to HB 64.