

HOUSE No. 1593

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 making technical changes in land court administration of registered land.

PETITION OF:

NAME:

Eugene L. O'Flaherty

DISTRICT/ADDRESS:

2nd Suffolk

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE HOUSE, NO. 1643 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT MAKING TECHNICAL CHANGES IN LAND COURT ADMINISTRATION OF REGISTERED LAND.

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 52 of chapter 185 of the General Laws is hereby amended by striking the fourth
2 paragraph and inserting in place thereof the following paragraph:

3 As used in this section, “notice of voluntary withdrawal” shall mean an instrument in writing
4 signed and acknowledged by all owners of the land to be voluntarily withdrawn, which contains
5 the following information: names and addresses of all owners; the certificate of title number with
6 the registration book and page numbers; the description of the land in the form contained in the
7 certificate of title; and the street address of such land, if any, and which bears the endorsement of
8 a justice of the land court approving the voluntary withdrawal as provided in this section. Upon
9 filing with the land court of a complaint to withdraw land, the plaintiff shall deposit with the
10 recorder a sum sufficient to cover costs of the proceeding. The court shall then appoint one of the
11 examiners of title, who shall make a report to the court as to the identity of the current record
12 owner and of all mortgagees and lessees with interests of record in the land. A justice of the land

13 court shall approve the application and shall endorse the plaintiff's notice of voluntary
14 withdrawal if: (a) the registered land constitutes less than 50 per cent of the total area of a single
15 parcel or of two or more contiguous parcels in common ownership; (b) the registered land
16 consists of less than 10 per cent of the portion of the land area to which an original certificate of
17 title pertains, the rest of the land area to which such certificate pertains having been conveyed
18 since the original registration under this chapter; (c) the owners of the registered land have
19 submitted, or propose to submit as hereinafter provided, the land to the provisions of chapter
20 183A or 183B or have created interests in the land to which chapter 183B is applicable pursuant
21 to section 3 of chapter 760 of the acts of 1987; or (d) the court finds that the owners of the
22 registered land have demonstrated other good cause for withdrawal under this section, including
23 but not limited to, economic hardship by reason of the land being registered, unless, notice
24 having been given to mortgagees and lessees of record, an outstanding objection has been filed
25 by a mortgagee or lessee of record. Notwithstanding any such outstanding objection, the
26 application may be approved, unless the court determines there is good cause for the objection.
27 The justices of the land court shall establish rules and practices, including an appropriate filing
28 fee for the application as are necessary to implement this section. An owner of registered land
29 who proposes to submit the land to the provisions of chapter 183A or 183B may set forth in the
30 complaint filed hereunder a request that the court approve the application and endorse the notice
31 of withdrawal subject to the condition that the master deed shall be presented for recording
32 pursuant to section 16 of chapter 183A in the registry of deeds for the district in which the land is
33 situated, and upon such recording of the master deed and filing of the judgment of withdrawal
34 and entry on the memorandum of encumbrances of the certificate of title, the subject premises
35 shall be so withdrawn.

36 SECTION 2. Section 62 of said chapter 185 is hereby amended in the second sentence by
37 adding, between the word "instrument" and the word "shall," a comma and the following words:-
38 or by the presentation of a deed or other instrument executed on behalf of a corporation by a
39 person or persons falsely purporting to be the president, vice president, treasurer, or assistant
40 treasurer of such corporation,