

HOUSE No. 3671

The Commonwealth of Massachusetts

PRESENTED BY:

Christopher M. Markey

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 PROVIDING FOR A PARTIAL RELEASE OF CERTAIN LAND IN THE TOWN OF DARTMOUTH FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

PETITION OF:

NAME:

Christopher M. Markey

DISTRICT/ADDRESS:

9th Bristol

HOUSE No. 3671

By Mr. Markey of Dartmouth, a petition (subject to Joint Rule 12) of Christopher M. Markey that the Division of Capital Asset Management and Maintenance be authorized to release a certain agricultural preservation restriction on land under the control of the Commonwealth and located in the town of Dartmouth. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

AN ACT PROVIDING FOR A PARTIAL RELEASE OF CERTAIN LAND IN THE TOWN OF DARTMOUTH FROM THE OPERATION OF AN AGRICULTURAL PRESERVATION RESTRICTION.

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. Pursuant to section 40 E of chapter 7 and section 32 of chapter 184 of the
2 General Laws, and notwithstanding any other general or special law to the contrary, the
3 commissioner of capital asset management and maintenance, in consultation with the
4 commissioner of agricultural resources, may execute a certificate releasing from restriction
5 certain portions of land described in an agricultural preservation restriction (the “APR”)
6 conveyed by the Town of Dartmouth (the “Town”) to the Commonwealth of Massachusetts,
7 acting by and through the department of agricultural resources, dated December 27, 2006, and
8 recorded at Book 8638, Page 153, Bristol County southern district registry of deeds. The land
9 described in the recorded restriction consists of all or portions of the Town’s so called
10 “Souza/Lagasse Farm” which is located at Hixville Road, in the Town of Dartmouth. The
11 Town’s title derives from a deed of Theresa B. Lagasse, of Port St. Lucie, Florida, dated October

12 30, 2003, recorded in the registry, Book 6633, Page 275. The land acquired by the Town and
13 described in said deed is shown on a plan of land entitled “Plan of Land in Dartmouth, MA.
14 Assessor’s Map 61, Lot 42, for Theresa B. Lagasse”, dated 10/21/2003, Seguin Assoc.,
15 Marshfield, MA 02050; and recorded in the Bristol County, Southern District, Registry of Deeds
16 in Plan Book 152, Page 71.

17 SECTION 2. In 2009, the Town, by its Agricultural Preservation Trust Council and
18 Chief Procurement Office, issued a Request for Proposals for sale of Lot 1 as shown on said
19 plan, subject to the APR. Additionally, the Town advertised for sale another portion of the farm
20 – Lot 4 – a parcel of about two acres, which was to be limited to residential use by the future
21 owner of Lot 1 under a recorded resale restriction upon its purchase by the future owner. It was
22 then discovered that not only was Lot1 included within the description of the APR (which was
23 intended), but also Lot 4 and the other portions of the Town’s land acquired by its source deed
24 from Theresa B. Lagasse.

25 SECTION 3. The reason and justification for the release is that the portions to be
26 released as more particularly described below in SECTION 4 were included by error in the
27 description of the land to be restricted by the APR, the intention of both the Town and the
28 Commonwealth having been to restrict only Lot 1, containing 74.69 acres, more or less,
29 excepting and excluding from restriction all other portions of the Town’s land obtained in the
30 2003 source deed recorded at Book 6633, Page 275.

31 SECTION 4. The areas of land to be released from the provisions of the APR consist of
32 all of the land described in “EXHIBIT A” of the Agricultural Preservation Restriction recorded
33 at Book 8638, Page 164, except for the following areas that shall remain under restriction:

34 1 –“ Lot 1”, consisting of 74.69 acres of land, more or less;

35 2 – “Parcel B”, consisting of 1,501.2 square feet, more or less; and

36 3 – “Parcel C”, consisting of 1,834.8 square feet, more or less.

37 and being as shown and described on plan of land entitled “Plan of Land in Dartmouth,

38 MA. Assessor’s Map 61, Lot 42, For Theresa B. Lagasse” dated 10/21/2003, Seguin Assoc.,

39 Marshfield, MA 02050; and recorded in the Bristol County, Southern District, Registry of Deeds

40 in Plan Book 152, Page 71.

41 The Commonwealth’s access easement over the easterly portion of Estate Lot 2 as shown

42 on said plan, acquired by the Commonwealth as appurtenant to and for the benefit of the

43 aforesaid Agricultural Preservation Restriction and for the benefit of the Commonwealth and its

44 successors and assigns, shall continue in full force and effect as an encumbrance on “Estate Lot

45 2” as shown on said plan.

46 SECTION5. Except as partially released in accordance with this Act, the APR shall

47 remain in full force and effect.

48 SECTION6. This act shall take effect upon its passage.