

SECOND REGULAR SESSION

HOUSE BILL NO. 3210

103RD GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE HINMAN.

6906H.011

JOSEPH ENGLER, Chief Clerk

AN ACT

To amend chapter 82, RSMo, by adding thereto one new section relating to compensation for property owners under certain circumstances.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 82, RSMo, is amended by adding thereto one new section, to be known as section 82.298, to read as follows:

82.298. 1. This section shall be known and may be cited as the "Safe Neighborhoods Act".

2. For purposes of this section, the following terms shall mean:

(1) "Affected city", a city to which a property owner is submitting a claim provided under this section;

(2) "Fair market value", the most likely price estimated in terms of money which land would bring if exposed for sale in the open market, with reasonable time allowed in which to find a purchaser, buying with knowledge of all the uses and purposes to which it is adapted and for which it is capable;

(3) "Just compensation", for purposes of an action for diminution in value, the sum of money that is equal to the reduction in fair market value of the property resulting from the adoption of the policy, pattern, or practice or maintenance of public nuisance;

(4) "Property owner", the holder of fee title to real property.

3. Notwithstanding any other law to the contrary, a property owner or triple net leaseholder located in a city with more than one hundred thousand inhabitants may

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 submit a claim for compensation in an amount determined under subsection 4 of this
18 section if either of the following occurs:

19 (1) The city in which the real property is located adopts and follows a policy,
20 pattern, or practice of declining to enforce existing laws, ordinances, or other legislation
21 prohibiting illegal public camping, obstructing public thoroughfares, loitering,
22 panhandling, public urination or defecation, public consumption of alcoholic
23 beverages, possession or use of illegal substances, or shoplifting, or if the city in
24 which the real property is located maintains a public nuisance and the property owner
25 incurs documented expenses to mitigate the effects of such policy, pattern, practice, or
26 public nuisance on the property owner's real property; or

27 (2) The city in which the real property is located adopts and follows a policy,
28 pattern, or practice of declining to enforce existing laws, ordinances, or other legislation
29 prohibiting illegal public camping, obstructing public thoroughfares, loitering,
30 panhandling, public urination or defecation, public consumption of alcoholic
31 beverages, possession or use of illegal substances or shoplifting, or if the city in which
32 the real property is located maintains a public nuisance, and the fair market value of the
33 owner's private real property is reduced by this policy, pattern, practice, or public
34 nuisance.

35 4. The amount of compensation to which the property owner is entitled shall be,
36 at the owner's election, equal to:

37 (1) The documented expenses incurred by the property owner that were
38 reasonably necessary to mitigate the effects of the policy, pattern, practice, or public
39 nuisance on the property owner's real property; or

40 (2) The reduction in fair market value of the property resulting from the city's
41 policy, pattern, practice, or public nuisance.

42 5. The compensation allowed under this section:

43 (1) Is in lieu of any claim for monetary damages; and

44 (2) Shall not exceed the amount the property owner paid for the prior tax year in
45 primary property taxes for the tax year to the affected city. If the total amount of
46 compensation determined under subsection 4 of this section is more than the amount the
47 property owner paid for the prior tax year in primary property taxes to the affected city
48 for the tax year and the claim is accepted, the affected city shall pay the property owner
49 an amount equal to the amount the property owner paid for the prior tax year in
50 primary property tax to the affected city. The property owner shall submit a claim for
51 the remaining portion of the compensation in successive tax years, as applicable.

52 6. Within thirty days after a property owner submits a written claim for
53 compensation to the affected city in a specific amount for reimbursement of mitigation

54 expenses or just compensation, the affected city shall accept or reject the claim. If the
55 affected city:

56 (1) Accepts the claim, the affected city shall pay the amount requested to the
57 property owner; or

58 (2) Rejects the claim or does not respond to the claim within the thirty-day
59 period, the property owner may file a cause of action in the trial court of the county in
60 which the real property is located to challenge the rejection of the claim. The questions
61 of whether the property owner is entitled to the compensation and whether the amount
62 of the claim is reasonable are judicial questions. In a cause of action filed under this
63 subsection:

64 (a) The city shall bear the burden of demonstrating that its actions are lawful or
65 that the amount of the claim is unreasonable;

66 (b) The property owner shall not be liable to the city for attorney's fees or costs;
67 and

68 (c) A prevailing property owner shall be awarded reasonable attorney's fees and
69 costs.

70 7. The property owner shall not be required to submit any claim besides that
71 prescribed in subsection 3 of this section as a prerequisite to demanding or receiving
72 reimbursement for mitigation expenses or just compensation pursuant to this section.

73 8. A property owner may submit a claim under this section once per tax year.

74 9. If the policy, pattern, practice, or public nuisance remains in place after the
75 property owner submits a claim under this section, the property owner shall be entitled
76 to additional compensation under this section in a subsequent tax year, unless the
77 affected city and the property owner enter into a knowing and voluntary settlement, or
78 the affected city ends the policy, pattern, or practice or abates the public nuisance.

79 10. The remedy established by this section is in addition to any other remedy
80 that is provided by the laws and Constitution of this state or the United States and is not
81 intended to modify or replace any other remedy.

82 11. Nothing in this section prohibits the property owner from entering into a
83 knowing and voluntary settlement with the relevant city for an amount less than the
84 property owner requested in the claim submitted under subsection 3 of this section.

85 12. This section shall not apply to:

86 (1) Decisions by city authorities to exercise prosecutorial discretion not to
87 prosecute alleged offenders if such discretion is exercised on a case-by-case basis and the
88 justifications for each decision are published on a monthly basis by the city;

89 (2) Acts of executive clemency; or

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90 **(3) Acts or omissions mandated by federal law.**

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