

By Mrs. Gray of Framingham, petition of Barbara E. Gray for legislation to provide for an appeal procedure relative to historic districts. Urban Affairs.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Seventy-Four.

**AN ACT PROVIDING FOR AN APPEAL PROCEDURE RELATIVE TO HISTORIC DISTRICTS.**

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

1 Chapter 40C is hereby amended by striking out section 12, as  
2 added by chapter 359 of the acts of 1971, and inserting in place  
3 thereof the following: —

4 *Section 12A.* A city or town may provide in its ordinance or  
5 by law or in any amendment thereof, for a review procedure  
6 whereby any applicant aggrieved by a determination of the  
7 commission may, within twenty days after the filing of the  
8 notice of such determination with the city or town clerk, file a  
9 written request with the commission for a review by a person or  
10 persons of competence and experience in such matters, disig-  
11 nated by the regional planning agency of which the city or town  
12 is a member. If the city or town is not a member of a regional  
13 planning, then the Department of Community Affairs shall select  
14 the appropriate regional planning agency.

15 The finding of this review shall be filed with the city or town  
16 clerk within forty-five (45) days after the request, and shall be  
17 binding on the applicant and the local commission, unless a  
18 further appeal is sought in the superior court as provided in  
19 section 12B of this chapter.

20 Any cost of such review shall be shared equally by the  
21 applicant and the local commission, unless otherwise provided  
22 for, but the local commission's share shall not exceed one-half

23 the cost or one-half of one percent of the assessed valuation of  
24 the property in question, whichever is less.

25 *Section 12B.* Any applicant aggrieved by a determination of  
26 the commission or by a review finding if the provisions of section  
27 12A are included in a local ordinance or bylaw may, within  
28 twenty days after the filing of the notice of such determination  
29 or such review finding with the city or town clerk, appeal to the  
30 superior court sitting in equity for the county in which the city  
31 or town is situated. The court shall hear all pertinent evidence  
32 and shall annul the determination of the commission if it finds  
33 the decision of the commission to be unsupported by the  
34 evidence, or to exceed the authority of the commission, or may  
35 remand the case for further action by the commission, or make  
36 such other decree as justice and equity may require. The remedy  
37 provided by this section shall be exclusive; but the parties shall  
38 have all rights of appeal and exception as in other equity cases.  
39 Costs shall not be allowed against the commission unless it shall  
40 appear to the court that the commission acted with gross  
41 negligence, in bad faith or with malice in the matter from which  
42 the appeal was taken. Costs shall not be allowed against the party  
43 appealing from such determination of the commission unless it  
44 shall appear to the court that the appellant acted in bad faith or  
45 with malice in making the appeal to the court.