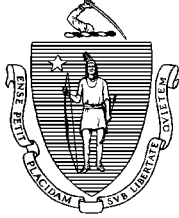


SENATE, NO. 2392

[SIMILAR MATTER FILED DURING PAST SESSION
SEE NO. OF]



The Commonwealth of Massachusetts

IN THE YEAR OF TWO THOUSAND AND SEVEN

AN ACT AN ACT AUTHORIZING THE COMMISSIONER OF CAPITAL ASSET MANAGEMENT AND MAINTENANCE TO GRANT EASEMENTS TO THE CITY OF SOMERVILLE AND TO CONVEY CERTAIN LAND TO FR STURTEVANT STREET, LLC

Whereas, The deferred operation of this act would tend to defeat its purpose, which is forthwith to authorize the Division of Capital Asset Management to convey certain easements across Commonwealth property in the Assembly Square area in the City of Somerville, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the 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 (DCAM), in consultation with the
2 Commissioner of the Department of Conservation and Recreation (DCR), may, notwithstanding
3 sections 40E to 40J, inclusive, of chapter 7 of the General Laws, convey permanent and temporary
4 easements, including extra work space rights and permanent and temporary access road rights over,
5 under and through portions of Draw 7 Park in Somerville, currently under the control of and used by
6 the DCR for recreation and natural resource purposes, to the city of Somerville and its agents and
7 contractors, solely for the purposes of laying, constructing, maintaining, accessing, operating,
8 replacing, repairing, abandoning and removing a stormwater discharge pipe, outfall and appurtenant

9 subsurface facilities, subject to the provisions of (i) sections 5 and 6 of this act, and (ii) such
10 reasonable additional terms and conditions consistent with this act as the Commissioner of DCAM, in
11 consultation with the Commissioner of DCR, may determine. The easement area is labeled “Draw 7
12 Park 60’ Drainage Area Easement” and “New Outfall” on that certain plan of land entitled “DCR
13 Exchange Plan”, prepared by Vanesse Hangen Brustlin, Inc. and dated August 7, 2007. This plan is
14 filed with the DCR and with the clerks of the House of Representatives and Senate. Temporary work
15 space and access road easements shall expire and revert to the commonwealth upon completion of
16 initial construction and restoration of said easement areas. Modifications to the easement referenced
17 above may be made in order to conform to the requirements of the Massachusetts Water Resources
18 Authority (MWRA), DCR, DCAM, the city of Somerville, and a final land survey, which final land
19 survey shall be accepted by DCAM and DCR before any conveyance to carry out the purposes of this
20 act.

21 SECTION 2. The Commissioner of DCAM, in consultation with the Commissioner of DCR and the
22 city of Somerville may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
23 Laws, convey permanent and temporary easements, including extra work space rights and permanent
24 and temporary access road rights over, under and through certain parcels of land located in the Ten
25 Hills neighborhood of Somerville currently under the control of DCR to the city of Somerville and its
26 agents and contractors, solely for the purposes of laying, constructing, maintaining, accessing,
27 operating, replacing, repairing, abandoning and removing a stormwater discharge pipe, outfall and
28 appurtenant subsurface facilities, subject to the provisions of (i) sections 5 and 6 of this act, and (ii)
29 such reasonable additional terms and conditions consistent with this act as the Commissioner of
30 DCAM, in consultation with the Commissioner of DCR, may determine. The easement is shown as
31 “I/I Mitigation within DCR Right of Way” on that certain plan of land entitled “DCR Exchange Plan”,

32 prepared by Vanesse Hangen Brustlin, Inc. and dated August 7, 2007. This plan is filed with DCR and
33 the Clerks of the House of Representatives and Senate. Temporary work space and access road
34 easements shall revert to the commonwealth upon completion of initial construction and restoration of
35 said easement areas. Modifications to the easement referenced above may be made in order to
36 conform to the requirements of the MWRA, DCAM, DCR, the city of Somerville, and a final land
37 survey, which final land survey shall be accepted by DCAM and DCR before any conveyance to carry
38 out the purposes of this act.

