

HOUSE No. 4064

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 31, 2007.

The committee on Bonding, Capital Expenditures and State Assets to whom was referred the petition (accompanied by bill, House, No. 41) of Stephen P. LeDuc and Pamela P. Resor that the Department of Conservation and Recreation be directed to include “residential use” in the granting of a certain easement in the city of Marlborough, reports recommending that the accompanying bill (House, No. 4064) ought to pass.

For the committee,

DAVID L. FLYNN.

The Commonwealth of Massachusetts

In the Year Two Thousand and Seven.

AN ACT RELATIVE TO THE EASEMENT ON LAND OWNED BY THE DEPARTMENT
OF CONSERVATION AND RECREATION IN THE TOWN OF MARLBOROUGH.

1 *Whereas*, The deferred operation of this act would tend to
2 defeat its purpose, which is to amend a certain easement on a
3 parcel of land in the town of Marlborough, therefore it is hereby
4 declared to be an emergency law, necessary for the immediate
5 preservation of public convenience.

*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. The commissioner of capital asset management,
2 on behalf of and in consultation with the commissioner of the
3 department of conservation and recreation and the Massachusetts
4 water resources authority, is authorized, notwithstanding the pro-
5 visions of sections 40F through 40I, inclusive, of chapter 7 of the
6 General Laws, to amend an easement on a certain parcel of land in
7 the town of Marlborough currently under the care and control of
8 the department for watershed and water supply protection pur-
9 poses, or convey by deed the fee interest in such land. The
10 amendment or conveyance shall be subject to the approval of the
11 department. The easement was originally granted to Dennison
12 Manufacturing Company by the Metropolitan District Commis-
13 sion Water Division by Agreement dated January 12, 1922 and
14 recorded with the Middlesex South District Registry of Deeds in
15 Book 4490, Page 167.

16 The amendment to the easement, or conveyance of the fee
17 interest of the parcel of land, is subject to the requirements of this
18 act, and to such additional terms and conditions consistent with
19 this act as the commissioner may prescribe in consultation with
20 the department. The easement is on a parcel of land containing
21 0.5 acres, more or less, and is described as parcel Seventh in Divi-
22 sion A. Brook in Marlborough in an instrument of taking recorded

23 with the Middlesex South District registry of deeds in book 2635,
24 page 1, as shown on a plan of land entitled “The Commonwealth
25 of Massachusetts Metropolitan District Commission, Water Divi-
26 sion, Marlborough Brook, Lands in Marlborough” recorded with
27 Middlesex South District Registry of Deeds in Plan Book 301,
28 Plan 32. The commissioner, on behalf of and in consultation with
29 the department, may execute any agreements and instruments to:

30 (a) convey the fee interest in the parcel to the easement holder,
31 provided that the easement shall be extinguished; and, provided
32 further that, in any deed conveying such interest, the commis-
33 sioner shall retain on behalf of the commonwealth, under the care
34 and control of the department, a perpetual watershed preservation
35 restriction acceptable to the department within the meaning of
36 section 17 of chapter 92A1/2 and sections 31 and 32 of chapter
37 184 of the General Laws; or

38 (b) amend the easement to: (i) allow the use of the premises to
39 include residential and commercial uses, subject to local review
40 and jurisdiction; (ii) maintain, repair, renew and replace the build-
41 ings, and in general to occupy and use the land for any legal and
42 proper purpose to including residential and commercial use; (iii)
43 extinguish the restrictions stated in sections 2, 3 and 9 of the ease-
44 ment; and (iv) shall add restrictions that require that no new build-
45 ings, structures or impervious surfaces may be erected on, over or
46 within the easement area, except as permitted in the approved site
47 plan; that other than within the building already located on the
48 premises, no alterations shall be allowed within 20 feet of any
49 open portion of the stream; and that any alteration, construction,
50 repair, renewal or replacement of buildings must comply with the
51 Massachusetts Stormwater Standards, as implemented by the
52 department of environmental protection and the local conservation
53 commission.

1 SECTION 2. The easement holder shall compensate the com-
2 monwealth in an amount not less than the full and fair market
3 value, or the value in use as proposed, whichever is greater, of the
4 proposed amended easement or fee interest, whichever transaction
5 may be agreed upon by the department and the easement holder,
6 less the value of the easement as held, and in consideration of the
7 value of the watershed preservation restriction if so retained by

8 the commonwealth, as determined by independent appraisal. Any
9 consideration received by the commonwealth shall be deposited in
10 the Water Supply Protection Trust, established by section 73 of
11 chapter 10 of the General Laws, which amount shall be used to
12 purchase interests in land for watershed and water supply protec-
13 tion purposes.

1 SECTION 3. The department may enter into a license agree-
2 ment with the easement holder to authorize activities and uses
3 contemplated under this act, but which may be contrary to the
4 easement as recorded, while said division is implementing the
5 provisions of this act and any due diligence is developed; pro-
6 vided that any such license agreement shall properly consider and
7 protect water supply and watershed protection and management
8 interests, as determined by the department.

1 SECTION 4. The easement holder shall assume the cost of any
2 appraisals, surveys and any other expenses deemed necessary by
3 the commissioner in connection with any of the transactions or
4 conveyances provided for in this act.