

HOUSE No. 3749

The Commonwealth of Massachusetts

PRESENTED BY:

Aaron Michlewitz

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 adoption of the accompanying bill:

An Act protecting sunlight and promoting economic development in the city of Boston.

PETITION OF:

NAME:

Aaron Michlewitz
Joseph A. Boncore

DISTRICT/ADDRESS:

3rd Suffolk
First Suffolk and Middlesex

HOUSE No. 3749

By Mr. Michlewitz of Boston, a petition (accompanied by bill, House, No. 3749) of Aaron Michlewitz and Joseph A. Boncore (with the approval of the mayor and city council) relative to shadows cast by certain structures in the city of Boston. Municipalities and Regional Government. [Local Approval Received.]

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act protecting sunlight and promoting economic development in the city of Boston.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Subsection (b) of section 2 of chapter 362 of the Acts of 1990 is hereby
2 amended by striking out the words “, subject to the one acre exclusion set forth in the second
3 sentence of subsection (c).”

4

5 SECTION 2. Subsection (c) of section 2 of chapter 362 of the Acts of 1990 is hereby
6 amended by striking out the second sentence thereof.

7 SECTION 3. Section 2 of chapter 362 of the Acts of 1990 is hereby further amended by
8 inserting after subsection (c) the following subsection:-

9 (d) Any structure located on property owned by the City of Boston on January first, two
10 thousand and sixteen and located west of Federal Street, south of Franklin Street, east of
11 Devonshire Street, and north of the intersection of High Street and Summer Street, which

12 structure casts a new shadow upon the Boston Common for not more than two hours after the
13 later of seven o'clock in the morning or the first hour after sunrise.

14 SECTION 4. Section 2 of chapter 384 of the Acts of 1992 is hereby amended by striking
15 out the word "or" in the last line of subsection (b).

16 SECTION 5. Section 2 of chapter 384 of the Acts of 1992 is hereby further amended by
17 striking out the period in the last line of subsection (c) and inserting in place thereof a semicolon
18 and the word "or."

19 SECTION 6. Section 2 of chapter 384 of the Acts of 1992 is hereby further amended by
20 inserting after subsection (c) the following subsection:-

21 (d) Any structure located on property owned by the City of Boston on January first, two
22 thousand and sixteen and located west of Federal Street, south of Franklin Street, east of
23 Devonshire Street, and north of the intersection of High Street and Summer Street, which
24 structure casts a new shadow upon the Public Garden for not more than forty-five minutes after
25 the later of seven o'clock in the morning or the first hour after sunrise.

26 SECTION 7. As used in section 7 and section 8 of this act the following words shall have
27 the following meanings:

28 "Article 48," Article 48 of the Boston Zoning Code as it existed on March thirty-first,
29 two thousand and seventeen.

30 "New shadow," the casting of a shadow at any time on an area which is not cast in
31 shadow at such time by a structure which exists or for which a building permit or local zoning
32 entitlements through the Zoning Board of Appeal or Boston Zoning Commission have been

33 granted on the date upon which application is made to the permit-granting authority for a
34 proposed structure and which would not be cast in shadow by a structure conforming to as-of-
35 right height limits allowed by the Boston Zoning Code as in force on March thirty-first, two
36 thousand and seventeen. New shadow shall not include a de minimis shadow cast by an antenna,
37 fence, flagpole, sign or other similar structure.

38 “Permit granting authority,” the Boston Zoning Board of Appeal, the Boston Zoning
39 Commission, the Boston Redevelopment Authority or other public body authorized to grant
40 permits or approvals pursuant to chapter 121A or chapter 121B of the General Laws, chapter 665
41 of the acts of 1956, as amended, of the Boston Zoning Code. Permit granting authority shall not
42 include the Boston Inspectional Services Department, or any body or department succeeding in
43 the duties thereof.

44 “Copley Square Park,” the land in the City of Boston bounded by Boylston Street,
45 Clarendon Street, St. James Avenue, and Dartmouth Street, and under the care, custody
46 management and control of the city Parks and Recreation Commission, excluding land occupied
47 by Trinity Church.

48 “Structure,” a structure, as defined in the Massachusetts state building code, which is: (i)
49 intended to be permanent; and (ii) not located within the boundaries of Copley Square Park.

50 SECTION 8. Notwithstanding any provisions of chapter 121A or chapter 121B of the
51 General Laws, or chapter 665 of the acts of 1956, or any other general or special law to the
52 contrary, no permit granting authority shall take any action which would authorize the
53 construction of any structure within the Stuart Street District established by Article 48 which
54 would cast a new shadow for more than two hours from eight o’clock in the morning through

55 two-thirty in the afternoon on any day from March twenty-first to October twenty-first, inclusive,
56 in any calendar year, on any area of Copley Square Park; provided, however, that the provisions
57 of this section shall not apply to actions authorizing any structure that has received local zoning
58 entitlements through the Zoning Board of Appeal or by virtue of being included in a
59 development plan or planned development area master plan within the Stuart Street District, all
60 as approved on or before March thirty-first, two thousand seventeen by the Boston Zoning
61 Commission in accordance with chapter six hundred sixty-five of the acts of nineteen hundred
62 and fifty-six, as such Board of Appeal relief or development plan may thereafter be amended;
63 provided however, that such amendment shall not permit construction of a structure which would
64 cast additional new shadow as defined in Section 7 of this Act for more than two hours as
65 aforesaid.

66 SECTION 9. The Boston Redevelopment Authority shall conduct a planning initiative for
67 downtown Boston for an area including, but not limited to, the Midtown Cultural District
68 established by Article 38 of the Boston Zoning Code and that area of the city known as the
69 Financial District. The initiative shall be conducted in partnership with the community to
70 examine the preservation, enhancement and growth of downtown Boston in order to balance
71 growth with livability while respecting the importance of sunlight, walkability, and a dynamic
72 mix of uses. The initiative shall culminate in a report that must include, but need not be limited
73 to, recommendations concerning: development guidelines to facilitate predictable and
74 appropriate development and community benefits; balancing area enhancement with the needs of
75 existing residents, businesses and property owners; historic preservation; impacts of
76 development on the environment, open space, and public realm, specifically including shadow
77 impacts; and adaptability to the risks associated with climate change. The planning initiative

78 shall commence within six months of the date of the passage of this act, and the Boston
79 Redevelopment Authority shall publish the report on the planning initiative within three years
80 from the passage of this act.

81 SECTION 10. This act shall take effect upon its passage.