

**MISSOURI STATE AUDITOR'S OFFICE
FISCAL NOTE (07-01)**

Subject

Initiative petition from Ron Calzone regarding a proposed constitutional amendment for Article I, Sections 26 and 28, relating to eminent domain. (Received February 1, 2007)

Date

February 21, 2007

Description

This initiative petition would amend Article I of the Missouri Constitution by modifying Sections 26 and 28. Section 26 would be amended to vest the power of eminent domain in no other than the state, or political subdivisions of the state whose officials are directly responsible to elected officials, and that private property, or the right to the use, sale or enjoyment of private property, shall not be directly or indirectly taken or damaged unless such taking is necessary for a public use and just compensation is rendered.

The value of the property may be determined by appraisal methods typical to the ordinary course of business and any evidence which would be considered by an appraiser in the ordinary course of business shall be relevant and admissible. Until a final legal determination of the legitimacy of the taking is established and until compensation is paid to the owner, the property shall not be disturbed or the proprietary rights of the owner therein divested.

Section 28 would be amended so that private property taken for private use or private ownership or other private rights shall not be considered a public use and no such takings shall occur, with or without compensation, unless by consent of the owner.

The use for property, or rights in property, shall be declared at the time that such property, or rights in property is taken by eminent domain. If that use is not earnestly or substantially pursued, the original owner, his heirs or assigns shall, after five years but prior to any substantial accomplishment of the declared purpose, be allowed to claim the property back at a price no greater than was paid at the time of taking.

Subject to Section 26, property may be taken for transportation or utility facilities or transmission systems used by a railroad, regulated utility or rural electric cooperative, however the fee of property taken for such purposes without consent of the owner shall remain in such owner subject to the use for which it is taken.

Property, a portion thereof, or rights in property taken by eminent domain can not be sold, transferred, leased or otherwise made available for use by a private entity within 20 years of such taking, unless the owner have at the time of sale been afforded the first opportunity to purchase such property back at a price no greater than was paid at the time of taking, however interests less than fee title may be conveyed to a privately owned business for the purpose of providing products or services incidental to the function of a publicly owned facility.

The amendment is to be voted on in November, 2008. The effective date of this amendment shall be November 5, 2008 and the provisions of Article I, sections 26 and 28 apply notwithstanding any application to the contrary of Article VI, Section 21 of the constitution.

Public comments and other input

The State Auditor's Office requested input from the **Department of Economic Development**, the **Governor's Office/Office of Administration**, the **Department of Conservation**, the **Department of Natural Resources**, the **State Tax Commission**, the **Department of Transportation**, **Cole County**, **Greene County**, **Jackson County**, **St. Louis County**, the **City of Kirkwood**, the **City of Kansas City**, the **City of St. Louis**, the **City of Gladstone**, and the **City of Columbia**.

Assumptions

According to officials from the **Department of Economic Development**, the petition will have no direct administrative or fiscal impact. Indirectly, this change to the constitution could severely limit economic development within Missouri and the use of tax incentive programs administered by the DED that attract jobs and investment to the state.

According to officials with the **Governor's Office/Office of Administration**, this amendment will restrict the use of eminent domain and vest that power in no one other than the state or political subdivisions whose officials are responsible to elected officials. New language in the amendment makes it clear that any property taken or damaged must be necessary for public use and only after just compensation has been rendered. Only after such a decision has been made by legal determination can the property be disturbed. The proposed amendment prohibits the taking of property for private ownership or other private rights; neither shall be considered a public use. The amendment mandates that the intended use for the property be declared at the time such property is taken and allows the original owner, his heirs, or assigns the right to reclaim the property after a period of time if that purpose has not been pursued. The amendment allows the taking of property for certain utility, transportation or railroad uses, however if that land right is taken without the consent of the owner, the owner

retains all inheritable rights in that property. The amendment prohibits the sale, transfer or lease of property taken by eminent domain for use by a private entity within twenty years of such taking unless the original owner, his heirs, or assigns been afforded the first opportunity to purchase the property back. It appears this proposal will have no fiscal impact to the State of Missouri.

According to officials at the **Department of Conservation**, there is a potential fiscal impact to the Conservation Department in Section 26. As proposed, this language could be considered in conflict with Article IV, Section 41, which grants eminent domain powers to the Conservation Commission. The proposed section limits the use of eminent domain to "...political subdivisions of the state whose officials are directly responsible to elected officials..." Should one conclude that a Conservation Commission whose members are nominated by the Governor and confirmed by the Senate are not "directly responsible to elected officials," then Section 26, as a later enacted provision, could impact the Commission's ability to exercise eminent domain. This could affect the price of future hypothetical land transactions. The caveat is that the Commission does not utilize this power in the course of business.

