

**HOUSE . . . . . No. 01386**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Martha M. Walz*

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to eminent domain takings.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Cory Atkins</i>	<i>14th Middlesex</i>
<i>Carolyn C. Dykema</i>	<i>8th Middlesex</i>
<i>Anne M. Gobi</i>	<i>5th Worcester</i>
<i>Bradley H. Jones, Jr.</i>	<i>20th Middlesex</i>
<i>Steven L. Levy</i>	<i>4th Middlesex</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Carl M. Sciortino, Jr.</i>	<i>34th Middlesex</i>

# HOUSE . . . . . No. 01386

By Ms. Marty Walz of Boston, petition (accompanied by bill, House, No. 01386) of Carl M. Sciortino and others relative to eminent domain takings. Joint Committee on the Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE  
 HOUSE  
 , NO. 1778 OF 2009-2010.]

## The Commonwealth of Massachusetts

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**In the Year Two Thousand Eleven**  
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An Act relative to eminent domain takings.

*Whereas*, the deferred operation of this act would tend to defeat its purpose, which is forthwith to amend the taking of real estate property for the possession, occupation and enjoyment of the public, 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. Chapter 79 of the General Laws, as appearing in the 2008 Official Edition, is
- 2 hereby amended by inserting after section 1 the following new section:
- 3 Section 1A. The taking of real estate or of any interest therein by right of eminent domain under
- 4 this chapter or Chapter 80A shall be effected only when necessary for the possession,

5 occupation, and enjoyment of land by the public at large or by public agencies and shall not be  
6 effected for the purpose of commercial enterprise, private economic development, or any private  
7 use of the property. Property shall not be taken from one owner and transferred to another on the  
8 grounds that the public will benefit from a more profitable use. Whenever an attempt is made to  
9 take property for a use alleged to be public, the question whether the contemplated use is truly  
10 public shall be a judicial question and determined as such without regard to any legislative  
11 assertion that the use is public. In the event that property taken pursuant to this chapter or  
12 Chapter 80A is not used for the purpose for which it was taken within five (5) years of the  
13 taking, the governmental authority that took the property must offer to sell the property to the  
14 owner from whom it was acquired, or his or her known or ascertainable heirs or assigns, at the  
15 price which was paid for the property or for the fair market value of the property at the time of  
16 the sale, whichever is less, and if the offer is not accepted within 180 days from the date it is  
17 made, the property may be sold to any other person, but only at public sale after legal notice is  
18 given.