

**HOUSE . . . . . No. 3442**

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**The Commonwealth of Massachusetts**

PRESENTED BY:

*Joseph F. Wagner*

*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 certain properties in the Commonwealth.

PETITION OF:

| NAME:                   | DISTRICT/ADDRESS:  | DATE ADDED:      |
|-------------------------|--------------------|------------------|
| <i>Joseph F. Wagner</i> | <i>8th Hampden</i> | <i>1/20/2017</i> |

**HOUSE . . . . . No. 3442**

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By Mr. Wagner of Chicopee, a petition (accompanied by bill, House, No. 3442) of Joseph F. Wagner that the Secretary of the Department of Transportation be required to approve permits for certain construction on former railroad company land. Transportation.

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[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 3117 OF 2015-2016.]

**The Commonwealth of Massachusetts**

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

An Act relative to certain properties in the Commonwealth.

*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. Chapter 40 of the General Laws, as appearing in the 2014 Official Edition,  
2 is hereby amended by striking out section 54A and inserting in place thereof the following  
3 section:-

4           Section 54A. If a city or town or any other person purchases any lands formerly owned in  
5 fee by a railroad company and used as a railroad right-of-way or used in connection with the  
6 operation of a railroad right of way, or any property formerly subject to an easement to a railroad  
7 company and used as a railroad right-of-way or used in connection with the operation of a  
8 railroad right-of-way, no permit to build a structure of any kind on land so purchased shall be  
9 issued by any city or town in the commonwealth without first obtaining the consent in writing to  
10 the issuance of a permit from the secretary of the Department of Transportation. The secretary

11 may issue his consent to the issuance of a permit only after holding a public hearing if the  
12 property has been used by way of fee simple ownership or by easement by a railroad after  
13 January 1, 1960. For property that was last used by a railroad prior to January 1, 1960 the  
14 secretary may issue his consent to the issuance of a permit without the need to conduct a public  
15 hearing. No consent or approval of the secretary shall be required for a building permit to build  
16 a structure on any property outside of the bounds of any easement granted in favor of a railroad  
17 for construction and or operation of railroad tracks and facilities used to deliver rail passengers  
18 or freight that is not more than 3 miles in length.

19       If the secretary does not consent to the issuance of a permit, the owner of the land may  
20 recover damages from the commonwealth in the amount that would be awarded under the  
21 provisions of chapter 79 of the General Laws. Notwithstanding the last sentence of the previous  
22 paragraph, there shall be no recovery of damages from the commonwealth by an owner of land  
23 purchased after January 1, 1976.