

990 CMR: HAZARDOUS WASTE FACILITY SITE SAFETY COUNCIL

990 CMR 15.00: EMINENT DOMAIN

Section

15.01: Application

15.02: Notice

15.03: Hearing

15.04: Approval by the Host Community

15.01: Application

A developer may petition the Department to exercise its eminent domain authority pursuant to M.G.L. c. 21D only if:

- (1) all permits, licenses and approvals required by law have been obtained by the developer;
- (2) a siting agreement has been declared operative by the Council;
- (3) the developer makes a showing, satisfactory to the Department, that a good faith attempt to obtain clear title to all or a portion of the site by purchase or lease has been unsuccessful.

Such petition shall be submitted in writing to the Director of the Bureau of Solid Waste, Department of Environmental Management.

15.02: Notice

Within 14 days of receipt of a petition pursuant to 990 CMR 15.01, the Department shall notify the following persons of the time and place of a public hearing to be held on said petition:

- (1) the developer;
- (2) the local assessment committee;
- (3) the city council, board of alderman or board of selectmen of the community in which the land is located;
- (4) the site owner;
- (5) the Council; and
- (6) local and regional media.

The Department shall also request publication of notice of the hearing in the Environmental Monitor.

15.03: Hearing

Not later than 45 days after receipt of a petition pursuant to 990 CMR 15.01, the Department shall conduct a public hearing thereon.

15.04: Approval by the host community

If, after notice and hearing, the Department determines that the developer has shown that he has made a good faith but unsuccessful attempt to acquire all or a portion of the proposed site by purchase or lease, the Department shall request approval of the exercise of its eminent domain authority by majority vote of the city council, board of aldermen or board of selectmen of the community in which the land is located. If such approval is given, the Department shall exercise its eminent domain authority as provided in M.G.L. c. 21D, § 17. Upon acquiring title to the proposed site, the department shall lease it to the developer, and may subsequently dispose of it pursuant to the provisions of M.G.L. c. 21D, § 17.

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REGULATORY AUTHORITY:

990 CMR 15.00: M.G.L. c. 21D, § 4.