

HOUSE No. 1568

The Commonwealth of Massachusetts

PRESENTED BY:

Eugene L. O'Flaherty

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 to legitimize structures after six or ten years of continuous use.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1634 OF .]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT TO LEGITIMIZE STRUCTURES AFTER SIX OR TEN YEARS OF CONTINUOUS USE..

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. Chapter 40A of the General Laws is hereby amended by striking out the second paragraph of
2 section 7 and inserting in place thereof the following paragraph:-
3 No local zoning law shall provide penalty of more than three hundred dollars per violation; provided,
4 however, that nothing herein shall be construed to prohibit such laws from providing that each day such
5 violation continues shall constitute a separate offense. No action, suit or proceeding shall be maintained in
6 any court, nor any administrative or other action taken to recover a fine or damages or to compel the
7 removal, alteration, or relocation of any structure or part of a structure or alteration of a structure by reason
8 of any violation of any zoning by-law or ordinance except in accordance with the provisions of this section,
9 section eight and section seventeen; provided, further, that if real property has been improved and used in
10 accordance with the terms of the original building permit issued by a person duly authorized to issue such
11 permits, no action, criminal or civil, the effect or purpose of which is to compel the abandonment,
12 limitation or modification of the use allowed by said permit or the removal, alteration or relocation of any
13 structure erected in reliance upon said permit by reason of any alleged violation of the provisions of this
14 chapter or of any ordinance or by-law adopted thereunder, shall be maintained, unless such action, suit or
15 proceeding is commenced and notice thereof recorded in the registry of deeds for each county or district in
16 which the land lies, or, in the case of registered land such notice is filed in the registry district in which the
17 land lies, within six years next after the commencement of the alleged violation of law; and provided,
18 further that no action, criminal or civil, the effect or purpose of which is to compel the removal, alteration,
19 or relocation of any structure by reason of any alleged violation of the provisions of this chapter, or any
20 ordinance or by-law adopted thereunder, or the conditions of any variance or special permit, shall be
21 maintained, unless such action, suit or proceeding is commenced and notice thereof recorded in the registry
22 of deeds for each county or district in which the land lies, or, in the case of registered land such notice is
23 filed in the registry district in which the land lies, within ten years next after the commencement of the
24 alleged violation; and provided further that if (a) real property has been improved by the erection of one or
25 more structures (which word shall include the singular thereof) thereon and such structures have been in
26 existence for a period of at least ten years and (b) no notice of any action, suit or proceeding as to any
27 alleged violation of this chapter or of any ordinance or by-law adopted thereunder as to such structures has
28 been recorded in the registry of deeds for the county or district in which the real estate is located, or, in the
29 case of registered land such notice is filed in the registry district in which the land is located, within a
30 period of ten years from the date such structures were erected, such structures erected thereon shall, for
31 zoning purposes, be deemed (x) to be in compliance with the provisions of this chapter and any ordinance

32 or by-law adopted thereunder as they existed on the date such structures were erected or (y) to be valid,
33 legally nonconforming structures, as the case may be. Such notice shall include names of one or more of
34 the owners of record, the name of the person initiating the action, and adequate identification of the
35 structure and the alleged violation.