

**§ 14A** PROCEEDINGS FOR SETTLEMENT OF TITLE TO LAND **C. 240**

whom for any reason service cannot be made. If the court finds that there are respondents to be affected by the decree, who have not had actual notice of the petition, it shall appoint a disinterested person to act for them.

**History—**

1889, 442, § 3; RL 1902, 182, § 13.

**§ 14. Decree.**

Upon service of such notice, the court shall have jurisdiction of all persons made respondents to the petition in the manner above provided, and shall, upon a hearing, make a decree determining the validity, nature or extent of any such possible condition or other encumbrance, which shall be effectual to exclude all the respondents from any claim thereunder contrary to such determination, and shall have the same effect as a release by such respondents of such claims. The court may award costs in its discretion.

**History—**

1889, 442, §§ 4, 5; RL 1902, 182, § 14.

**Law Reviews—**

Healy, *Zoning Variance Trials in Massachusetts Part I: Groundrules for Trials, Defenses, and Landowner Review of Decisions*. 68 Mass L Rev, No. 3, p. 108 (September, 1983).

**§ 14A. Petition for Determination of Validity of Zoning Provisions.**

The owner of a freehold estate in possession in land may bring a petition in the land court against a city or town wherein such land is situated, which shall not be open to objection on the ground that a mere judgment, order or decree is sought, for determination as to the validity of a municipal ordinance, by-law or regulation, passed or adopted under the provisions of chapter forty A or under any special law relating to zoning, so called, which purports to restrict or limit the present or future use, enjoyment, improvement or development of such land, or any part thereof, or of present or future structures thereon, including alterations or repairs, or for determination of the extent to which any such municipal ordinance, by-law or regulation affects a proposed use, enjoyment, improvement or development of such land by the erection, alteration or repair of structures thereon or otherwise as set forth in such petition. The right to file and prosecute such a petition shall not be affected by the fact that no permit or license to erect

structures or to alter, improve or repair existing structures on such land has been applied for, nor by the fact that no architects' plans or drawings for such erection, alteration, improvement or repair have been prepared. The court may make binding determinations of right interpreting such ordinances, by-laws or regulations whether any consequential judgment or relief is or could be claimed or not.

**History—**

1934, 263, § 2; 1975, 808, § 5; 1977, 829, § 14.

**Editorial Note—**

The 1975 amendment, in the first sentence, substituted a reference to ALM GL c 40A for the former reference to ALM GL c 40 §§ 25 to 30A. Section 7 of the amending act provides as follows:

SECTION 7. This act shall take effect on January first, nineteen hundred and seventy-six as to zoning ordinances and by-laws and amendments, other than zoning map amendments, adopted after said date.

The 1977 amendment, deleted the second paragraph which read: "Zoning ordinances and by-laws in effect on said date shall continue to be governed by the provisions of chapter forty A of the General Laws in effect prior to said date until this act is accepted by each respective city or town, provided that no later than June thirtieth, nineteen hundred and seventy-eight all zoning ordinances and by-laws shall be brought into conformity with the provisions of this chapter and shall be governed hereby, and thereafter no provisions of chapter forty A in effect prior to January first, nineteen hundred and seventy-six shall govern zoning ordinances and by-laws."

**Texts—**

Levey, *Massachusetts Zoning and Land Use Law* (Michie) § 3-4.

Mendler, *Massachusetts Conveyancers' Handbook with Forms*, §§ 9:1-9:8, Curative Procedures; §§ 11:1-11:7, Zoning.

**Law Reviews—**

Mendler, *The Dover Amendment and the judicial role in zoning — Where do they stand after Trustees of Tufts College v. Medford* 79 Mass L Rev (Q) No. 3 at p. 105.

**Forms—**

See "FORMS" heading following "CASE NOTES", infra.

**CASE NOTES**

1. Generally
2. Jurisdiction
3. Relationship to other remedies
4. Parties
5. —Standing
6. Validity of particular ordinances and bylaws
7. —Restrictions on lot size

**I. Generally**

A petition filed under the provisions of ALM GL c 240, § 14A and ALM GL c 185, § 1(j<sup>1/2</sup>) may be amended so as to present facts which have intervened since the commencement of the proceeding, such as the existence of new zoning regulations which were adopted subsequent to the filing of

the petition  
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