

HOUSE No. 4455

The Commonwealth of Massachusetts

INITIATIVE PETITION OF JOHN BELSKIS AND OTHERS.

OFFICE OF THE SECRETARY
BOSTON, JANUARY 4, 2010.

Steven T. James
Clerk of the House of Representatives
State House
Boston, Massachusetts 02133

Sir: - I herewith transmit to you, in accordance with the requirements of Article XLVIII of the Amendments to the Constitution, an Initiative Petition for A Law Relative to Comprehensive Permits and Regional Planning, signed by ten qualified voters and filed with this department on or before December 2, 2009, together with additional signatures of qualified voters in the number of 78,382, being a sufficient number to comply with the Provisions of said Article.

Sincerely,
WILLIAM FRANCIS GALVIN,
Secretary of the Commonwealth.

AN INITIATIVE PETITION.

Pursuant to Article XLVIII of the Amendments to the Constitution of the Commonwealth, as amended, the undersigned qualified voters of the Commonwealth, ten in number at least, hereby petition for the enactment into law of the following measure:

The Commonwealth of Massachusetts

In the Year Two Thousand and Ten.

AN ACT RELATIVE TO COMPREHENSIVE PERMITS AND REGIONAL
PLANNING.

Be it enacted by the People, and by their authority, as follows:

SECTION 1: Chapter 40B, sections 20 through 23, inclusive of the General Laws are hereby repealed.

SECTION 2: No provision of this act shall be interpreted as applying to, affecting, amending, or otherwise impairing the provisions of any project approved by a board of appeals or the Housing Appeals Committee pursuant to G.L. c.40B, s.20-23 before the effective date of this Act, provided that said project has been issued a building permit pursuant to the State Building Code for at least one (1) dwelling unit.

SECTION 3: The provisions of this act are severable, and if any provision of this act is found to be unconstitutional, contrary to law, or otherwise invalid by a court of competent jurisdiction, then the other provisions of this act shall continue to be in effect.

SECTION 4: This act shall take effect January 1, 2011.

FIRST TEN SIGNERS

<u>NAME</u>	<u>RESIDENCE</u>	<u>CITY OR TOWN</u>
John V. Belskis	196 Wollaston Avenue	Arlington
Thelma Barros	1855 Washington Street, #4M	Boston
William G. Green, Jr.	27 Naushon Road	Billerica
John P. McCormack	20B Essex Street	Boxford
Helen Belskis	196 Wollaston Avenue	Arlington
Kristen K. McEvoy	89 Stonebridge Way	Groton
Richard G. Potts	13 Bayberry Street	Pepperell
Dorothy A. Fulginiti	78 Elm Street	Easton
Rodolfo G. Belliardi	195 Webster Avenue	Cambridge
Lynne L. Potts	13 Bayberry Street	Pepperell

Summary of 09-02.

This proposed law would repeal an existing state law that allows a qualified organization wishing to build government-subsidized housing that includes low- or moderate-income units to apply for a single comprehensive permit from a city or town's zoning board of appeals (ZBA), instead of separate permits from each local agency or official having jurisdiction over any aspect of the proposed housing. The repeal would take effect on January 1, 2011, but would not stop or otherwise affect any proposed housing that had already received both a comprehensive permit and a building permit for at least one unit.

Under the existing law, the ZBA holds a public hearing on the application and considers the recommendations of local agencies and officials. The ZBA may grant a comprehensive permit that may include conditions or requirements concerning the height, site plan, size, shape, or building materials of the housing. Persons aggrieved by the ZBA's decision to grant a permit may appeal it to a court. If the ZBA denies the permit or grants it with conditions or requirements that make the housing uneconomic to build or to operate, the applicant may appeal to the state Housing Appeals Committee (HAC).

After a hearing, if the HAC rules that the ZBA's denial of a comprehensive permit was unreasonable and not consistent with local needs, the HAC orders the ZBA to issue the permit. If the HAC rules that the ZBA's decision issuing a comprehensive permit with conditions or requirements made the housing uneconomic to build or operate and was not consistent with local needs, the HAC orders the ZBA to modify or remove any such condition or requirement so as to make the proposal no longer uneconomic. The HAC cannot order the ZBA to issue any permit that would allow the housing to fall below minimum safety standards or site plan requirements. If the HAC rules that the ZBA's action was consistent with local needs, the HAC must uphold it even if it made the housing uneconomic. The HAC's decision is subject to review in the courts.

A condition or requirement makes housing "uneconomic" if it would prevent a public agency or non-profit organization from building or operating the housing except at a financial loss, or it would prevent a

limited dividend organization from building or operating the housing without a reasonable return on its investment.

A ZBA's decision is "consistent with local needs" if it applies requirements that are reasonable in view of the regional need for low- and moderate-income housing and the number of low-income persons in the city or town, as well as the need to protect health and safety, promote better site and building design, and preserve open space, if those requirements are applied as equally as possible to both subsidized and unsubsidized housing. Requirements are considered "consistent with local needs" if more than 10% of the city or town's housing units are low- or moderate-income units or if such units are on sites making up at least 1.5% of the total private land zoned for residential, commercial, or industrial use in the city or town. Requirements are also considered "consistent with local needs" if the application would result, in any one calendar year, in beginning construction of low- or moderate-income housing on sites making up more than 0.3% of the total private land zoned for residential, commercial, or industrial use in the city or town, or on ten acres, whichever is larger.

The proposed law states that if any of its parts were declared invalid, the other parts would stay in effect.

CERTIFICATE OF THE ATTORNEY GENERAL.

September 2, 2009.

Honorable William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Room 1705
Boston, Massachusetts 02108

RE: Initiative Petition No. 09-02: A Law Relative to
Comprehensive

Permits and Regional Planning

Dear Secretary Galvin:

I accordance with the provisions of Article 48 of the Amendments to the Massachusetts Constitution, I have reviewed the above-referenced initiative petition, which was submitted to me on or before the first Wednesday of August of this year.

I hereby certify that this measure is in proper form for submission to the people; that the measure is not, either affirmatively or negatively, substantially the same as any measure which has been qualified for submission or submitted to the people at either of the two preceding biennial state elections; and that it contains only subjects that are related or are mutually dependent and which are not excluded from the initiative process pursuant to Article 48, the Initiative, Part 2, Section 2.

In accordance with Article 48, I enclose a fair, concise summary of the measure.

Cordially,
MARTHA COAKLEY,
Attorney General.