SENATE DOCKET, NO. 1758 FILED ON: 1/21/2011

SENATE . . . . . No. 856

The Commonwealth of Massachusetts

PRESENTED BY:

Richard J. Ross

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:

An Act requiring that eminent domain be for the public use and defining public use.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Richard J. Ross	*Norfolk, Bristol, and Middlesex*
Robert L. Hedlund	*[District]*
Bradley H. Jones, Jr.	*20th Middlesex*
Bruce E. Tarr	*[District]*
Citizens for Limited Taxation	*Post Office 1147* *Marblehead, MA 01945*

SENATE DOCKET, NO. 1758 FILED ON: 1/21/2011

SENATE . . . . . No. 856

By Mr. Ross, a petition (accompanied by bill, Senate, No. 856) of Richard J. Ross, Robert L. Hedlund, Bradley H. Jones, Jr. and another members of the General Court and another for legislation to require that eminent domain takings be for public use purposes and defining the term public use. The Judiciary.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE
HOUSE
, NO. *1701* OF 2009-2010.]

The Commonwealth of Massachusetts

An Act requiring that eminent domain be for the public use and defining public use.

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

SECTION 1. Notwithstanding any other provision of law, neither this state nor any political subdivision thereof nor any other condemning entity shall use eminent domain unless it is necessary for a public use. Whenever property is condemned and will be used by a private party, the condemner must establish, by clear and convincing evidence, that the use of eminent domain complies with this section and is reasonably necessary.

Public use: The term “public use” shall only mean: (1) the possession, occupation and enjoyment of the land by the general public, or by public agencies; (2) the use of land for the creation or functioning of public utilities or common carries; or (3) where the use of eminent domain (a)(i) removes a public nuisance, (ii) removes a structure that is beyond repair or unfit for human habitation or use, or (iii) is used to acquire abandoned property in its current condition. The public benefits of economic development, including an increase in tax base, tax revenues, employment and general economic health, shall not constitute a public use.