

TAKING OF PUBLIC UTILITY BY CITY (EXCERPT)
Act 119 of 1919

213.113 Institution of proceedings; petition, contents; separate juries on request to determine necessity, damages.

Sec. 3. The city clerk shall make and deliver to such attorney or other law officer of the city, as may be, a copy of such resolution certified under the seal of the city and it shall be the duty of such attorney, corporation counsel or other law officer of the city to prepare and file in the name of the city, in such circuit court a petition signed by him in his official character and duly verified by him, to which petition a certified copy of the resolution of the common council shall be annexed. Said certified copy shall be prima facie evidence of the action taken by the common council and of the passage of said resolution. The petition shall state, among other things, that it is made and filed as commencement of judicial proceedings by the city in pursuance of this act to acquire the right to take, for public use, either within or without its corporate limits, the absolute title in fee to public utilities for supplying water, light, heat, power or transportation to the municipality and the inhabitants thereof, the same being then and there the private property of any person or of any corporation, without the consent of the owners, for a just compensation to be made. A description of the property to be taken shall be given and, generally, the nature and extent of the use thereof that will be required in making and maintaining the property shall be stated, and also the names of the owners and others interested in the property, so far as can be ascertained, including those in possession of the premises. The petition shall ask that a jury be summoned and empaneled to ascertain and determine whether it is necessary to take for public use the absolute title in fee to such private property as it is proposed to take and to ascertain and determine the just compensation to be made therefor. The petition may state any other pertinent matters or things and may pray for any other or further relief to which the city may be entitled within the objects of this act: Provided always, That upon request of said city attorney, corporation counsel or other law officer of the city, made at any time before the empaneling of a jury, such jury shall be empaneled to try only the question of the necessity of taking the absolute title in fee to such private property for public use, and if such jury determine that it is necessary to take the absolute title in fee to such private property for such public use, that another jury be empaneled to determine the compensation to which any person or persons may be entitled because of the taking of such property for public use, in manner and form as is hereinafter provided.

History: 1919, Act 119, Eff. Aug. 14, 1919;—CL 1929, 3813;—CL 1948, 213.113.