

HOUSE No. 1770

By Ms. Walz of Boston, petition of Martha M. Walz and others relative to eminent domain takings. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Martha M. Walz Denise Provost
James B. Eldridge Christine E. Canavan
Matthew C. Patrick James R. Miceli

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO EMINENT DOMAIN TAKINGS.

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 79 of the General Laws, as appearing in the
2 2004 Official Edition, is hereby amended by inserting after Section 1
3 the following new section:—

4 Section 1A. The taking of real estate or of any interest therein by
5 right of eminent domain under this chapter or Chapter 80A shall be
6 effected only when necessary for the possession, occupation, and
7 enjoyment of land by the public at large and shall not be effected for
8 the purpose of commercial enterprise, private economic develop-
9 ment, or any private use of the property. Property shall not be taken
10 from one owner and transferred to another on the grounds that the
11 public will benefit from a more profitable use. Whenever an attempt
12 is made to take property for a use alleged to be public, the question
13 whether the contemplated use is truly public shall be a judicial ques-
14 tion and determined as such without regard to any legislative asser-
15 tion that the use is public.

1 SECTION 2. This act shall take effect upon its passage.