

CONDOMINIUM ACT (EXCERPT)
Act 59 of 1978

559.233 Eminent domain.

Sec. 133.

(1) If any portion of the common elements is taken by eminent domain, the award therefor shall be allocated to the co-owners in proportion to their respective undivided interests in the common elements. The association of co-owners, acting through its board of directors, may negotiate on behalf of all co-owners for any taking of common elements and any negotiated settlement approved by more than 2/3 of co-owners based upon assigned voting rights shall be binding on all co-owners.

(2) If a condominium unit is taken by eminent domain, the undivided interest in the common elements appertaining to the condominium unit shall thenceforth appertain to the remaining condominium units, being allocated to them in proportion to their respective undivided interests in the common elements. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include, without limitation, just compensation to the co-owner of the condominium unit taken for his undivided interest in the common elements as well as for the condominium unit.

(3) If portions of a condominium unit are taken by eminent domain, the court shall determine the fair market value of the portions of the condominium unit not taken. The undivided interest for each condominium unit in the common elements appertaining to the condominium units shall be reduced in proportion to the diminution in the fair market value of the condominium unit resulting from the taking. The portions of undivided interest in the common elements thereby divested from the co-owners of a condominium unit shall be reallocated among the other condominium units in the condominium project in proportion to their respective undivided interests in the common elements. A condominium unit partially taken shall receive the reallocation in proportion to its undivided interest as reduced by the court under this subsection. The court shall enter a decree reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the co-owner of the condominium unit partially taken for that portion of the undivided interest in the common elements divested from the co-owner and not revested in the co-owner pursuant to subsection (4), as well as for that portion of the condominium unit taken by eminent domain.

(4) If the taking of a portion of a condominium unit makes it impractical to use the remaining portion of that condominium unit for a lawful purpose permitted by the condominium documents, then the entire undivided interest in the common elements appertaining to that condominium unit shall thenceforth appertain to the remaining condominium units, being allocated to them in proportion to their respective undivided interests in the common elements. The remaining portion of that condominium unit shall thenceforth be a common element. The court shall enter an order reflecting the reallocation of undivided interests produced thereby, and the award shall include just compensation to the co-owner of the condominium unit for the co-owner's entire undivided interest in the common elements and for the entire condominium unit.

(5) Votes in the association of co-owners and liability for future expenses of administration appertaining to a condominium unit taken or partially taken by eminent domain shall thenceforth appertain to the remaining condominium units, being allocated to them in proportion to the relative voting strength in the association of co-owners. A condominium unit partially taken shall receive a reallocation as though the voting strength in the association of co-owners was reduced in proportion to the reduction in the undivided interests in the common elements.

History: 1978, Act 59, Eff. July 1, 1978