39 SECTION 3. The Commissioner of DCAM, in consultation with the Commissioner of DCR and the
40 city of Somerville may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
41 Laws, enter into an agreement extinguishing the easement established by that certain Order of Taking
42 by the commonwealth of Massachusetts Metropolitan District Commission dated December 20, 1962
43 and recorded at the Middlesex South Registry of Deeds in Book 10189, page 593, which easement is
44 located in the city of Somerville and provides public access to Draw 7 Park. The Commissioner of
45 DCAM, in consultation with the Commissioner of DCR and the city of Somerville may,
46 notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws, enter into an
47 agreement for public access to Draw 7 Park with FR Sturtevant Street, LLC, a Delaware limited
48 liability company and its respective successors and assigns, subject to the provisions of sections 5 and
49 6 of this act, and may agree to such reasonable additional terms and conditions consistent with this act
50 as the Commissioner of DCAM, in consultation with the Commissioner of DCR may determine. The
51 new easement is shown as "Easement 1.4+/- ac" on that certain plan of land entitled "DCR Exchange
52 Plan", prepared by Vanesse Hangen Brustlin, Inc. and dated August 7, 2007. This plan is filed with
53 DCAM, DCR and the Clerks of the House of Representatives and the Senate. Modifications to the
54 easement referenced above may be made in order to conform to the requirements of DCAM, DCR, the

55 city of Somerville, and a final land survey, which final land survey shall be accepted by DCAM and
56 DCR before any conveyance to carry out the purposes of this act.

57 SECTION 4. The Commissioner of DCAM, in consultation with the Commissioner of DCR and the
58 city of Somerville may, notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General
59 Laws, convey a parcel of land located in Somerville currently under the control of DCR to FR
60 Sturtevant Street, LLC, a Delaware limited liability company and its successors and assigns, subject
61 to the provisions of (i) sections 5 and 6 of this act, and (ii) such reasonable additional terms and
62 conditions consistent with this act as the Commissioner of DCAM, in consultation with the
63 Commissioner of DCR and the city of Somerville may determine. The parcel is a portion of that land
64 more particularly described in that certain Order of Taking by the commonwealth of Massachusetts
65 Metropolitan District Commission dated December 20, 1962 and recorded at the Middlesex South
66 Registry of Deeds in Book 10189, page 593. The parcel is shown as “Boat Storage Exchange 1.6+/-
67 ac” on that certain plan of land entitled “DCR Exchange Plan”, prepared by Vanesse Hangen Brustlin,
68 Inc. and dated August 7, 2007. This plan is filed with DCAM, DCR and with the Clerks of the House
69 of Representatives and the Senate. Modifications to the parcel referenced above may be made in order
70 to conform to the requirements of DCAM, DCR, the City of Somerville, and a final land survey, which
71 final land survey shall be accepted by DCAM and DCR before any conveyance to carry out the
72 purposes of this act.

73 SECTION 5. No instrument described in sections 1, 2, 3 and 4 shall be valid unless such instrument
74 provides that the easement or parcel conveyed thereby shall be used solely for the purpose described in
75 section 1, section 2, section 3 and section 4, respectively. The easement instruments referenced in
76 sections 1 and 2 shall include a clause stating that if the easement ceases to be used by the city of
77 Somerville for the purposes described in sections 1 and 2, the easement shall revert to the

78 commonwealth under the control of and to be used by DCR, upon such terms and conditions as the
79 Commissioner of DCAM may determine. If any of these easements reverts to the commonwealth, any
80 further disposition of such easement shall be subject to sections 40E to 40J, inclusive, of chapter 7 of
81 the General Laws, and the prior approval of the general court.

82 SECTION 6. There shall be an independent appraisal, or appraisals, of the easements described in
83 sections 1 and 2 and an independent appraisal, or appraisals, of the conveyance described in section 4
84 to determine the full and fair market value, or the value in use as proposed. The grantees of these
85 conveyances shall compensate the commonwealth in an amount equal to no less than the full and fair
86 market value, or the value in use, whichever is greater, as determined by the Commissioner of DCAM.
87 The grantees of these conveyances shall assume all costs associated with any engineering, surveys,
88 appraisals, deed preparation and other expenses deemed necessary by the Commissioner of DCAM to
89 execute the conveyances authorized by this act. All monetary consideration paid to the
90 commonwealth as a result of the conveyances authorized by this act shall be deposited in the Urban
91 Parks Trust Fund established by section 34 of Chapter 92 of the General Laws. The Commissioner of
92 DCAM shall submit these appraisals and a report thereon to the Inspector General for his review and
93 comment. The Inspector General shall review and approve the appraisal or appraisals, and the review
94 shall include an examination of the methodology used for the appraisal or appraisals. The Inspector
95 General shall prepare a report of his review and file the report with the Commissioner of DCAM for
96 submission by the Commissioner of DCAM to the House and Senate Committees on Ways and Means
97 and the Chairmen of the Joint Committee on Bonding, Capital Expenditures and State Assets. The
98 Commissioner of DCAM shall submit copies of the appraisals, his report, and the Inspector General's
99 review and approval, and comments, if any, to the House and Senate Committees on Ways and Means

100 and the Chairmen of the Joint Committee on Bonding, Capital Expenditures and State Assets before
101 the execution of the conveyances.