The **Department of Natural Resources** does not anticipate a direct fiscal impact as a result of this proposal.

Officials from the **State Tax Commission** indicated the initiative petition would have no fiscal impact on their agency or county assessors.

According to officials from the **Missouri Highway and Transportation Commission (MHTC)/Missouri Department of Transportation (MoDOT)**, Section 26 prohibits the direct or indirect taking or damage of private property without payment of just compensation. By adding the word "indirectly" to the concept of a taking of property, the initiative petition would allow the concepts of loss of traffic and loss of visibility from a public highway, for example, to be viewed as separately compensable items for damage claims in inverse condemnation against MHTC. This language is likely to have a significant unknown negative fiscal impact on MHTC/MoDOT.

Section 26 also changes the way property is to be valued for just compensation arising from a condemnation proceeding. Under this initiative petition, the value of the property to be taken by eminent domain shall be determined by appraisal methods typical to acquiring a property through business acquisitions and any evidence that would be considered by an appraiser in the ordinary course of business is relevant and admissible.

Under existing condemnation law, when a condemning entity condemns property, it is only purchasing the land itself, not any appurtenances on the land. This is because the business owners may move their business to a new location and continue in business.

This language will also have a significant, negative unknown fiscal impact on MHTC and MoDOT.

Section 26 is amended to provide that no property shall be divested from the landowner until a final determination of any legal challenges is made. Appellate courts have typically recognized a very limited number of legal challenges against a condemnation petition: (1) fraud; (2) bad faith; or (3) arbitrary and unwarranted abuse of discretion. By allowing any legal challenge to the condemnation petition, this significantly alters the number and types of challenges to a condemnor's petition to condemn, which will significantly delay the acquisition of property for MHTC's state highway system construction program. Delay of the projects results in a negative fiscal impact, loss of safety benefits from constructing such projects on time, as well as the additional inflation costs for the construction project that arise through such delays.

Section 28 of this initiative petition establishes the general principle that a condemning authority cannot take private property for use by a private party because such a taking is not considered to be a public use. This would eliminate the innovative transportation financing solutions such as Transportation Corporations and public private partnerships.

There is no exception to the private use prohibition for transportation projects, except as it relates to railroads and regulated utilities. Therefore, private property could not be acquired by MHTC and later transferred, even by lease, to a private person for a public use. This provision would result in a negative unknown fiscal impact on MoDOT.

Section 28 also allows the private property owner to reclaim the property acquired by eminent domain five years after the taking for the amount paid by the condemnor if the purpose for which the property was acquired is not substantially accomplished in that time. This language would repeal existing Section 226.955, RSMo, which authorizes a ten-year construction initiation time limit on MHTC corridor acquisitions. This provision would significantly undermine MHTC's authority to do long-range planning and acquire property within a designated highway corridor in advance of design and construction because of the five year time frame to substantially accomplish the project. This language will also have a significant, negative unknown fiscal impact on MHTC and MoDOT.

All of the above provisions would have a negative fiscal impact. MoDOT is unable to provide an estimate, therefore the negative fiscal impact due to this initiative petition is unknown greater than \$100,000.

The **City of Kansas City** indicated that no increase in revenues or savings will be experienced by this amendment. The City will incur increased land costs in that if a landowner knew that for a redevelopment project that would eventually be

privately owned there were no powers of condemnation, the City would lose bargaining power and would have to overpay for land.

In addition, the City of Kansas City will incur losses pursuant to this amendment, though those losses are hard to quantify at this time. This amendment would make it impossible for a city in Missouri to condemn land for purely economic purposes, whether the land in question was blighted or not. If that were the case, typical “Downtown” type large-scale development would cease. The City has projects already underway on which it has or will have assembled land and will need to condemn part of the assembly. The losses would be of several types; first if it can not complete the assembly at all it will have to descope, rescope or cancel the project. The professional (architect, designer, surveyor, appraisal) fees incurred would be lost. Also lost would be the acquisition costs of land assembled but the City no longer had a use for, in the case of a cancelled project. Second, the economic impact of not being able to do any more of these projects would have a huge financial impact on the City. It is again hard to quantify but the difference between having a revived downtown or other area or not having the redevelopment would be many millions of dollars.

