HOUSE DOCKET, NO. 2073 FILED ON: 1/17/2013

# HOUSE . . . . . No. 1881

The Commonwealth of Massachusetts

PRESENTED BY:

***Martin J. Walsh***

*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 passage of the accompanying:

An Act to enable municipalities to more effectively address blighted properties.

PETITION OF:

| NAME: | DISTRICT/ADDRESS: |
|---|---|
| *Martin J. Walsh* | *13th Suffolk* |
| *Thomas M. Menino* | *Boston City Hall*<br>*1 City Hall Square* |
| *Michael F. Rush* | *Norfolk and Suffolk* |
| *Carlo Basile* | *1st Suffolk* |
| *Paul McMurtry* | *11th Norfolk* |
| *Kay Khan* | *11th Middlesex* |
| *Stephen L. DiNatale* | *3rd Worcester* |
| *Aaron Vega* | *5th Hampden* |
| *Paul A. Schmid, III* | *8th Bristol* |
| *Carlos Henriquez* | *5th Suffolk* |
| *Denise Andrews* | *2nd Franklin* |

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# HOUSE . . . . . No. 1881

By Mr. Walsh of Boston, a petition (accompanied by bill, House, No. 1881) of Martin J. Walsh and others relative to blighted properties. Municipalities and Regional Government.

## The Commonwealth of Massachusetts

**In the Year Two Thousand Thirteen**

An Act to enable municipalities to more effectively address blighted properties.

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

SECTION 1. The General Laws are hereby amended by inserting after chapter 40W the following chapter:-

CHAPTER 40X.

PREVENTION AND REMEDIATION OF BLIGHTED PROPERTIES.

Section 1. Definitions.

For the purposes of this chapter only, the following words shall, unless the context requires otherwise, have the following means:

"Blighted", a real property or building or structure thereon that meets any of the following criteria:

(i) the real property or building or structure thereon is in violation of the state sanitary code, building code or fire safety code, the violations have not been timely remedied, and the violations pose a threat to the health, safety or general welfare as determined by the appropriate local code enforcement agency;

(ii) an artificial condition existent on the real property or building or structure thereon breaches the standard of care owed children, as set forth in section 85Q of chapter 231 of the General Laws and adjudged by a court of competent jurisdiction;

(iii) the real property or building or structure theron has had the utilities, plumbing, heating or sewerage disconnected, destroyed, removed, or otherwise rendered ineffective so that the real property or buiding or structure thereon is unfit for its intended use;

(iv) exterior doors, windows, skylights, and similar openings of buildings or structures on the real property are either missing or broken; or

(v) the real property or building or structure thereon is not kept substantially free from accumulation of debris. Debris shall be defined to include garbage or rubbish, as defined by the state sanitary code.

"Building", a combination of any materials, whether portable or fixed, having a roof, to form a structure for the shelter of persons, animals or property. For the purpose of this definition "roof" shall include an awning or any similar covering, whether or not permanent in nature. The word "building" shall be construed where the context requires as though followed by the words "or part or parts thereof".

"Owner", an individual, entity, service company, property manager or real estate broker, who alone or severally with others:

(i) holds legal or equitable title to the real property or building or structure thereon; or

(ii) has care, charge or control of the real property or building or structure thereon, in any

capacity including, but not limited to, agent, executor, executrix, administrator, administratix, trustee or guardian of the estate of the holder of legal title; or

(iii) is a mortgagee in possession of any such property; or

(iv) is an agent, trustee or other person appointed by the courts and vested with possession or control of any such property; or

(v) is an officer or trustee of the association of unit owners of a condominium.

"Real property or building or structure thereon", shall not include any real property or building or structure thereon owned or managed by Federal, state or local government or a quasi-governmental entity or agency.

"Structure", a combination of materials assembled at a fixed location to give support or shelter, such as a building, framework, retaining wall, tent, reviewing stand, platform, bin, fence, sign, flagpole, recreational tramway, mast for radio antenna or the like. The word "structure"

49 shall be construed, where the context allows, as though followed by the words “or part or parts
50 thereof”.

51 “Substantial step”, an affirmative action, as determined by the appropriate local code
52 enforcement agency, on the part of an owner to remedy a blighted condition on the real property
53 or building or structure thereon.

54 Section 2. Regulations, local laws, ordinances or by-laws for the prevention and
55 remediation of blighted real property or building or structure thereon; limitations.

56 In addition to any other remedy available at law or in equity, a municipality may enact
57 and enforce regulations, local laws, ordinances or by-laws for the prevention and remediation of
58 blighted real properties or buildings or structures thereon.

59 A regulation, local law, ordinance or by-law adopted pursuant to the authority of this
60 chapter shall substantially incorporate the definition of blighted as set forth in this chapter.

61

62 Section 3. Orders to correct, service.

63 The appropriate local code enforcement agency charged with enforcing a regulation, local
64 law, ordinance or by-law adopted pursuant to the authority of this chapter shall serve notice of an
65 order to correct a violation on the owner of the property.

66 An order to correct shall be served: (1) personally by a person authorized to serve civil
67 process; or (2) by leaving a copy at his or her last and usual place of abode; or (3) by sending
68 him a copy by registered or certified mail, return receipt requested, if he or she is within the
69 Commonwealth; or (4) if his or her last and usual place of abode is unknown or outside the
70 Commonwealth, by posting a copy in a conspicuous place on or about the building or structure
71 thereby affected.

72 An order to correct issued pursuant to the authority of this chapter shall require the owner
73 to bring the property into compliance in the manner and time specified in such order as
74 determined appropriate by the local enforcement agency.

75 Section 4. Violations, fines.

76 If, after having been served with an order to correct, the owner fails, neglects or refuses
77 to comply with the terms of the order to correct, a municipality may prescribe fines for such
78 failure, neglect or refusal under the authority of and in accordance with the municipal fine
79 procedures in section 1 and sections 6 through 17 of chapter 40U, as inserted by Chapter 26 of
80 the Acts of 2010. The provisions of section 1 and sections 6 through 17 of chapter 40U, as
81 inserted by Chapter 26 of the Acts of 2010, are incorporated by reference.

82 Notwithstanding section 11 of chapter 40U, as inserted by Chapter 26 of the Acts of
83 2010, a fine prescribed pursuant to the authority of this chapter shall not exceed the maximum
84 allowable amount under the applicable sections of the state sanitary code, building code or fire
85 safety code, excluding late fees. If the violation does not fall under the state sanitary code,
86 building code or fire safety code, the maximum fine shall be three hundred dollars for each day
87 that a violation continues.

88 The imposition of any fine shall not be construed to prevent the enforcement of other
89 laws upon the real property or building or structure thereon nor prevent the initiation of other
90 enforcement measures or penalties.

91 Section 5. Remediation.

92 If, after having been served with an order to correct, the owner fails, neglects or refuses
93 to take a substantial step to comply with the terms of the order to correct and the conditions pose
94 an imminent threat to the health, safety or general welfare as determined by the appropriate local
95 code enforcement agency, a municipality may, in addition to prescribing fines, seek relief from a
96 court of competent jurisdiction in the form of an order requiring the owner to remedy the
97 violation or, in the alternative, authorizing a municipality to remediate the violation and recover
98 the associated cost of any such remediation.

99 Section 6. Jurisdiction of proceedings at law.

100 The housing court department shall have jurisdiction concurrently with the superior court
101 for proceedings at law under section five of this chapter.