

**SENATE . . . . . No. 1901**

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The Commonwealth of Massachusetts

PRESENTED BY:

*Joan B. Lovely*

*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 authorizing the secretary of the Massachusetts Department of Transportation to convey and acquire certain parcels of land in the city of Beverly..

PETITION OF:

NAME:

DISTRICT/ADDRESS:

*Joan B. Lovely*

*Second Essex*

*Jerald A. Parisella*

*6th Essex*

**SENATE . . . . . No. 1901**

By Ms. Lovely, a petition (subject to Joint Rule 12) of Joan B. Lovely and Jerald A. Parisella for legislation to authorize the secretary of the Massachusetts department of transportation to convey and acquire certain parcels of land in the city of Beverly. State Administration and Regulatory Oversight.

**The Commonwealth of Massachusetts**

**In the Year Two Thousand Thirteen**

An Act authorizing the secretary of the Massachusetts Department of Transportation to convey and acquire certain parcels of land in the city of Beverly..

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

1           Whereas, the deferred operation of this act would tend to defeat its purpose, which is  
2 forthwith to authorize certain land transactions in the city of Beverly, therefore, it is hereby  
3 declared to be an emergency law, necessary for the immediate preservation of the public  
4 convenience.

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

7           SECTION 1. The secretary of the department of transportation, in this act called the  
8 secretary, notwithstanding the provisions of any general or special law to the contrary, except as  
9 specifically provided in this act, may convey on behalf of, and in consultation with, the highway  
10 administrator of the highway division, in this act called the highway administrator, by deed, to  
11 CEA Beverly, LLC, a Massachusetts limited liability company, in this act called the developer,  
12 title to certain parcels of land designated Parcel # 1 and #3, owned by the commonwealth in the  
13 city of Beverly, containing 159,744 square feet more or less (3.6672+/- acres) and shown on that  
14 certain plan entitled "Massachusetts Department of Transportation Plan of Land in Beverly, MA,  
15 Essex County", prepared by Hancock Associates, dated September 12, 2013 (to be recorded), in  
16 this act called the "Land Disposition Plan," for purposes consistent with the applicable zoning  
17 ordinance of the city of Beverly. This conveyance shall not occur until said parcels have been  
18 determined to be surplus land by the assistant secretary of the department of transportation,  
19 office of real estate and asset development, in this act called the assistant secretary for real estate,

20 in consultation with the highway administrator, pursuant to section 7E of chapter 81 of the  
21 General Laws. This conveyance shall not occur until the developer certifies to the assistant  
22 secretary for real estate, that all major state and local permits, approvals and such other  
23 entitlements which may be necessary and required have been obtained and secured, to enable  
24 retail development on said parcels of land described in this section. This conveyance shall be  
25 subject to such terms and conditions as the assistant secretary for real estate may prescribe in  
26 consideration for said parcels of land which may be acquired from the developer as described in  
27 section 2. This conveyance shall not be subject to section 20 of chapter 6C of the General Laws.

28 SECTION 2. The developer may convey by deed to the assistant secretary for real estate,  
29 and the assistant secretary for real estate may acquire on behalf of the highway administrator and  
30 the division of highways, for highway purposes required by public necessity and convenience, as  
31 partial consideration for the transfer provided in section 1, and on such terms and conditions as  
32 may be determined by the assistant secretary for real estate, title to certain parcels of land  
33 designated Parcel #2, as shown on the "Land Disposition Plan," owned by the developer in the  
34 city of Beverly, containing 124,920 square feet more or less (2.8678+/- acres). The division of  
35 highways shall have the sole responsibility for the management and maintenance of said Parcel 2  
36 once conveyed by the developer to the assistant secretary for real estate. This conveyance shall  
37 not be subject to section 43 of chapter 6C of the General Laws.

38 SECTION 3. The developer shall pay to the assistant secretary for real estate for and on  
39 behalf of the department of transportation such consideration as may be required and determined  
40 by the assistant secretary for real estate based upon an independent professional appraisal or  
41 appraisals performed by a duly qualified appraiser(s) licensed in the commonwealth and holding  
42 the designation member of the appraisal institute, the difference, if any, between the full and fair  
43 market value of the parcel(s) conveyed under section 1 and the full and fair market value of the  
44 parcel(s) conveyed under section 2. Upon the effective date of this act, unless said appraisal  
45 process has otherwise commenced, the assistant secretary for real estate shall initiate an  
46 independent appraisal of the parcels described in sections 1 and 2.

47 SECTION 4. Notwithstanding any general or special law to the contrary, the inspector  
48 general shall review and approve the appraisal or appraisals required pursuant to section 3. The  
49 inspector general shall prepare a report of his review of the methodology utilized for the  
50 appraisal or appraisals and shall file the report with the secretary, the house and senate  
51 committees on ways and means and the house and senate committees on bonding, capital  
52 expenditures and state assets. Thirty days before the execution of a deed for any conveyance  
53 authorized by this act or any subsequent amendment thereto, the secretary shall submit the  
54 proposed deed or amendment and a report thereon to the inspector general for his review and  
55 comment. The inspector general shall issue his review and comment within 15 days after receipt  
56 of the proposed deed or amendment. The secretary shall submit the proposed deed or  
57 amendment, and the reports and the comments of the inspector general if any to the house and

58 senate committees on ways and means and the house and senate committees on bonding, capital  
59 expenditures and state assets at least 15 days before execution of the deed or amendment.

60 SECTION 5. The developer shall be responsible for all costs associated with the  
61 conveyance of the parcels described in sections 1 and 2, including, but not limited to, the costs of  
62 preparation of the Land Disposition Plan, the appraisal(s) and of the purchase agreements and the  
63 deeds, all recording and legal costs, and of obtaining all state and local permits, approvals and  
64 such other entitlements which may be necessary and required as set forth in section 1, and any  
65 and all other expenses incurred by the commonwealth, in connection with the conveyances as  
66 authorized by this act.

67 SECTION 6. The developer shall cause to have a copy of the Land Disposition Plan,  
68 provided to the assistant secretary of real estate and to the chief engineer of the highway division  
69 both of whom shall keep said plan on file. The developer shall cause to have a copy of the Land  
70 Disposition Plan, provided to the city of Beverly. The Land Disposition Plan, shall be referenced  
71 in the deeds for the parcels described in sections 1 and 2, and at the time of conveyance, the  
72 developer shall record the Land Disposition Plan, together with the deeds, in the Essex (south)  
73 county registry of deeds.

74 SECTION 7. The developer and its servants, agents and employees shall indemnify and  
75 hold the commonwealth and the city of Beverly, harmless from and against all claims, actions,  
76 damages, or costs claimed for injuries or damages to persons or property arising out of or in any  
77 way relating to the conveyances authorized by this act, and shall defend the commonwealth and  
78 their servants, agents and employees from and against any and all such claims, actions, damages  
79 and costs.