The **City of St. Louis** indicated the initiative petition would result in significant increases in cost and significant amounts of lost revenue to the City.

The initiative petition proposes changes to Article I, Sections 26 and 28, that would prohibit the use of eminent domain for redevelopment by providing that: (a) only public entities can acquire property using eminent domain; (b) no private ownership or other private rights shall be considered a public use; (c) the future use must be declared at the time of acquisition and cannot be changed; and (d) the public entity that acquired the property via eminent domain cannot transfer such property to private ownership any sooner than twenty (20) years following the acquisition. Section 5 of the proposed amendment to Article I, Section 28, also appears to change Article VI, Section 21, by effectively stripping out the ability of local governments to use eminent domain for redevelopment that involves private entities through a provision that states that the proposed revisions to Article I, Sections 26 and 28, limit the application of Article VI, Section 21. These proposed changes will result in both extreme costs and extreme loss of revenue to the City.

The City uses eminent domain sparingly. But it is a very important tool that is vital in their efforts to overcome hundreds of acres of blight caused by five decades of suburban flight.

In 1950, the City had 850,000 people—today, they have just over 350,000. As a result of this population loss, there are now thousands of vacant lots and structures in the City of St. Louis. As a result of this population loss, many former residences and businesses have now become vacant buildings and vacant lots. Many of these vacant properties have fallen into City ownership by default—

when the private owner did not pay property tax due, the property was placed in a tax foreclosure sale, and if a private party did not bid on the property its ownership was transferred to the Land Reutilization Authority. Redeveloping this decay would be easy if all of the properties were side by side—and if all of the vacant buildings and lots were owned by the City. In fact, they are not. The City-owned properties are scattered among many properties in the hands of private owners. Too many of these privately held properties are also blighted, making it very difficult—and in some cases nearly impossible—to redevelop these run-down areas. The vast majority of privately owned vacant buildings and lots are not maintained by their private owners.

What is the result? Some of the City of St. Louis' neighborhoods are the best in the State of Missouri. But, others are plagued by poverty, poor infrastructure, and violence.

The City of St. Louis has made great progress in turning some of these neighborhoods around. But, it would not have happened without the possible use of eminent domain. Other neighborhoods waiting to be redeveloped will remain blighted if developers do not know at the beginning of a project that they will be able to complete it.

Eminent domain is needed to eradicate the vacant, abandoned, dangerous and problem properties that were left behind when half a million people left the City of St. Louis. Private participation in the redevelopment process is necessary because the City does not have the resources to acquire the thousands of problem properties in the City, eliminate the problematic conditions, and hold the property for twenty (20) years. These properties were never used for governmental purposes and were not intended for governmental use. The City does not wish to—and cannot afford to—use public funds and eminent domain to purchase these properties, use public funds to redevelop them—and then own them and operate them for what are essentially private business and residential purposes for a twenty-year period. As provided in the proposed amendment, the City will not even be able to enlist the assistance of private enterprise in the operation of the properties or to realize any income from the property to offset the expense of acquiring and redeveloping it for the twenty-year period, because the proposed amendment prohibits the property from being “sold, leased, transferred, or otherwise made available for use by a private party within 20 years of such taking.” Private redevelopment and ownership will allow the City to rebuild its tax base; public ownership for a twenty-year period, on the other hand, will cost the City millions upon millions of dollars and result a veritable wasteland for two decades since it will not be possible for the City to use the property in any manner that allows the City to recoup even a portion of its investment—if it were even possible for the City to make the investment in the first place. Since City funds are not available, it will not possible to address these conditions with the limited and weak mechanisms that will remain if the amendment passes. Thus, the proposed amendment would sentence the City to another five—and more—

decades of decline, disinvestment and population loss as people and businesses again leave the City because they cannot tolerate negative conditions that the City is powerless to change. The City needs to rebuild the market for City real estate and rebuild its tax base in the process—the proposed amendment would make it impossible for the City to do this.

Even more important, the amendment will make it impossible for the City to address the redevelopment of blighted areas in a manner that returns these areas to productive uses that generate tax revenues for the City and the State of Missouri. The redevelopment of blighted areas necessarily involves the participation of the private sector, which the amendment would prohibit for a twenty-year period. Developments like CORTEX, the new Pinnacle entertainment development, and Botanical Heights would no longer be possible—and it may not even be possible to complete those major developments that are already underway. It is critical that the City retain the ability to address blighted areas and to partner with private enterprise for the redevelopment of these blighted areas—the City cannot address the distress that currently exists in the City using public funds alone. The reason they need redevelopment is because their tax base has eroded over the past fifty years. The City cannot reconstruct their tax base without the ability to address blighted areas, and they cannot reconstruct our tax base without partnerships with private enterprise. The proposed amendment would prohibit partnerships with private enterprise in redevelopment.

