

#K 11/12/02

MEMORANDUM

TO: THE HONORABLE WILLIAM D. EUILLE
MEMBER OF CITY COUNCIL

FROM: IGNACIO B. PESSOA *IBP*
CITY ATTORNEY

DATE: DECEMBER 18, 2002

SUBJECT: KING AND UNION STREET PROPERTIES

You have asked whether the City has the authority to acquire, by purchase or condemnation, one or more of the vacant properties at the corner of King and Union Streets, in order for the City to rehabilitate and lease or sell such properties in a condition for ready occupancy and use, or to lease or sell such properties to one or more purchasers or tenants, at a price which will promote rehabilitation, occupancy and use by the purchaser or tenant. As discussed below, I conclude that the City does have the authority for such acquisition.

Under Section 2.04.2(b) of the City Charter, the City is authorized:

To acquire by purchase, exchange, gift, lease, condemnation or otherwise, real property in the city which is blighted, deteriorated, deteriorating, a blighting influence on the neighborhood, or in nonconformance with the city's zoning code or master land use plan; to clear, demolish or rehabilitate any such real property; and to dispose of any such real property by lease or sale to any person.

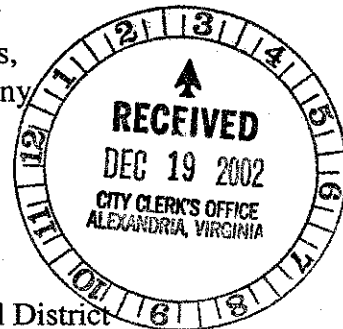
Section 2.04.2 expressly provides that any such acquisition is "declared to be a public purpose and public use," appropriate for the exercise of the City's eminent domain authority.

"Blight" is elsewhere defined by Virginia law as property:

which, by reason of dilapidation, obsolescence, overcrowding, faulty arrangement or design, lack of ventilation, light and sanitary facilities, excessive land coverage, deleterious land use or obsolete layout, or any combination of these or other factors, [is] detrimental to the safety, health, morals or welfare of the community.

Virginia Code § 36-49.

The National Trust for Historic Preservation's Main Street Program for Commercial District Revitalization, and participating communities throughout the state and nation, have recognized that "Neglected buildings, boarded-up storefronts and empty, trash-strewn streets gradually



reinforced the public's perception that nothing was happening downtown, that nothing was worth saving there. People forgot how important their downtown and its historic commercial buildings were in reflecting their community's unique heritage." See, [http://www.mainstreet.org/AboutMainStreet/ Decline.htm](http://www.mainstreet.org/AboutMainStreet/Decline.htm). In many communities, the resulting economic decline quickly spiraled out of control. Although, fortunately, Alexandria's downtown commercial district has largely emerged from any such period of decline, it now faces renewed competition for public patronage from a variety of urban and suburban retail and commercial centers in the region.

The buildings at King and Union have a problematic history. The building on the northwest corner has been unoccupied since 1996. The Corn Exchange Building, on the southwest corner, has seen a succession of short-lived restaurant tenants come and go. These buildings, as well as the building on the southeast corner, face substantial zoning and code compliance challenges, particularly for any change from the prior restaurant uses. The failure successfully to rent these historic buildings is due in large part to their functional obsolescence.

Based upon these facts and circumstances, I have no difficulty in concluding that the continued vacancy of one or more of the buildings at this important corner of the City's downtown commercial district constitutes the type of "blight" or "blighting influence" which Section 2.04.2(b) of the Charter is intended to address. The City is not required to await either the physical collapse of these buildings, or a more severe economic impact to its commercial and historic core, before it exercises its eminent domain authority.

Accordingly, I conclude that the City has the authority to acquire, by condemnation if necessary, one or more of these properties, to ensure the renewed occupancy and use of these historic buildings.

Please do not hesitate to call me if you have any additional questions regarding this matter.

cc: The Honorable Mayor and
Members of City Council

Philip Sunderland
City Manager

Mark Jinks
Assistant City Manager

Barbara Ross
Deputy Director, Planning and Zoning