

SENATE No. 3148

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

SENATE, December 8, 2022.

The committee on Senate Rules, to whom was referred House Bill confirming and authorizing Commercial Wharf East Condominium Association's uses and structures located on private tidelands (House, No. 5080); reports, recommending that the matter be placed in the Orders of the Day for the next session with an amendment striking out all after the enacting clause and inserting in place thereof the text contained in Senate document numbered 3148; and by inserting before the enacting clause the following emergency preamble:- "Whereas, the deferred operation of this act would tend to defeat its purpose, which is to authorize the department of environmental protection to issue a certain waterways license, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience."

For the committee,
Joan B. Lovely

SENATE No. 3148

The Commonwealth of Massachusetts

In the One Hundred and Ninety-Second General Court
(2021-2022)

1 (a) Notwithstanding any general or special law, rule or regulation to the contrary, the
2 department of environmental protection is hereby authorized, after receipt of a completed
3 application for a waterways license under chapter 91 of the General Laws and 310 CMR 9.00, to
4 issue a waterways license, within a reasonable time period, authorizing: (i) all current uses
5 within the 5- story granite block building located on private tidelands and located on a certain
6 parcel of land owned or managed by the Commercial Wharf East Condominium Association and
7 its individual unit owners in the city of Boston as shown on the plan of land entitled
8 “Subdivision Plan of Land, Boston (Boston Proper), Mass. Commercial Wharf,” prepared by
9 Whitman and Howard, dated May 2, 1985 and recorded in the Suffolk county registry of deeds in
10 book 11880, page 298, so long as such uses are consistent with the condominium’s 1978 Master
11 Deed, on file with the Suffolk county registry of deeds in book 9083, page 305; (ii) any existing
12 structural alterations to the building completed on or before the effective date of this act; and (iii)
13 all presently existing types of accessory uses of the condominium association and its unit owners
14 that are located on private tidelands and that were existing as of January 1, 1984, including any
15 existing easements or other property rights. The property, situated on private tidelands, is
16 currently used by the Commercial Wharf East Condominium Association and its unit owners as a

17 mixed-use condominium property. For the purposes of this section, “private tidelands” shall
18 mean “private tidelands” as defined in section 1 of said chapter 91.

19 Any changes in use of the building after the effective date of this act that are inconsistent
20 with the Master Deed as recorded on the effective date of this act and any structural alterations
21 that alter the building’s exterior height or surface area dimensions after the effective date of this
22 act shall require a new or amended waterways license under said chapter 91.

23 (b) As consideration for the issuance of the waterways license and the public benefits
24 provided by such licensure, including public access to the wharf that furthers the use and
25 enjoyment of the waterfront by the citizens of the commonwealth, the Commercial Wharf East
26 Condominium Association and its unit owners may, upon receipt of a waterways license issued
27 by the department that is consistent with subsection (a), maintain the present structures,
28 including the entire condominium building and all existing structural alterations, and the present
29 use of the building as a mixed-use condominium facility, including the continued historic use of
30 the first and second floor of the condominium as facilities of private tenancy for interchangeable
31 residential or office use as set forth in the 1978 Master Deed referenced in said subsection (a)
32 and any amendments to the Master Deed executed prior to the effective date of this act, along
33 with such existing accessory uses located on private tidelands; provided, however, that to
34 provide for public access on the wharf and for the use and enjoyment of the waterfront by the
35 citizens of the commonwealth, the Commercial Wharf East Condominium Association shall:

36 (i) build, construct and maintain in perpetuity a 10-foot harborwalk along the southside of
37 Commercial Wharf on its property, substantially in accordance with the plan entitled
38 “Commercial Wharf Harborwalk Commercial Wharf Boston, MA 02110” dated May 17, 2022,

and on file with the city of Boston with public access signage reasonably approved by the department;

(ii) re-pave and re-line the common area parking on private tidelands so as to provide safe and well-marked pedestrian and vehicular access to Commercial Wharf and the harborwalk;

(iii) provide and maintain a redesigned entrance to Commercial Wharf's southside, which shall include "Welcome to Commercial Wharf", as shown on said plan referenced in clause (i), with directional signage reasonably approved by the department to the public harborwalk constructed pursuant to clause (i) and shall facilitate and allow for the existing public access on the northside of Commercial Wharf on its property; and

(iv) not be subject to any other conditions or costs, except standard conditions contained in the regulations promulgated pursuant to chapter 91 of the General Laws to which all waterways licenses are subject that do not in any way conflict with or limit the specific provisions of this act.

(c) Notwithstanding any general or special law, rule or regulation to the contrary, this act shall be narrowly construed and shall not, except as specifically provided in this act, otherwise affect the application of chapter 91 of the General Laws.