If the City is forced to address its distressed areas by using City funds and twenty-year City ownership to cure the distress, before having the ability to acquire and sell the property to responsible owners, the result will be a significant additional cost to the City of St. Louis, as detailed in the attachments below. Further, since the City cannot possibly afford this cost, estimated at over \$40 million per year, the vast majority of these distressed areas will remain distressed. The proposed amendment would render the City powerless to arrest the decline that has occurred over the past five decades, and set the stage for greater decline in the future as the proposed amendment rewards speculators, slumlords and predatory land owners for their irresponsible behavior by eliminating one of the few effective tools for addressing the problems they cause.

Over the years, the City has also come to own many properties in distressed areas due to property tax and other lien foreclosures—this is but one symptom of areawide distress. Many of the distressed properties in the City remain in private ownership, even though they are for all practical purposes abandoned, because their owners pay minimal property taxes and weed and trash removal liens. Approximately 3,700 vacant buildings and 10,000 vacant lots remain in private ownership. This private ownership of abandoned property causes problems for both neighboring residents and businesses and the City and impairs the City's ability to heal itself after five decades of decay.

In addition, redevelopment of both publicly owned and privately owned vacant properties is seldom feasible without the ability to combine those parcels with other blighted property for redevelopment, since most of the City was originally platted in 25-foot frontage increments. Today, a 25-foot lot is virtually useless for any purpose, residential or commercial. The proposed amendment would render the City unable to engage in redevelopment of these properties unless the City used public funds to do so. As detailed in the attachments, they estimate that this inability to engage in redevelopment would cost the City more than \$40 million annually in lost future revenues, in addition to the \$40 million in additional City costs the City would incur in direct City funding of redevelopment activities directed towards alleviation of nuisance and problem properties.

The analysis in Attachment B provides detail on the types of costs the City would incur and the types of revenue losses the City would suffer if the amendment were to become law. Given the complexity of the issue and the amount of time available to provide this fiscal note, these figures are necessarily estimates. They believe, however, that the methodology described in Attachment B provides a reasonably accurate assessment of the fiscal impact to the City of St. Louis related to the impacts analyzed. In addition, in the interest of time, the attached assessment does not include each and every fiscal impact on the City—there are others which could be detailed if more time were available. The attached chart (Attachment A) summarizes the results of the methodologies applied in Attachment B and the estimated fiscal impact of the constitutional amendment.

As noted on the chart in Attachment A, they estimate that the total negative fiscal impact of the proposed Constitutional Amendment on the City of St. Louis is in excess of (\$80 million) annually, and in excess of (\$900 million) over a ten-year period. In addition, the amendment would produce a related negative fiscal impact on responsible private property owners whose property values suffer because of blight, absentee landlords, and predatory land owners.

ATTACHMENT A
SUMMARY OF FISCAL IMPACT ESTIMATE:
EMINENT DOMAIN INITIATIVE PETITION
(Estimate Details Provided on Exhibit B)

CITY OF ST. LOUIS

COST OR LOST REVENUE ITEM:	ANNUAL COST/REVENUE LOSS:	10-YEAR COST/REVENUE LOSS--2.5% INFLATION:	NOTES:
ESTIMATED CITY NEW/CONTINUING COSTS:			
Nuisance Identification/Abatement Management:	(\$2,020,500)	(\$22,636,433)	
Nuisance Eradication by:			
--City-Funded Repair:	(\$24,079,500)	(\$269,771,831)	
--Demolition:	(\$1,687,950)	(\$18,910,748)	
--Weed Cutting/Debris Removal:	(\$12,600,000)	(\$90,014,744)	
			10-year cost reduced by vacant lots assumed redeveloped
ESTIMATED CITY NEW/CONTINUING REVENUE LOSSES:			
Property tax impact--negative impact of vacant/vandalized privately owned properties on adjoining properties:	(\$4,109,007)	(\$46,034,772)	
Property tax impact--inability to make property available for private rehabilitation:	(\$1,551,657)	(\$17,383,810)	
Building permit revenue--inability to make available for private rehabilitation:	(\$192,636)	(\$1,926,360)	Assumes no inflation
Lost sales tax revenue--inability to develop commercially:	(\$24,083,188)	(\$269,813,151)	
Lost earnings/payroll tax revenue--inability to develop commercially:	(\$3,178,981)	(\$35,615,336)	
Lost real property tax--inability to develop commercially:	(\$7,125,840)	(\$79,833,500)	
TOTALS:	(\$80,629,259)	(\$932,569,945)	

