

HOUSE No. 1680

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 adoption of the accompanying bill:

An Act relative to eminent domain takings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:	DATE ADDED:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>	<i>1/7/2013</i>
<i>Stephen L. DiNatale</i>	<i>3rd Worcester</i>	
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>	
<i>Kay Khan</i>	<i>11th Middlesex</i>	
<i>Cory Atkins</i>	<i>14th Middlesex</i>	
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>	

HOUSE No. 1680

By Ms. Walz of Boston, a petition (accompanied by bill, House, No. 1680) of Martha M. Walz and others relative to eminent domain takings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1386 OF 2011-2012.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Thirteen
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An Act relative to eminent domain takings.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to amend the taking of real estate property for the possession, occupation and enjoyment of the public, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

1 Chapter 79 of the General Laws is hereby amended by inserting after section 1 the
2 following section:-

3 Section 1A. The taking of real estate or of any interest therein by right of eminent
4 domain under this chapter or chapter 80A shall be effected only when necessary for the
5 possession, occupation and enjoyment of land by the public at large or by public agencies and
6 shall not be effected for the purpose of commercial enterprise, private economic development or
7 any private use of the property. Property shall not be taken from one owner and transferred to
8 another on the grounds that the public will benefit from a more profitable use. Whenever an
9 attempt is made to take property for a use alleged to be public, the question whether the
10 contemplated use is truly public shall be a judicial question and determined as such without
11 regard to any legislative assertion that the use is public. In the event that property taken pursuant
12 to this chapter or chapter 80A is not used for the purpose for which it was taken within 5 years of
13 the taking, the governmental authority that took the property must offer to sell the property to the

14 owner from whom it was acquired, or the owner's known or ascertainable heirs or assigns, at the
15 price which was paid for the property or for the fair market value of the property at the time of
16 the sale, whichever is less, and if the offer is not accepted within 180 days from the date it is
17 made, the property may be sold to any other person, but only at public sale after legal notice is
18 given.