

STATEMENT IN OPPOSITION TO HB2506

TO: Chairperson Kristey Williams, Vice-Chairman Jack Thimesch and members of the House Local Government Committee

FROM: Richard Ranzau, Commissioner for the Fourth District, Board of County Commissioners, Sedgwick County, KS

HB2506 should not become law. Although there are numerous reasons to oppose this bill, as outlined below, the reasons all boil down to this: HB2506 would expand a city's authority to take private property for nonpublic purposes (e.g. "economic development"). **As one person testifying on a prior version of this bill said, this is "eminent domain light."**

After the *Kelo* decision by the United States Supreme Court, the Kansas Legislature took steps to protect private property from being taken for economic development purposes. It does not make sense to now backtrack and allow private property to be used by a nonprofit organization for economic development purposes. This bill is an updated version of SB 84 and SB 338 from previous sessions.

Proponents of prior versions of this bill say the city needs another tool for their toolbox. **Cities already have enough tools in their toolbox for dealing with problem properties.** If the property presents safety concerns, or is not up to code, cities already have ways of dealing with those problems. If weeds are too high, cities can deal with that as well. The problems with giving the city another tool for their toolbox that they don't need is they will want to use it. And like handing a child a hammer, everything will begin to look like a nail.

Non-profit organizations can already petition the court to rehabilitate blighted homes. This bill unnecessarily injects the government into the equation. This creates an uneven playing field and opens the door for governmental abuse of power.

Proponents of prior versions of this bill have also raised the claim that often owners cannot be located. That may be true for properties where the taxes are not current; but the statute already covers that situation. If taxes are current, the county treasurer must have a valid address to send the tax statements to; it would seem that the owner could be easily located in those cases.

The definitions in this bill are too broad and often subjective. First, and foremost, adding the new condition to what constitutes an "abandoned property" of residential real estate not occupied for 15 months (and also which has a "blighting influence" see below) has no limiting conditions. Under the proposed definition, even if the property taxes are being paid, the residence can still be considered abandoned. There may be very good reasons why an owner has not occupied a residence for 15 months beyond the proposed statutory allowance. They may be on extended business assignments; serving our country overseas, the list could go on and on.

When that condition is coupled with the term “blighting influence” the potential for taking of private property exponentially expands. If a city official or employee thinks a property may be injurious to the “welfare” of other residents in the city, or that could have an adverse impact on other properties in “the area,” what is injurious to the welfare, or what is an adverse impact? How could one property in one part of the city have any possible adverse impact to other residents of the city who live nowhere near the property? What constitutes the area that might suffer adverse impacts? Is it that block, two blocks away, a mile away?

The definition of “blighting influence” is somewhat confined by a (rather lengthy) list of conditions such as dilapidation, disrepair, structural defects, unsightly stored or parked material etc. How are these terms defined? What is unsightly and who gets to determine that these conditions exist? Who determines if a health or safety threat is present and how will this be verified? Can this threat be theoretical or does there have to be actual evidence that an effect on health or safety is actually occurring?

More importantly, this laundry list of conditions is preceded by the phrase: “including, but not limited to.” Courts would interpret that phrase to allow the city to assert other possible “conditions” that in the city’s view are similar to the condition expressly limited. Cities will certainly take this opportunity and stretch it as far as they can.

Finally, the bill allows the city to choose a not-for-profit housing corporation to partner with to rehabilitate these properties. The current statute allows any not-for-profit housing corporation to petition the district court, independent of city approval, to occupy a property determined to be abandoned by the city. HB2506 eliminates any opportunity for that, and instead allows the city to use that civil process to turn the property over to the not-for-profit of its choosing. There is no good reason why a city should be involved in that process after declaring the property abandoned.

There are so many reasons to oppose this bill. There are no defensible reasons to support the bill. I urge you not to pass this bill.