

HOUSE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Bradley H. Jones, Jr.

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 the defense of private property rights through the prevention of abusive eminent domain takings in the Commonwealth.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Viriato Manuel deMacedo	1st Plymouth
Bradley H. Jones, Jr.	20th Middlesex
George N. Peterson, Jr.	9th Worcester
Elizabeth Poirier	14th Bristol

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1499 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE DEFENSE OF PRIVATE PROPERTY RIGHTS THROUGH THE PREVENTION OF ABUSIVE EMINENT DOMAIN TAKINGS IN THE COMMONWEALTH.

*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 2006 Official Edition, is
2 hereby amended by inserting after section 1 the following new section:

3

4 Section 1A. The taking of real estate or of any interest therein by right of eminent domain under
5 this chapter or chapter 80A shall be effected only when necessary for the possession, occupation,
6 and enjoyment of land by the public at large or by public agencies and shall not be effected for
7 the purpose of commercial enterprise, private economic development, or any private use of the
8 property. Property shall not be taken from one owner and transferred to another on the grounds
9 that the public will benefit from a more profitable use. Whenever an attempt is made to take
10 property for a use alleged to be public, the question whether the contemplated use is truly public
11 shall be a judicial question and determined as such without regard to any legislative assertion
12 that the use is public. In the event that property taken pursuant to this chapter of Chapter 80A is
13 not used for the purpose for which it was taken within five (5) years of the taking, the
14 governmental authority that took the property must offer to sell the property to the owner from
15 whom it was acquired, or his or her known or ascertainable heirs or assigns, at the price which
16 was paid for the property or for the fair market value of the property at the time of the sale,
17 whichever is less, and if the offer is not accepted within 180 days from the date it is made, the
18 property may be sold to any other person, but only at public sale after legal notice is given

19

20 SECTION 2. This act shall take effect upon its passage.

21

22

23

24