ATTACHMENT B
**DETAIL AND METHODOLOGY OF FISCAL IMPACT ESTIMATE:
EMINENT DOMAIN INITIATIVE PETITION**

CITY OF ST. LOUIS

PROBLEM/NUISANCE PROPERTIES—DIRECT CITY COSTS

Most neighborhoods in the City of St. Louis have problem properties. The majority of these properties are privately owned—problems associated with the properties include criminal behavior, excessive trash and noise, collapsing walls, missing windows, open to the elements and to trespass, unsightly conditions, and a host of other issues. These properties plague responsible neighborhood residents and have serious negative impact on residential and business quality of life. While some portion of these problem properties may fall into City ownership due to property tax delinquency, the majority of them will need to be addressed in another manner, because owners continue to pay minimal property tax and retain ownership of these problem properties. The only manner in which many of these properties can be addressed is ultimately via eminent domain, which the proposed amendment eliminates as a redevelopment tool by providing that any property acquired by the City using eminent domain cannot be “sold, leased, transferred, or otherwise made available for use by a private party” for a twenty-year period after the acquisition. The following analysis assumes that the City can in fact acquire the properties and alleviate the problematic conditions and hold them for a twenty-year period, even though this will not be possible in a practical sense, and attempts to calculate the cost. If these properties cannot be addressed with eminent domain and private redevelopment, actions currently undertaken to address problem/nuisance properties will (a) need to continue for the foreseeable future; (b) will need to be multiplied to address all rather than just some of the problems; (c) the City will need to add new staff to carry out the nuisance eradication work and management of the properties. The analysis below does not calculate the additional loss of revenue the City will face as more people and business leave the City because the City is powerless to address their problem and nuisance property concerns, nor does it assume that the City will acquire the properties using eminent domain and hold them for twenty years—it assumes that the proposed amendment effectively eliminates eminent domain as a tool for dealing with problem properties, which is clearly the intent of the amendment. If eminent domain were used and the City were required to hold and operate the properties for a 20-year period, the costs would be far greater than the costs estimated below.

NUISANCE ERADICATION IDENTIFICATION AND MANAGEMENT:

Explanation: The following analysis estimates the cost of the new staff the City will need to put in place to identify problem properties and manage the eradication of the problems without the use of eminent domain and private redevelopment. This analysis assumes that 10% of the estimated nuisances that exist today will be eradicated each year.

Cost items:

▪ Current cost of problem properties task force:	\$342,000
▪ Cost of police officer to serve warrants:	\$60,000
▪ Cost to quadruple problem properties task force:	\$1,206,000
▪ Cost of staff to manage eradication of 588 nuisances per year (10% of estimated total):	\$412,500
TOTAL ANNUAL COST:	\$2,020,500
10-YEAR COST, assuming 2.5% annual inflation:	\$22,636,433

NUISANCE ERADICATION BY REPAIR:

Explanation: Occupied privately owned problem properties where owners cannot be induced to make repairs via prosecution will require nuisance eradication by City-funded repair—and it will not be practical or in many cases legal to evict the occupants in order to eradicate the nuisance. The estimated number of such nuisances is 4,000. Further, it will be necessary for the City to rehabilitate some vacant privately owned properties, either because the property is located in an historic district or because the legal risks associated with demolition are too great to risk demolition at a lower cost.

Cost items:

▪ # of occupied building nuisances abated by City:	400
▪ # of vacant building nuisances abated by City w/repair:	188
▪ Additional cost to abate occupied building nuisances:	\$8,000,000
▪ Additional cost to abate vacant building nuisances:	\$18,800,000
TOTAL ANNUAL COST:	\$26,800,000
LESS: 10% Recovered Costs through Lien Foreclosures:	(\$2,680,000)
TOTAL ANNUAL COST LESS RECOVERED COSTS:	\$24,120,000
10-YEAR COST, assuming 2.5% annual inflation:	\$269,772,000

NUISANCE ERADICATION BY DEMOLITION:

Explanation: The above analysis assumes that 50% of privately owned vacant nuisance buildings can and should be rehabilitated, and that the remaining 50% require demolition. Often privately owned vacant buildings problem properties fall into such disrepair that the only mechanism for addressing the problem is demolishing the structure on the property. If these properties cannot be addressed by eminent domain before such time as demolition is inevitable, the City will be forced to continue to spend City funds to demolish the properties. While some of the cost of demolition is recoverable through the lien and foreclosure process, this is only a small (less than 10%) portion of the cost.

