

**HOUSE . . . . . No. 1779**

By Ms. Walz of Boston, petition of Martha M. Walz and others for a legislative amendment to the Constitution relative to eminent domain takings. The Judiciary.

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**The Commonwealth of Massachusetts**

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PRESENTED BY:

**Martha M. Walz**

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*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:

Proposal for a legislative amendment to the Constitution relative to eminent domain takings.

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PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	8th Suffolk
Denise Provost	27th Middlesex
Stephen L. DiNatale	3rd Worcester
Patricia D. Jehlen	Second Middlesex
Michael J. Moran	18th Suffolk
Bradley H. Jones, Jr.	20th Middlesex
Michael F. Rush	10th Suffolk
Richard J. Ross	9th Norfolk
James B. Eldridge	Middlesex and Worcester
Robert L. Hedlund	Plymouth and Norfolk

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

*PROPOSAL for a legislative amendment to the  
Constitution*  
RELATIVE TO EMINENT DOMAIN TAKINGS

A majority of all the members elected to the Senate and House of Representatives, in joint session, hereby declares it to be expedient to alter the Constitution by the adoption of the following Article of Amendment, to the end that it may become a part of the Constitution [if similarly agreed to in a joint session of the next General Court and approved by the people at the state election next following]:

ARTICLE OF AMENDMENT.

1 Article X of Part the First of the Constitution is hereby amended by adding at the end thereof, the  
2 following:

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4 The taking of real estate or of any interest therein by right of eminent domain under this chapter  
5 or Chapter 80A shall be effected only when necessary for the possession, occupation, and  
6 enjoyment of land by the public at large or by public agencies and shall not be effected for the  
7 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 or 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.