HOUSE DOCKET, NO. 1157 FILED ON: 1/20/2011

HOUSE . . . . . No. 1387

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying:

Proposal for a legislative amendment to the Constitution
relative to eminent domain takings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	*8th Suffolk*
Carolyn C. Dykema	*8th Middlesex*
Steven L. Levy	*4th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*

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HOUSE . . . . . No. 1387

By Ms. Marty Walz of Boston, petition (accompanied by proposal for constitutional amendment, House, No. 01387) of Carl M. Sciortino and others for a legislative amendment to the Constitution relative to eminent domain takings. Joint Committee on the Judiciary.

The Commonwealth of Massachusetts

Proposal for a legislative amendment to the Constitution
relative to eminent domain takings.

A majority of all the members elected to the Senate and House of Representatives, in joint session, hereby declares it to be expedient to alter the Constitution by the adoption of the following Article of Amendment, to the end that it may become a part of the Constitution [if similarly agreed to in a joint session of the next General Court and approved by the people at the state election next following]:

ARTICLE OF AMENDMENT.

A majority of all the members elected to the Senate and House of Representatives, in joint session, hereby declares it to be expedient to alter the Constitution by the adoption of the following Article of Amendment, to the end that it may become a part of the Constitution [if similarly agreed to in a joint session of the next General Court and approved by the people at the state election next following]:

ARTICLE OF AMENDMENT.

Article X of Part the First of the Constitution is hereby amended by adding at the end thereof, the following:

The taking of real estate or of any interest therein by right of eminent domain under this chapter or Chapter 80A shall be effected only when necessary for the possession, occupation, and enjoyment of land by the public at large or by public agencies and shall not be effected for the purpose of commercial enterprise, private economic development, or any private use of the property. Property shall not be taken from one owner and transferred to another on the grounds that the public will benefit from a more profitable use. Whenever an attempt is made to take property for a use alleged to be public, the question whether the contemplated use is truly public

17 shall be a judicial question and determined as such without regard to any legislative assertion
18 that the use is public. In the event that property taken pursuant to this chapter or Chapter 80A is
19 not used for the purpose for which it was taken within five (5) years of the taking, the
20 governmental authority that took the property must offer to sell the property to the owner from
21 whom it was acquired, or his or her known or ascertainable heirs or assigns, at the price which
22 was paid for the property or for the fair mar ket value of the property at the time of the sale,
23 whichever is less, and if the offer is not accepted within 180 days from the date it is made, the
24 property may be sold to any other person, but only at public sale after legal notice is given.