

HOUSE No. 1634

By Mr. O’Flaherty of Chelsea, of Eugene L. O’Flaherty relative to the statute of limitations in certain court actions involving zoning violations. The Judiciary.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT TO LEGITIMIZE STRUCTURES AFTER SIX OR TEN YEARS OF CONTINUOUS USE.

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 40A of the General Laws is hereby amended by striking
2 out the second paragraph of section 7 and inserting in place thereof
3 the following paragraph:—
4 No local zoning law shall provide penalty of more than three hun-
5 dred dollars per violation; provided, however, that nothing herein
6 shall be construed to prohibit such laws from providing that each
7 day such violation continues shall constitute a separate offense. No
8 action, suit or proceeding shall be maintained in any court, nor any
9 administrative or other action taken to recover a fine or damages or
10 to compel the removal, alteration, or relocation of any structure or
11 part of a structure or alteration of a structure by reason of any viola-
12 tion of any zoning by-law or ordinance except in accordance with
13 the provisions of this section, section eight and section seventeen;
14 provided, further, that if real property has been improved and used in
15 accordance with the terms of the original building permit issued by a
16 person duly authorized to issue such permits, no action, criminal or
17 civil, the effect or purpose of which is to compel the abandonment,
18 limitation or modification of the use allowed by said permit or the
19 removal, alteration or relocation of any structure erected in reliance
20 upon said permit by reason of any alleged violation of the provisions
21 of this chapter or of any ordinance or by-law adopted thereunder,
22 shall be maintained, unless such action, suit or proceeding is com-
23 menced and notice thereof recorded in the registry of deeds for each

24 county or district in which the land lies, or, in the case of registered
25 land such notice is filed in the registry district in which the land lies,
26 within six years next after the commencement of the alleged viola-
27 tion of law; and provided, further that no action, criminal or civil,
28 the effect or purpose of which is to compel the removal, alteration,
29 or relocation of any structure by reason of any alleged violation of
30 the provisions of this chapter, or any ordinance or by-law adopted
31 thereunder, or the conditions of any variance or special permit, shall
32 be maintained, unless such action, suit or proceeding is commenced
33 and notice thereof recorded in the registry of deeds for each county
34 or district in which the land lies, or, in the case of registered land
35 such notice is filed in the registry district in which the land lies,
36 within ten years next after the commencement of the alleged viola-
37 tion; and provided further that if (a) real property has been improved
38 by the erection of one or more structures (which word shall include
39 the singular thereof) thereon and such structures have been in exis-
40 tence for a period of at least ten years and (b) no notice of any
41 action, suit or proceeding as to any alleged violation of this chapter
42 or of any ordinance or by-law adopted thereunder as to such struc-
43 tures has been recorded in the registry of deeds for the county or dis-
44 trict in which the real estate is located, or, in the case of registered
45 land such notice is filed in the registry district in which the land is
46 located, within a period of ten years from the date such structures
47 were erected, such structures erected thereon shall, for zoning pur-
48 poses, be deemed (x) to be in compliance with the provisions of this
49 chapter and any ordinance or by-law adopted thereunder as they
50 existed on the date such structures were erected or (y) to be valid,
51 legally nonconforming structures, as the case may be. Such notice
52 shall include names of one or more of the owners of record, the
53 name of the person initiating the action, and adequate identification
54 of the structure and the alleged violation.