

1 **CITY COUNCIL OF THE CITY OF ANNAPOLIS**

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3 **RESOLUTION NO. R-21-09**

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5 **Introduced by Mayor Moyer**

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7 **Co-sponsored by Alderman Israel**  
8 **Alderman Paone**  
9 **Alderman Hoyle**  
10 **Alderman Finlayson**  
11 **Alderman Cordle**  
12 **Alderman Stankivic**  
13 **Alderman Shropshire**  
14 **Alderman Arnett**  
15

LEGISLATIVE HISTORY			
First Reading:	Public Hearing:	Fiscal Impact Note:	120 Day Rule:
04/13/09	N/A	N/A	N/A
Referred to:	Meeting Date:	Action Taken:	

16  
17 **A RESOLUTION** concerning

18  
19 **Condemnation of the Annapolis Market House Lease**

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21 **FOR** the purpose of authorizing the acquisition of the leasehold interest in the Market  
22 House held by Market House Ventures, LLC, by eminent domain in order to restore  
23 the Annapolis Market House to its prior status as a public resource and centerpiece  
24 of municipal life and determining that acquisition of this leasehold serves a public  
25 purpose.

26  
27 **WHEREAS**, for more than two centuries the market space and market house have served  
28 as the preeminent public resource and centerpiece of municipal life in the City  
29 of Annapolis; and

30  
31 **WHEREAS**, the current Annapolis Market House sits on property deeded to the City in  
32 1784 for the express purpose and on the condition that it be used to erect a  
33 market house for the receipt and sale of provisions; and

34  
35 **WHEREAS**, a market house facility was operated under the direct supervision of the City  
36 of Annapolis from 1784 until 2005; and  
37

1 **WHEREAS**, City law governing the Market House directs that it be operated as a  
2 mercantile enterprise to serve a diverse clientele, including City residents and  
3 visitors; and  
4

5 **WHEREAS**, among the express powers provided to municipal corporations in Article 23A,  
6 §2(b)(17) of the Annotated Code of Maryland is operating a market; and  
7

8 **WHEREAS**, to assist meet these requirements, the City expressly found that it was for the  
9 public good to execute a lease with Market House Ventures, LLC, to operate  
10 the Market House, and in O-36-05 approved a master lease; and  
11

12 **WHEREAS**, the City gave Market House Ventures, LLC, nearly one full year of rent  
13 abatement, yet Market House Ventures, LLC, did not pass that relief onto  
14 subtenants, but rather brought eviction actions against them; and  
15

16 **WHEREAS**, as of April 9, 2009, the website Market House Ventures, LLC, maintains with  
17 respect to the Market House indicates there are 12 vendors at the Market  
18 House, however 10 of the 12 have abandoned the site; and  
19

20 **WHEREAS**, as of April 9, 2009, the website Site Reality maintains with respect to the  
21 Market House indicates there are “no vacancies” at the Market House, even  
22 though only two of the twelve vendors stalls are occupied; and  
23

24 **WHEREAS**, the Market House remains largely vacant, contrary to the public good; and  
25

26 **WHEREAS**, the continuation of Market House Ventures’ leasehold interest in the  
27 Annapolis Market House no longer serves the public good nor satisfies the  
28 City’s Market House policy.  
29

30 **NOW, THEREFORE, BE IT RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the  
31 City Council determines the acquisition of the leasehold interest in the Annapolis Market  
32 House is necessary for a public purpose, which purpose is the continued operation of a  
33 municipal market house to meet the mercantile needs of City residents and visitors, and  
34 that the City of Annapolis is authorized to acquire such leasehold interest by eminent  
35 domain.  
36

37 **AND, BE IT FURTHER RESOLVED BY THE ANNAPOLIS CITY COUNCIL** that the City of  
38 Annapolis shall proceed to acquire by eminent domain the leasehold interest of Market  
39 House Ventures, LLC, in the Annapolis Market House.  
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42 **ADOPTED** this 27th day of April, 2009.  
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1 **ATTEST:**

**THE ANNAPOLIS CITY COUNCIL**

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**BY: \_\_\_\_\_**  
**ELLEN O. MOYER, MAYOR**

5 **\_\_\_\_\_  
Regina C. Watkins-Eldridge, CMC**  
6 **City Clerk**

## **Staff Report**

### **R-21-09, Condemnation of the Annapolis Market House**

R-21-09 seeks to authorize the taking by eminent domain of the leasehold interest conveyed by Annapolis to Market House Ventures, LLC, on December 2, 2005. Eminent domain is an action or tool available to government that allows the taking of private property for a declared public purpose. Eminent domain is a right of the government.

Eminent domain, or condemnation, is the inherent power of a governmental entity to take privately-owned property and convert it to a public use. The governmental entity must pay “just compensation” for the private property thus taken. Eminent domain is provided for in the Maryland Constitution. Eminent domain is a power expressly delegated to municipal corporation by the State, and the Annapolis City Charter lists eminent domain among the express powers available to City government. Eminent domain is available to take both real and personal property, and with respect to real property, all and any interests in real property may be subject to eminent domain. Leases or leasehold interests in real property are clearly accepted as property interests appropriate for taking by eminent domain. Thus, the City can exercise eminent domain over the Market House lease, even though the City owns the Market House itself.

An eminent domain proceeding begins when with a legislative body declares that the taking is necessary for a public purpose and directs that the taking occur. The role of the legislative body in establishing the public need for the taking is paramount, with only limited grounds for judicial review of such a decision. R-21-09 will institute the taking by eminent domain of the leasehold interest in the Market House previously conveyed to Market House Ventures.

Following adoption of a Resolution authorizing and directing eminent domain, city lawyers will file an action in the Circuit Court to establish the “just compensation” to be paid for the lease. The parties to a condemnation proceeding do have the ability to agree on the amount of compensation to be paid. It does not appear that the City of Annapolis has ever exercised its power of eminent domain in the past.