

HOUSE No. 1771

By Ms. Walz of Boston, petition of Martha M. Walz and others
Proposal for a legislative amendment to the Constitution relative to
eminent domain takings. The Judiciary.

The Commonwealth of Massachusetts

PETITION OF:

Martha M. Walz
Barbara A. L'Italien
Denise Provost

In the Year Two Thousand and Seven.

PROPOSAL FOR A LEGISLATIVE AMENDMENT TO THE CONSTITUTION RELATIVE TO EMINENT DOMAIN TAKINGS.

1 A majority of all the members elected to the Senate and House
2 of Representatives, in joint session, hereby declares it to be expe-
3 dient to alter the Constitution by the adoption of the following
4 Article of Amendment, to the end that it may become a part of the
5 Constitution [if similarly agreed to in a joint session of the next
6 General Court and approved by the people at the state election
7 next following]:—

8 ARTICLE OF AMENDMENT.

9 Article X of Part the First of the Constitution is hereby
10 amended by adding at the end thereof, the following:—

11 The taking of real estate or of any interest therein by right of
12 eminent domain under this chapter or Chapter 80A shall be
13 effected only when necessary for the possession, occupation, and
14 enjoyment of land by the public at large and shall not be effected
15 for the purpose of commercial enterprise, private economic devel-
16 opment, or any private use of the property. Property shall not be
17 taken from one owner and transferred to another on the grounds

18 that the public will benefit from a more profitable use. Whenever
19 an attempt is made to take property for a use alleged to be public,
20 the question whether the contemplated use is truly public shall be
21 a judicial question and determined as such without regard to any
22 legislative assertion that the use is public.