HOUSE DOCKET, NO. FILED ON: 1/13/2009

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

|  |
| --- |
|  |

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PRESENTED BY:

**Richard J. Ross**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

*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 Requiring that Eminent Domain be for the Public Use and Defining Public Use.

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

PETITION OF:

[SIMILAR MATTER FILED IN PREVIOUS SESSION  
SEE HOUSE, NO. 1704 OF 2007-2008.]

The Commonwealth of Massachusetts

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**In the Year Two Thousand and Nine**

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

An Act Requiring that Eminent Domain be for the Public Use and Defining Public Use.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

Notwithstanding any other provision of law, neither this State nor any political subdivision thereof nor any other condemning entity shall use eminent domain unless it is necessary for a public use. Whenever property is condemned and will be used by a private party, the *condemner* must establish by clear and convincing evidence that the use of eminent domain complies with this section and is reasonably necessary.

Public use: The term “public use” shall only mean (1) the possession, occupation, and enjoyment of the land by the general public, or by public agencies; (2) the use of land for the creation or functioning of public utilities or common carries; or (3) where the use of eminent domain (a)(i) removes a public nuisance; (ii) removes a structure that is beyond repair or unfit for human habitation or use; or (iii) is used to acquire abandoned property in its current condition. The public benefits of economic development, including an increase in tax base, tax revenues, employment, general economic health, shall not constitute a public use.