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## Proposed bills in Ohio statehouse target eminent domain as park systems plan to expand

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The anti-eminent domain legislation reflects a growing divergence of urban and rural priorities in Ohio, specifically where the necessity of public greenspace meets personal rights.

Two proposed bills in the Ohio statehouse are targeting how metroparks systems acquire private property to develop recreational trails for public use.

House Bill [288](#), sponsored by Rep. [Don Manning](#) (R) from New Middletown, would prohibit the employment of eminent domain for any trail used for biking, hiking and skiing.

A subsequent bill, House Bill [476](#), co-sponsored by Manning and Rep. [Stephen D. Hambley](#), R-Medina, would not completely ban the use of eminent domain for recreational trails, but would provide local elected officials veto authority over those specific types of private property acquisitions.

Eminent domain is the right of a government agency to acquire, with just compensation, private property, as long as it is used for public use. Ohio law currently does give property owners the right to contest eminent domain in probate court.

Hambley's bill would allow local elected officials to have legal authority similar to probate judges to veto or nullify an eminent domain claim.

"A local legislative authority like a city council or town trustee, who do land use planning and transportation planning, are often better than judges to evaluate these claims," Hambley said.

[Cleveland Metroparks](#) commissioner Bruce Rinker opposes both bills. The real estate lawyer and former Mayfield Village mayor said eminent domain is a rarely used but much-needed tool for creating trail networks popular with cities bisected by highways.

"It is a very critical function for us to be able to do. Our purpose is to create parks and park amenities and connections. We are very mindful of having that power," Rinker said. "Cleveland Metroparks has used eminent domain, but it has been more than 20 years since it was last used. It is not something that is treated in a casual fashion."

The anti- eminent domain legislation reflects a growing divergence of urban and rural priorities in the state, specifically where the necessity of public greenspace meets personal rights.

[Ohio's Fifth District Court of Appeals](#) in January upheld an eminent domain claim by the [Ohio History Connection](#), previously the Ohio Historical Society, regarding golf course property adjacent to [Hopewell Culture National Historical Park](#). Considered the largest American Indian earthworks, the state historical society argued a public need to protect and access the Hopewell property, which is slated to be added to the UNESCO World Heritage [List](#).

With 300 miles of existing bike trails and a countywide greenway plan, the Cleveland Metroparks' string of successful projects, such as the park system's takeover of [Edgewater Park](#), provide a healthy amount of community goodwill to support long-term, expensive projects like the expansion of [Towpath Trail](#).

However, park systems in more rural areas — like those represented by one of the bills' sponsors — face a more existential resistance from farmers and other landowners who see public trails as an intrusion.

Manning said in HB 288 committee testimony that property owners in proximity to a proposed Mahoning County extension of the [Mill Creek bike trail](#) were being "taken advantage of through the use of eminent domain," adding that it infringed their rights for "the creation of something as trivial as a bike trail."

Nate Kelly, president and managing partner of [CRESCO](#) Real Estate, said he disagrees, arguing that parks and bike trails, like the [Centennial Trail Lake Link](#) and [Red Line Greenway](#), are crucial examples of the amenities needed to attract younger residents and employees to a city.

"I don't think there is a better use of eminent domain than for the public spaces, which has a lot of economic impact," said Kelly. "Now more than ever, quality-of-life improvements that benefit our neighborhoods and attract talent are the kinds of things that are a good use of the public-sector authority. It seems foolish to handcuff that."

Larger metroparks systems, Hambley said, are not affected by his bill, which only applies to rural areas with smaller and sometimes distant probate courts. Rinker, though, said he is concerned the legislation will provide a slippery slope for more restrictions.

"If (eminent domain) can be amended today, it certainly could be amended later," he noted. "This bill is assuming that what exists today is not good enough, and that is unfortunate because it is just not the case."

Currently, both bills have been assigned to the [Civil Justice Committee](#). If not passed by the end of the year, new legislation will have to be reintroduced next session.

Rinker said recent studies have demonstrated that "land proximate to a park has higher property values, is safer, healthier and the overall quality of life is better." He added, "The next generation has taken notes and are looking for ways to do it better. I think the trails do it better."

Inline Play

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