



COALITION FOR
CRITICAL INFRASTRUCTURE
★ CONNECTING TEXANS ★

August 14, 2020

To: Chairman and Members
Texas House Committee on Land & Resource Management

From: Coalition for Critical Infrastructure
Lisa Kaufman, General Counsel, Texas Civil Justice League

Subject: Interim Charge 3 Comments
Actual Progress

On behalf of the Coalition for Critical Infrastructure (CCI), thank you for the opportunity to provide comments regarding Interim Charge Number 3, which directs the committee to review what should and should not constitute actual progress to ensure the right of property owners to repurchase property obtained by eminent domain.

The Coalition for Critical Infrastructure (CCI) includes both public and private entities with condemnation authority that help make Texas the 10th largest economy in the world. CCI members are dedicated to the state's ability to grow and prosper. The Texas Constitution recognizes that the use of eminent domain to acquire property for public use. CCI strongly believes in a strong and durable framework that treats property owners respectfully and fairly, promotes the efficient and timely resolution of disputes, and strengthens long-term relationships between property owners and infrastructure development.

In 2011, SB 18 made significant changes to Section 21.101 to the Property Code, introducing the concept of "actual progress" and creating seven parameters for use in making that determination. An entity meeting two of these parameters would satisfy the requirements for "actual progress". These provisions created the balance needed to protect the rights of property owners while allowing for critical infrastructure to progress, especially by local government entities which often need years, or even decades, to acquire financing and complete large scale projects, such as road infrastructure, waste disposal, flood control, drainage projects, public hospitals and parks.

While it is unfair for a condemnee to acquire property for a project which never gets built, placing unrealistic time limits and restrictions on large scale public projects is likewise unwise and a waste of taxpayer dollars. If the Legislature determines changes are needed to the "actual progress" provisions, CCI respectfully requests applying a thoughtful approach to distinguishing between types of infrastructure projects.

CCI looks forward to working with the committee next session on reforms to the eminent domain process that provide transparency and accountability for landowners while maintaining the ability of Texas to build the infrastructure that our growing economy and population requires.

Thank you for your consideration and for your tireless service to the people of our state.