

HOUSE No. 1701

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Requiring that Eminent Domain be for the Public Use and Defining Public Use..

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

1 Notwithstanding any other provision of law, neither this State nor any political
2 subdivision thereof nor any other condemning entity shall use eminent domain unless it is
3 necessary for a public use. Whenever property is condemned and will be used by a private party,
4 the condemner must establish by clear and convincing evidence that the use of eminent domain
5 complies with this section and is reasonably necessary.

6 Public use: The term “public use” shall only mean (1) the possession, occupation, and
7 enjoyment of the land by the general public, or by public agencies; (2) the use of land for the
8 creation or functioning of public utilities or common carries; or (3) where the use of eminent
9 domain (a)(i) removes a public nuisance; (ii) removes a structure that is beyond repair or unfit
10 for human habitation or use; or (iii) is used to acquire abandoned property in its current
11 condition. The public benefits of economic development, including an increase in tax base, tax
12 revenues, employment, general economic health, shall not constitute a public use.