HOUSE DOCKET, NO. 160 FILED ON: 1/7/2013

HOUSE . . . . . No. 69

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz

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:

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

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Martha M. Walz	*8th Suffolk*
Kay Khan	*11th Middlesex*
Cory Atkins	*14th Middlesex*
Carl M. Sciortino, Jr.	*34th Middlesex*

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HOUSE . . . . . No. 69

By Ms. Walz of Boston, a petition (accompanied by proposal, House, No. 69) of Martha M. Walz and others for a legislative amendment to the Constitution relative to eminent domain takings. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1387* OF 2011-2012.]

The Commonwealth of Massachusetts

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.

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

The taking of real estate or of any interest therein by right of eminent domain shall be effected only when necessary for the possession, occupation and enjoyment of land by the public at large or by public agencies and shall not be effected for the purpose of commercial enterprise, private economic development or any private use of the property. Property shall not be taken from one owner and transferred to another on the grounds that the public will benefit from a more profitable use. Whenever an attempt is made to take property for a use alleged to be public, the question whether the contemplated use is truly public shall be a judicial question and determined as such without regard to any legislative assertion that the use is public. In the event that property taken is not used for the purpose for which it was taken within 5 years of the taking, the governmental authority that took the property must offer to sell the property to the owner

13 from whom it was acquired, or the owner's known or ascertainable heirs or assigns, at the price
14 which was paid for the property or for the fair market value of the property at the time of the
15 sale, whichever is less, and if the offer is not accepted within 180 days from the date it is made,
16 the property may be sold to any other person, but only at public sale after legal notice is given.