



*State Record of Condemnations Filed, for all purposes:<sup>†</sup> 67*

## OVERVIEW

Our searches reveal no reports of eminent domain for private parties in Alaska in the past five years and few condemnations for any purpose. This past year, the Alaska legislature considered three bills relating to eminent domain, two of which would have given greater protection to property owners. All three failed. One bill would have required that property be condemned only for a “reasonably foreseeable” future public use and the other would have required that there be a “good faith” effort to purchase before condemning. Constitutional doctrine across the country generally says that property may be condemned only for a reasonably foreseeable public use. However, it is certainly helpful to put that requirement into a statute. It protects owners from having their property condemned for investment or land speculation or just because some entity thinks the land will be of use sometime. Good faith negotiations are a requirement in nearly every state, so that bill would have simply brought Alaska up to common practice around the country.

<sup>†</sup>Clerk of the Alaska Supreme Court (includes condemnations for traditional public uses).

## LEGISLATIVE ACTIONS

The Alaska legislature has recently had several items regarding eminent domain on its agenda. House Bill 500, introduced on February 27, 2002, would have limited the use of eminent domain for the advance acquisition of property for future public use to situations where “the future public use is a reasonably foreseeable use that has been identified in a development plan prepared, published, and made available to the public.”<sup>5</sup> While the need for a reasonably foreseeable future public use can be treated as a constitutional issue, it is helpful to also have a statute. Sometimes, government will seek to condemn land for investment or speculation. Sometimes it will try to condemn because it has a vague plan in mind 15 years down the line. These are not appropriate reasons to take someone’s property, and this bill would have prevented such abuse. H.B. 500 made its way through several committees of the Alaska House before it died at the end of the 2001-2002 legislative session.

Senate Bill 278 passed the Senate on April 24, 2002, but failed to make it out of the House Finance Committee. S.B. 278 would have given property owners a basic protection from eminent domain abuse by requiring that condemning authorities make a “good faith effort” to purchase property before taking it through eminent domain.<sup>6</sup> Such statutes are common throughout the country, and, indeed, it is highly unusual for a state to lack one. The statute would have required that the government actually try to purchase property before condemning it. That should be self-evident, but apparently the Alaska legislature thinks it is acceptable to condemn someone’s land without even trying to talk to them first.

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<sup>5</sup> H.B. 500, 22nd Sess. (Alaska 2002).

<sup>6</sup> S.B. 278, 22nd Sess. (Alaska 2002).