Cost items:

▪ Annual cost to demolish privately owned vacant buildings @ \$10,000/building:	\$1,880,000
LESS: 10% recovered cost:	(\$188,000)
TOTAL ANNUAL COST LESS RECOVERED COSTS:	\$1,688,000
10-YEAR COST, assuming 2.5% annual inflation:	\$18,910,000

NUISANCE ERADICATION BY WEED CUTTING & DEBRIS REMOVAL:

Explanation: Many privately owned problem properties are vacant; other privately owned properties have improvements but are abandoned—e.g., the owner does nothing to maintain the property. In both of these situations, City funds must be spent to remove unsightly conditions from the property so that the properties cause the least amount of harm to other properties on the block. While some of the cost of is recoverable through the lien and foreclosure process, this is only a small (less than 10%) portion of the cost. No deduction is made in this category for parcels acquired via property tax foreclosure, since once the property and the neighborhood deteriorate due to irresponsible property ownership it takes a long period of time for the property to be placed into productive use and the City must still maintain the property in the meantime to the best of the City’s ability. Unlike the cost to abate nuisances, these costs cannot be spread over a number of years—maintenance must be performed annually. If liens are imposed and foreclosed upon, in most instances the private owner will not pay off the liens—thus, the property falls by default into public ownership and the City will be still responsible for maintaining the property on an ongoing basis, unless and until the City can sell the property to another private owner.

Cost items:

▪ Annual cost of weed/trash removal on vacant lots—10,000 lots x 70% x 8 events/year x \$250/event:	\$14,000,000	
LESS: 10% recovered cost:		(\$1,400,000)
TOTAL ANNUAL COST:		\$12,600,000
10-YEAR COST, assuming 2.5% annual inflation and assuming 10% of properties sold to private owners each year:		\$90,014,000

LOST REVENUES

NEGATIVE IMPACT ON ADJOINING PROPERTIES:

Explanation: Vacant and abandoned properties drive down the value of other properties located on the same block. The abandonment of a property is visible signal that its owners do not care about it to other owners on the block and to those who otherwise might be interested in purchasing property on the block. The City receives a high volume of complaints each year about vacant and vandalized privately owned properties. In 2005, according to the City’s vacant building survey, the City had 3,751 privately owned residential vacant and vandalized buildings located on approximately 1,631 City blocks—the number of vacant and vandalized properties per block ranged from 1 to 16. The City must be able to take these properties out of the hands of irresponsible owners who care nothing about the surrounding neighborhoods. If the City cannot do so, the City and other taxing jurisdictions will suffer from the negative impact of these problem properties on other properties forever, with no way to take back neighborhoods from owners that wreak havoc on our neighborhoods and responsible neighbors’ lives. Assuming that each City block with one or more abandoned property reduces the value of other properties on the block by 10% (believed to be a conservative number in blocks that are plagued with more than one vacant and vandalized property), the cost to the City and other taxing jurisdictions in

property taxes and the cost to adjacent owners in reduced property values are calculated below. No deduction is made in this category for parcels acquired via property tax or nuisance eradication lien foreclosure because the damage to neighboring property values has already been done by the time the City acquires the property through tax or nuisance eradication lien foreclosure. With eminent domain, the City has the ability (assuming funding is available) to acquire the property before damage to neighboring property values becomes irreversible.

▪ Total # of City blocks (approximate):	5,800
▪ Total # of parcels:	141,081
▪ Average parcels/city block:	24.32
▪ City blocks w/vacant & vandalized buildings:	1,631
▪ Parcels negatively impacted by vacant buildings:	39,673
▪ Average assessed value/residential parcel:	\$14,796
▪ Total value parcels with vacant buildings on block:	\$586,896,952
▪ Estimated 10% negative assessed value impact due to vacant buildings:	(\$58,689,695)

EST. NEGATIVE ANNUAL TAX IMPACT—

\$7/\$100 ASSESSED VALUE: **(\$4,109,007)**

10-YEAR IMPACT, assuming 2.5% annual inflation: **(\$46,034,772)**

In addition, nuisances hurt adjacent property owners by negatively impacting the value of the adjacent owners’ property. This hurts owners by impairing their ability to sell or borrow against the property at a higher value.

