

HOUSE No. 4875

By Mr. Toomey of Cambridge, a petition of Timothy J. Toomey and others (with the approval of the mayor and city council of Cambridge) that the city of Cambridge be granted certain easements upon state owned land. State Administration and Regulatory Oversight.

The Commonwealth of Massachusetts

In the Year Two Thousand Ten

An Act authorizing the grant of easements upon land of the Commonwealth located in the City of Cambridge..

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. Notwithstanding sections 40E to 40J of chapter 7 of the General Laws or
2 any other general or special law to the contrary, the commissioner of the division of capital asset
3 management and maintenance may, in consultation with the commissioner of the department of
4 conservation and recreation and the Massachusetts water resources authority, grant permanent
5 non-exclusive easements to the city of Cambridge, under the care and control of its department
6 of public works, on public park land under the care and control of the department of conservation
7 and recreation and other lands owned by the commonwealth and used for sewer or stormwater
8 management purposes in accordance with chapter 372 of the acts of 1984 and as the easement
9 areas are more particularly defined in section 2 subsections (a), (b), and (c). Prior to the
10 execution of any easement instrument to the city of Cambridge, the city of Cambridge, by its city
11 manager, and the department of conservation and recreation shall execute a memorandum of

12 agreement that shall detail the mitigation and maintenance responsibilities upon the easement
13 areas and land under the control of the department.

14 SECTION 2. The easement areas authorized under section 1 are defined as follows:

15 An area containing 187,547 square feet±, or 4.305 acres, and shown as "Access and
16 Maintenance Easement Area 'R'" on a plan entitled, "Easement Plan, Access and Maintenance
17 Easement Area R, Utility Easement Areas R1 & R2 and Easement Areas R3 & R4, 'Alewife
18 Reservation' Cambridge, Mass.", dated March 19, 2010, revised on July 1, 2010, by Harry R.
19 Feldman, Incorporated, Land Surveyors.

20 An area containing 8,226± square feet and shown as "Utility Easement Area 'R1'," an
21 area containing 2,972± square feet and shown as "Utility Easement Area 'R2'," an area
22 containing 1,278± square feet and shown as "Easement 'R3'," and an area containing 1,291±
23 square feet and shown as "Easement 'R4'" on a plan entitled, "Easement Plan, Access and
24 Maintenance Easement Area R, Utility Easement Areas R1 & R2 and Easement Areas R3 & R4,
25 'Alewife Reservation' Cambridge, Mass.", dated March 19, 2010, revised on July 1, 2010, by
26 Harry R. Feldman, Incorporated, Land Surveyors.

27 An area of 8,401± square feet and shown as "Easement Area A-1," and an area of 307±
28 square feet and shown as "Easement Area A-2" on a plan entitled "Easement Plan, Easement
29 Areas A1 & A2, 55 Wheeler Street & 70 Fawcett Street, Cambridge, Mass." prepared by Harry
30 R. Feldman, Inc., dated March 19, 2010.

31 The commissioner of capital asset management and maintenance may approve necessary
32 minor modifications to these areas, with the approval of the department of conservation and
33 recreation and the city of Cambridge.

34 SECTION 3. No easement instrument executed pursuant to section 1 shall be valid
35 unless it provides that the easements conveyed shall be used solely for, as the case may be,
36 access and maintenance of a stormwater wetland or for stormwater management, sewer, water, or
37 utility purposes on public parklands.

38 The easement instruments upon property under the control of the department of
39 conservation and recreation shall not unreasonably interfere with the department's use of its land,
40 including by the public, and shall include a reversionary clause that stipulates the easement shall
41 revert to the commonwealth and be extinguished, upon such terms and conditions as the
42 commissioner of capital asset management and maintenance may determine, if an easements
43 ceases to be used for the purposes for which it was conveyed. Notwithstanding any other general
44 or special law to the contrary, if the property ceases to be used at any time for the such purposes,
45 or is used for any purpose other than the public purposes stated in this act, the commissioner of
46 the division of capital asset management and maintenance shall give written notice to the city of
47 the unauthorized use. The city shall, upon receipt of the notice, have 90 days to respond and a
48 reasonable time to establish an authorized use of the easement area.

49 SECTION 4. The consideration for the easements authorized under this act, and as a
50 condition precedent to the grant of the easements by the commonwealth, shall be the conveyance
51 by the city of Cambridge, upon enactment of home-rule legislation meeting the requirements of
52 amended article 49 of the state constitution, of a permanent easement to the commonwealth at no
53 cost, under the care and control of the department of conservation and recreation for public
54 recreation purposes, upon a 16,293± square foot area of land located in the town of Watertown
55 and held by the city of Cambridge for water supply purposes.

56 The easement instrument upon property under the control of the city of Cambridge shall
57 not unreasonably interfere with the city of Cambridge's use of its land and shall include a
58 reversionary clause that stipulates the easement shall revert to the city of Cambridge and be
59 extinguished, upon such terms and conditions as the city of Cambridge may determine, if the
60 easement ceases to be used for the purposes for which it was conveyed. Notwithstanding any
61 other general or special law to the contrary, if the property ceases to be used at any time for the
62 such purposes, or is used for any purpose other than the public purposes stated in this act, the city
63 of Cambridge shall give written notice to the department of conservation and recreation of the
64 unauthorized use. The department of conservation and recreation shall, upon receipt of the
65 notice, have 90 days to respond and a reasonable time to establish an authorized use of the
66 easement area.

67 SECTION 5. The city of Cambridge shall be responsible for all costs and expenses
68 incurred or required to be incurred by the city of Cambridge, including but not limited to, costs
69 associated with any engineering or surveys or other necessary due diligence in connection with
70 the city of Cambridge's use of the easements granted to it pursuant to this act.