

SENATE No. 1901

The Commonwealth of Massachusetts

PRESENTED BY:

Joan B. Lovely

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 authorizing the secretary of the Massachusetts Department of Transportation to convey and acquire certain parcels of land in the city of Beverly..

PETITION OF:

NAME:

DISTRICT/ADDRESS:

Joan B. Lovely

Second Essex

Jerald A. Parisella

6th Essex

SENATE No. 1901

By Ms. Lovely, a petition (subject to Joint Rule 12) of Joan B. Lovely and Jerald A. Parisella for legislation to authorize the secretary of the Massachusetts Department of Transportation to convey and acquire certain parcels of land in the city of Beverly. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Thirteen

An Act authorizing the secretary of the Massachusetts Department of Transportation to convey and acquire certain parcels of land in the city of Beverly..

Whereas, The deferred operation of this act would tend to defeat its purpose, which is to forthwith to authorize certain land transactions in the city of Beverly, 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 SECTION 1. The secretary of the department of transportation, in this act called the
2 secretary, notwithstanding the provisions of any general or special law to the contrary, except as
3 specifically provided in this act, may convey on behalf of, and in consultation with, the highway
4 administrator of the highway division, in this act called the highway administrator, by deed, to
5 CEA Beverly, LLC, a Massachusetts limited liability company, in this act called the developer,
6 title to certain parcels of land designated Parcel # 1 and #3, owned by the commonwealth in the
7 city of Beverly, containing 159,744 square feet more or less (3.6672+/- acres) and shown on that
8 certain plan entitled "Massachusetts Department of Transportation Plan of Land in Beverly, MA,
9 Essex County", prepared by Hancock Associates, dated September 12, 2013 (to be recorded), in
10 this act called the "Land Disposition Plan," for purposes consistent with the applicable zoning
11 ordinance of the city of Beverly. This conveyance shall not occur until said parcels have been
12 determined to be surplus land by the assistant secretary of the department of transportation,
13 office of real estate and asset development, in this act called the assistant secretary for real estate,
14 in consultation with the highway administrator, pursuant to section 7E of chapter 81 of the
15 General Laws. This conveyance shall not occur until the developer certifies to the assistant

16 secretary for real estate, that all major state and local permits, approvals and such other
17 entitlements which may be necessary and required have been obtained and secured, to enable
18 retail development on said parcels of land described in this section. This conveyance shall be
19 subject to such terms and conditions as the assistant secretary for real estate may prescribe in
20 consideration for said parcels of land which may be acquired from the developer as described in
21 section 2. This conveyance shall not be subject to section 20 of chapter 6C of the General Laws.

22 SECTION 2. The developer may convey by deed to the assistant secretary for real estate,
23 and the assistant secretary for real estate may acquire on behalf of the highway administrator and
24 the division of highways, for highway purposes required by public necessity and convenience, as
25 partial consideration for the transfer provided in section 1, and on such terms and conditions as
26 may be determined by the assistant secretary for real estate, title to certain parcels of land
27 designated Parcel #2, as shown on the "Land Disposition Plan," owned by the developer in the
28 city of Beverly, containing 124,920 square feet more or less (2.8678+/- acres). The division of
29 highways shall have the sole responsibility for the management and maintenance of said Parcel 2
30 once conveyed by the developer to the assistant secretary for real estate. This conveyance shall
31 not be subject to section 43 of chapter 6C of the General Laws.

32 SECTION 3. The developer shall pay to the assistant secretary for real estate for and on
33 behalf of the department of transportation such consideration as may be required and determined
34 by the assistant secretary for real estate based upon an independent professional appraisal or
35 appraisals performed by a duly qualified appraiser(s) licensed in the commonwealth and holding
36 the designation member of the appraisal institute, the difference, if any, between the full and fair
37 market value of the parcel(s) conveyed under section 1 and the full and fair market value of the
38 parcel(s) conveyed under section 2. Upon the effective date of this act, unless said appraisal
39 process has otherwise commenced, the assistant secretary for real estate shall initiate an
40 independent appraisal of the parcels described in sections 1 and 2.

41 SECTION 4. Notwithstanding any general or special law to the contrary, the inspector
42 general shall review and approve the appraisal or appraisals required pursuant to section 3. The
43 inspector general shall prepare a report of his review of the methodology utilized for the
44 appraisal or appraisals and shall file the report with the secretary, the house and senate
45 committees on ways and means and the house and senate committees on bonding, capital
46 expenditures and state assets. Thirty days before the execution of a deed for any conveyance
47 authorized by this act or any subsequent amendment thereto, the secretary shall submit the
48 proposed deed or amendment and a report thereon to the inspector general for his review and
49 comment. The inspector general shall issue his review and comment within 15 days after receipt
50 of the proposed deed or amendment. The secretary shall submit the proposed deed or
51 amendment, and the reports and the comments of the inspector general if any to the house and
52 senate committees on ways and means and the house and senate committees on bonding, capital
53 expenditures and state assets at least 15 days before execution of the deed or amendment.

54 SECTION 5. The developer shall be responsible for all costs associated with the
55 conveyance of the parcels described in sections 1 and 2, including, but not limited to, the costs of
56 preparation of the Land Disposition Plan, the appraisal(s) and of the purchase agreements and the
57 deeds, all recording and legal costs, and of obtaining all state and local permits, approvals and
58 such other entitlements which may be necessary and required as set forth in section 1, and any
59 and all other expenses incurred by the commonwealth, in connection with the conveyances as
60 authorized by this act.

61 SECTION 6. The developer shall cause to have a copy of the Land Disposition Plan,
62 provided to the assistant secretary of real estate and to the chief engineer of the highway division
63 both of whom shall keep said plan on file. The developer shall cause to have a copy of the Land
64 Disposition Plan, provided to the city of Beverly. The Land Disposition Plan, shall be referenced
65 in the deeds for the parcels described in sections 1 and 2, and at the time of conveyance, the
66 developer shall record the Land Disposition Plan, together with the deeds, in the Essex (south)
67 county registry of deeds.

68 SECTION 7. The developer and its servants, agents and employees shall indemnify and
69 hold the commonwealth and the city of Beverly, harmless from and against all claims, actions,
70 damages, or costs claimed for injuries or damages to persons or property arising out of or in any
71 way relating to the conveyances authorized by this act, and shall defend the commonwealth and
72 their servants, agents and employees from and against any and all such claims, actions, damages
73 and costs.