

HOUSE No. 01169

The Commonwealth of Massachusetts

PRESENTED BY:

Martha M. Walz and

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:

An Act protecting sunlight in certain public parks.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Martha M. Walz</i>	<i>8th Suffolk</i>
<i>Denise Provost</i>	<i>27th Middlesex</i>
<i>Byron Rushing</i>	<i>9th Suffolk</i>
<i>Aaron Michlewitz</i>	<i>3rd Suffolk</i>

HOUSE No. 01169

By Ms. Marty Walz of Boston, petition (accompanied by bill, House, No. 01169) of Denise Provost and others for legislation to regulate the construction of buildings and structures that would cast shadows on certain public parks . Joint Committee on Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

An Act protecting sunlight in certain public parks.

Whereas, the deferred operation of this act would tend to defeat its purpose, which is forthwith to protect the public's access to sunlight in certain public parks, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

□

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. Section 1 of Chapter 362 of the Acts of 1990 is hereby amended by striking the
- 2 definition of “new shadow” and inserting in place thereof the following definition:-
- 3 “New shadow”, the casting of a shadow at any time of day on an area which is not cast in
- 4 shadow at such time by a structure. New shadow shall not include a shadow cast (a) by a
- 5 structure which exists; (b) by a structure for which a building permit has been granted on the date
- 6 upon which application is made to a permit-granting authority for a proposed structure; or (c) by

7 the proposed structure for which approval is being sought from a permit granting authority if
8 such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn
9 Zoning Code, whichever is applicable, as in force on May first, nineteen hundred and ninety.
10 New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign
11 or other similar structure. If the proposed structure is proposed for a site that is or may be
12 exempt from Boston zoning law or if said site has no as-of-right height limit, the height limit for
13 the purpose of determining new shadow shall be the height limit for the zoning district in which
14 the site is located.

15 SECTION 2. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further amended, in
16 the definition of “permit granting authority,” by inserting after the words “authorized to grant
17 permits or approvals pursuant to” the following words:- chapter thirty, sections sixty one through
18 sixty two H, inclusive,.

19 SECTION 3. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further amended in
20 the definition of “permit granting authority”, by inserting after the words “the Inspectional
21 Services Department in the city of Boston,” the following words:- the Inspectional Services
22 Department in the city of Cambridge,.

23 SECTION 4. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further amended, in
24 the definition of “structure”, by inserting after the words “and (ii) not located within the
25 boundaries of the Boston Common or the Lynn Common” the following words:- or Charles
26 River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall, Copley Square
27 Park, Magazine Beach Park, or Back Bay Fens.

28 SECTION 5. Said section 1 of said chapter 362 of the Acts of 1990 is hereby further amended by
29 inserting the following 6 definitions:-

30 “Back Bay Fens”, the land in the city of Boston bounded by The Fenway, Park Drive and
31 Boylston Street.

32 “Charles River Esplanade”, the land in the city of Boston bounded by the Charles River Dam, the
33 Boston University Bridge, so called, the Charles River, Embankment Road, and James Jackson
34 Storrow Memorial Drive.

35 “Christopher Columbus Park”, the land in the city of Boston bounded by Atlantic Avenue, the
36 Boston Harbor, Long Wharf, and Commercial Wharf.

37 “Commonwealth Avenue Mall”, the land in the city of Boston bounded by Arlington Street,
38 Kenmore Street, Commonwealth Avenue (westbound) and Commonwealth Avenue (eastbound).

39 “Copley Square Park”, the land in the city of Boston bounded by Boylston Street, Clarendon
40 Street, St. James Avenue, and Dartmouth Street, excluding therefrom the land occupied by
41 Trinity Church.

42 “Magazine Beach Park”, the land in the city of Cambridge bounded by Memorial Drive, the
43 Charles River, the Boston University Bridge, so called, and River Street.

44 SECTION 6. Said chapter 362 of the Acts of 1990 is hereby amended by inserting after section 2
45 the following section:-

46 Section 3. Notwithstanding any provision of chapter 30, sections 61 to 62H inclusive, chapter
47 40A, chapter 121A, or chapter 121B of the General Laws or chapter 665 of the Acts of 1956, or
48 any other general or special law to the contrary, no permit granting authority shall take any

49 action which would authorize the construction of any structure which would cast a new shadow
50 on the Charles River Esplanade, Christopher Columbus Park, Commonwealth Avenue Mall,
51 Copley Square Park, Magazine Beach Park, or the Back Bay Fens; provided, however, that the
52 provisions of this section shall not apply to actions authorizing any structure which casts a new
53 shadow upon the aforementioned lands only during the first hour after sunrise or before seven
54 o'clock in the morning, whichever is later, or the last hour before sunset.

55 SECTION 7. Section 1 of Chapter 384 of the Acts of 1992 is hereby amended by striking the
56 definition of "new shadow" and inserting in place thereof the following definition:-

57 "New shadow", the casting of a shadow at any time of day on an area which is not cast in
58 shadow at such time by a structure. New shadow shall not include a shadow cast (a) by a
59 structure which exists; (b) by a structure for which a building permit has been granted on the date
60 upon which application is made to a permit-granting authority for a proposed structure; or (c) by
61 the proposed structure for which approval is being sought from a permit granting authority if
62 such structure conforms to as-of-right height limits allowed by the Boston, Cambridge or Lynn
63 Zoning Code, whichever is applicable, as in force on May first, nineteen hundred and ninety.
64 New shadow shall also not include a de minimis shadow cast by an antenna, fence, flagpole, sign
65 or other similar structure. If the proposed structure is proposed for a site that is or may be
66 exempt from Boston zoning law or if said site has no as-of-right height limit, the height limit for
67 the purpose of determining new shadow shall be the height limit for the zoning district in which
68 the site is located.