



*Michigan Association of Planning  
A Chapter of the American Planning Association*

## **Policy Statement on the Takings Doctrine and the Exercise of the Power of Eminent Domain**

This policy statement provides a concise statement of the policy position of the Michigan Association of Planning with regard to the application of Michigan's constitutional takings doctrine (Michigan Constitution Art. X, Section 2) to the exercise of the power of eminent domain by state and local units of government. A full policy guide providing the background and reasoning behind this policy statement has been provided in a separate document and is available from MAP.

### ***Policy Statement***

The Michigan Association of Planning:

- Strongly supports the protection of the rights of a property owner to the full and reasonable use of his or her property, so long as that use does not cause harms to neighboring property owners or the larger community, and recognizing that these property rights may be reasonably limited by the lawful exercise of zoning, subdivision, land division, condominium and related regulations as so determined by state and federal courts.
- Strongly supports the constitutional exercise of the power of eminent domain as defined by the Michigan Supreme Court in the *Wayne County v. Hathcock* decision, 471 Mich. 445 (2004), in holding that the power of eminent domain can be used by a community for traditional "public use" purposes, including the eradication of blight, but that the taking and transfer of property from one private party to another private party solely for the purpose of promoting economic development, even pursuant to a comprehensive planning effort, does not qualify as a "public use" under the state's constitutional takings doctrine, and thus does not provide a sufficient justification for exercising the power of eminent domain.
- Supports legislative initiatives in the Michigan Legislature that would effectively codify the *Hathcock* decision statutorily or by constitutional amendment,<sup>1</sup> so long as that legislation does not prohibit the use of the power of eminent domain by a local unit of government for the purpose of eradicating blight as legislatively defined.
- Supports the ability of local and state government to use eminent domain for the purpose of eradicating blight when preceded by a proper planning effort that involves all key stakeholders, including the property owners in question, and is embodied in a public plan that documents the public purposes and necessity for the exercise of eminent domain.
- Supports the efforts of local and state government to use eminent domain only after all other reasonable, lawful, and less egregious measures have first been tried and failed.

---

<sup>1</sup> Including for example House Bill 5060, which would amend 149 PA 1911 (MCL § 213.32), or any similar legislation that might be introduced and that would provide for a parallel constitutional amendment.

The Michigan Association of Planning believes that this interpretation of the takings doctrine comports with well established and long-standing constitutional doctrine, as articulated by the Michigan Supreme Court in its *Hathcock* decision, and strikes the proper balance between the rights of private property ownership and the responsibilities of state and local government to provide for public infrastructure and to alleviate conditions of blight.