NEGATIVE IMPACT ON MARKET VALUE OF NON-VACANT PRIVATELY OWNED PROPERTIES (ASSESSED VALUE/19%):

(\$308,947,879)

LOST REVENUES DUE TO LACK OF PROPERTY IMPROVEMENT BY PRIVATE PARTIES:

Explanation—Vacant Building Rehabilitation: In addition to the loss of property tax associated with negative impacts on surrounding non-vacant properties, the fact that owners allow vacant and vandalized properties to deteriorate also costs the City and other taxing jurisdictions in lost tax revenue. When privately owned formerly abandoned or vacant properties are redeveloped as private property, these properties add growth to the City’s tax base above and beyond the growth permitted by the Hancock Amendment. In addition, it is not reasonable to expect that the City itself would rehabilitate and occupy these properties that were formerly occupied by private parties—if the City were required to rehabilitate and occupy the properties forever, it would cost the City significant amounts of money to rehabilitate the properties, as described above, and to maintain the properties in the event that private parties do not purchase them. Further, if the City rather than private parties rehabilitates and occupies the properties (as is required by the amendment—the City cannot take the property by eminent domain and sell it to a private owner for rehabilitation), the City will lose revenue that it would otherwise collect due to fees on improvement costs. The following factors are used below to calculate the loss of

tax revenues associated with the fact that the City will be unable to encourage property improvement and tax base growth if the amendment is passed:

Lost Property Tax Revenue—Lack of Vacant Building Rehabilitation:

▪ Average assessed value of privately owned vacant/vandalized building:	\$7,181
▪ Low end of average sales price for rehabilitated rehabilitated residential property:	\$100,000
▪ Low end of average assessed value for rehabilitated residential property @ 19%:	\$19,000
▪ Value lost due to inability to make available for private rehabilitation:	\$11,819
▪ 50% if of privately owned vacant buildings rehabilitated:	1,876
EST. NEGATIVE ANNUAL TAX IMPACT—	
\$7/\$100 ASSESSED VALUE:	(\$2,216,653)
LESS: 15% to City ownership via property tax foreclosure:	\$332,500
LESS: 15% redeveloped for commercial use:	\$332,500
TOTAL ANNUAL PROPERTY TAX IMPACT:	(\$1,551,657)
10-YEAR IMPACT, assuming 2.5% annual inflation:	(\$17,383,810)

Lost Building Permit Fee Revenue—City Rehabilitation:

▪ # of privately owned vacant buildings to be rehabilitated:	1,876
▪ Approximate average cost of rehabilitation:	\$100,000
▪ Building Permit fee rate:	\$9/\$1,000
▪ Building permit fees lost:	(\$1,688,000)
▪ # of privately owned occupied buildings to be abated:	4,000
▪ Approximate average cost of rehabilitation:	\$20,000
▪ Building Permit fee rate:	\$9/\$1,000
▪ Building permit fees lost:	(\$720,000)
TOTAL LOST BUILDING PERMIT FEE REVENUE:	(\$2,408,000)
LESS: 20% Private owner compliance:	\$481,590
NEGATIVE IMPACT:	(\$1,926,410)
ANNUAL COST—ASSUME 10% PER YEAR:	(\$192,641)

Explanation—Lost Revenue due to Lack of Vacant Land Redevelopment: Many privately owned City properties are vacant lots where the improvements have been demolished, either by the City or by the private owner. These vacant lots are scabs on otherwise intact neighborhoods. In many city neighborhoods, these vacant lots outnumber parcels with improvements. In many cases, the vacant parcels, 25’ wide, are flanked by other vacant properties owned by multiple owners. The City’s inability to use eminent domain to assemble these vacant lots and abandoned properties and return them to productive use will result in significant lost revenues—sales tax revenues, property tax revenues and payroll/earnings tax revenues. In addition, the development of new retail and other facilities is essential to preserving the City’s existing population and encouraging new residents to locate in the City. Such development is currently occurring in the

City but will come to a halt if the amendment passes. The following factors are used below to calculate the loss of tax revenues associated with the fact that the City will be unable to encourage commercial redevelopment of abandoned property and tax base growth if the amendment is passed:

