

HOUSE No. 1813

The Commonwealth of Massachusetts

PRESENTED BY:

Brian W. Murray

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 adoption of the accompanying bill:

An Act regarding municipal tools to lessen land use disputes.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Brian W. Murray</i>	<i>10th Worcester</i>
<i>John J. Lawn, Jr.</i>	<i>10th Middlesex</i>
<i>Stephan Hay</i>	<i>3rd Worcester</i>
<i>Natalie M. Higgins</i>	<i>4th Worcester</i>
<i>José F. Tosado</i>	<i>9th Hampden</i>
<i>Mike Connolly</i>	<i>26th Middlesex</i>

HOUSE No. 1813

By Mr. Murray of Milford, a petition (accompanied by bill, House, No. 1813) of Brian W. Murray and others relative to local government involvement in land use disputes. Municipalities and Regional Government.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act regarding municipal tools to lessen land use disputes.

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 40A of the General Laws, as appearing in the 2016 Official
2 Edition, is hereby amended by inserting after section 9C the following section:-

3 Section 9D. No ordinance or by-law shall prohibit an owner of land or structures
4 who has applied or intends to apply for a building permit, any permit or approval required under
5 this chapter, an approval under sections 81K to 81GG, inclusive, of chapter 41 or a
6 comprehensive permit under sections 20 to 23, inclusive, of chapter 40B from requesting of the
7 public official or local board charged with acting on the application to undertake a land use
8 dispute avoidance process.

9 If the applicant and the public official or local board agree to a land use dispute
10 avoidance process, the mediator or facilitator for the dispute avoidance process may convene
11 meetings or conduct interviews that shall be confidential and privileged from discovery in
12 accordance with section 23C of chapter 233. The mediator or facilitator shall have the

13 protections provided under said section 23C of said chapter 233. To the extent that public bodies
14 are participants, their deliberations may be held in executive session to the extent permitted by
15 clause 9 of subsection (a) of section 21 of chapter 30A.

16 The applicant and the public official or local board shall, by an agreement in
17 writing filed with the city or town clerk, stipulate and agree to extend any otherwise applicable
18 time requirements of state or local law. Whether a resolution results, the applicant may proceed
19 with the application without prejudice for having participated in a conflict evaluation or
20 resolution effort and the application process shall proceed in due course as otherwise provided by
21 law, ordinance or by-law.

22 SECTION 2. The first paragraph of section 81BB of chapter 41 of the General Laws, as
23 appearing in the 2016 Official Edition, is hereby amended by striking out the second and third
24 sentences, as contained in lines numbered 12-18, and inserting in place thereof the following four
25 sentences:- "Such civil action shall be in the nature of certiorari pursuant to section 4 of chapter
26 249. A complaint by a plaintiff challenging a subdivision approval under this section shall allege
27 the specific reasons why the subdivision fails to satisfy the requirements of the board's rules and
28 regulations or other applicable law and allege specific facts establishing how the plaintiff is
29 aggrieved by the decision. A complaint by an applicant challenging a subdivision denial or
30 conditioned approval under this section shall similarly allege the specific reasons why the
31 subdivision properly satisfies the requirements of the board's rules and regulations or other
32 applicable law. The fourth to seventh paragraphs, inclusive, of section 17 of chapter 40A shall
33 govern the allowance of costs and the requirement of a surety or cash bond for actions under this
34 section."