▪ # of privately owned vacant lots in City—2005:	10,131
▪ Average area of 1 vacant lot—sq. ft:	7,955
▪ Total vacant lot area:	80,592,105
▪ Assume additional 50% City-owned lots that cannot be developed w/o adjacent privately owned vacant lots:	40,296,052
▪ Total developable vacant lot area:	120,888,157
▪ Assume 1/8 of vacant lot area could be redeveloped as commercial:	15,111,019
▪ Assumed building/lot coverage for commercial development:	25%.
▪ Total area of retail not developed:	3,777,755
▪ Average retail sales/sq. ft.:	\$300
▪ Average annual City sales tax:	2.5%
ANNUAL LOST SALES TAX REVENUE:	(\$28,333,000)
LESS: 15% to City ownership property tax foreclosure/other:	\$4,249,974
TOTAL ANNUAL SALES TAX REVENUE:	(\$24,083,000)
10-YEAR IMPACT, assuming 2.5% annual inflation:	(\$269,813,151)
▪ Average jobs/1,000 sq. ft. commercial:	3
▪ Total commercial jobs:	11,333
▪ Average salary/retail job:	\$22,000
▪ Estimated payroll:	
ANNUAL LOST CITY PAYROLL/EARNINGS TAX @ 1.5%:	(\$3,739,977)
LESS: 15% to City ownership—property tax foreclosure/other:	\$560,997
TOTAL ANNUAL PAYROLL/EARNINGS TAX REVENUE:	(\$3,178,981)
10-YEAR IMPACT, assuming 2.5% annual inflation:	(\$35,615,336)
▪ Average assessed value/private owned vacant parcel:	\$3,291
▪ Average assessed value commercial non-vacant parcel:	\$54,386
▪ Difference in assessed value—vacant/non-vacant:	\$51,095
▪ Total privately owned vacant parcels:	10,131
▪ Assume additional 50% City-owned parcels hat cannot be developed w/o adjacent privately owned vacant lots:	5,065
▪ Total parcels unable to be developed:	15,196
▪ Assume 1/8 of vacant lot area could be redeveloped as commercial:	1,899
▪ Total estimated assessed value increase--currently vacant parcels developed as commercial:	(\$97,029,000)
EST. NEGATIVE ANNUAL PROPERTY TAX IMPACT—	
\$8.64/\$100 ASSESSED VALUE COMMERCIAL RATE:	(\$8,383,305)
LESS: 15% to City ownership property tax foreclosure/other:	\$1,257,501
TOTAL ANNUAL PROPERTY TAX REVENUE:	(\$7,125,840)

10-YEAR IMPACT, assuming 2.5% annual inflation:

(\$79,833,500)

OTHER FISCAL IMPACTS:

Non-Physical Nuisances: The proposed amendment does not clearly define “nuisance.” Non-physical nuisances (e.g., criminal activity, drugs, antisocial behavior) are difficult if not impossible to cure and cannot be cured with “eradication” activities that place a lien on the property. Often the use of eminent domain is the only way to get such a property out of the hands of problem owners and into the hands of a responsible party.

Inability to Redevelop as Higher Quality Residential Property: Much of the City’s housing stock is obsolete and unattractive to the modern housing market. Eradicating nuisances per se does not allow the City to redevelop obsolete residential property into homes that will attract modern residents. Thus, the inability to redevelop obsolete and deteriorated residential property as higher quality residential property also has a cost. This cost can be estimated but they have not taken the time to do so here.

Inability to Adequately Address Blighted Areas and Impact on Other Property: The City has been in a continuing state of decline for the past five decades. Only recently has this decline been arrested. Now the City’s problems are slowly but surely being turned into opportunities, in large part because people believe that the City is making progress and will continue to do so. This progress has been possible due in large part to the availability of eminent domain for private redevelopment. If the proposed amendment becomes effective, this progress will come to a halt, and this in turn will (a) discourage “new” investors and homeowners from giving the City a chance, and (b) discourage those who have already invested in the City from remaining. The City has many problems, and those problems are being addressed, but total transformation cannot and will not happen overnight. It is essential that the City be able to continue to make progress if the successes recently experienced are to be sustained. If eminent domain is not available as a redevelopment tool in conjunction with private redevelopment, businesses and residents will once again leave the City and the same kinds of decline, disinvestment and population loss that the City previously suffered will continue into the foreseeable future.

The **City of Kirkwood** indicated that the fiscal impact would be minimal.

The State Auditor's Office did not receive a response from **Cole County, Greene County, Jackson County, St. Louis County, the City of Gladstone, or the City of Columbia.**

Fiscal Note Summary

The total cost or savings to state or local governmental entities cannot be known. Some state governmental entities estimate no related costs, however, certain state governmental entities may have unknown or indirect costs that may exceed \$100,000. Estimated costs to local governmental entities will vary, but could be significant.