

THE MASSACHUSETTS DEPARTMENT OF TRANSPORTATION

CHAPTER 40 §54A

MASSACHUSETTS GENERAL LAW, CHAPTER 40 PERMITS FOR CONSTRUCTION ON RAILROAD RIGHTS-OF-WAY

SECTION 54A – STATE CONSENT TO ISSUANCE OF PERMITS TO PURCHASER REQUIRED: DAMAGES IN ABSENCE THEREOF

STATUTE, PROCESS & APPLICATION

Note: When applying for consent, please note that the process for Chapter 40, Section 54A requires a public hearing with notice in a local paper. The process usually takes two months. For more information, contact the Rail and Transit Division of the Massachusetts Department of Transportation or by calling (857)368-8964 or email to dot.feedback@state.ma.us.

If a city or town or any other person purchases any lands formerly used as a railroad right-of-way or any property appurtenant thereto formerly used by any railroad company in the Commonwealth, no permit to build a structure of any kind on land so purchased shall be issued by any city or town in the Commonwealth without first obtaining, after a public hearing, the consent in writing to the issuance of such permit from the Secretary of the Massachusetts Department of Transportation (MassDOT). If said Secretary does not consent to the issuance of such permit, the owner of the land may recover from the Commonwealth such damages as would be awarded under the provisions of Chapter seventy-nine.

Notwithstanding the provisions of the second sentence of the foregoing paragraph, there shall be no recovery from the Commonwealth in damages under said sentence by an owner of such land purchased after January first, nineteen hundred and seventy-six.

**Massachusetts Department of Transportation
Massachusetts General Law, Chapter 40, Section 54A**

Statement of Procedures

1. All requests for consent under Chapter 40 Section 54A must be submitted to the Massachusetts Department of Transportation (MassDOT) from the building inspector of the city or town in which the proposed construction will take place.
2. Pursuant to M.G.L. Chapter 40, Section 54A, when requesting consent the applicant must advertise a public hearing notice in a local newspaper. The process usually takes two months. If you have any questions or need additional information, please call the Rail and Transit Division of MassDOT at (857) 368-8964.
3. All requests should be addressed to:

Richard A. Davey
Secretary and Chief Executive Officer
Massachusetts Department of Transportation
10 Park Plaza, Suite 4160
Boston, MA 02116-3969

4. The following information must to be submit with a completed M.G.L. Chapter 40, Section 54A Application:
 - (a) A letter from the building inspector requesting a public hearing (see attached sample letter) and the attached application.
 - (b) A copy of the plan(s) submitted to the building inspector, with a title block outlining and the former railroad land.
 - (c) A signed property deed with a corresponding plot plan(s).
 - (d) A copy of the deed from the railroad and the related plot plan(s).
 - (e) A plan of the parcel on which the construction will take place showing the location of proposed building and the current and/or former railroad property line boundaries.
 - (f) A map (locus) of the city, town, or surrounding area highlighting the location of the property in question.
5. The completed application packet will be reviewed by MassDOT and my include reviews by other public agencies.

6. MassDOT will review the received information and contact the applicant to schedule a date for the public hearing. **The applicant is responsible for advertising the hearing in a local newspaper at least twenty-one (21) days prior to the hearing date. Please note, MassDOT requires a copy of the advertisement tear sheet prior to the scheduled hearing. A sample hearing notice is attached.**
7. After the public hearing, MassDOT will review all comments submitted and send a letter stating the Secretary's decision to the building inspector and the applicant.

SAMPLE

40 § 54A BUILDING INSPECTOR LETTER

NOTE: This letter should be re-typed on the city or town letterhead and signed by the building inspector or the appropriate city or town official.

(DATE)

Richard A. Davey
Secretary and Chief Executive Officer
Massachusetts Department of Transportation
Ten Park Plaza, Suite 4160
Boston, Massachusetts 02116-3969

Attn: Rail and Transit Division

Dear Secretary Davey:

(NAME OF APPLICANT) has requested a permit to build **(DESCRIPTION OF PROPOSED CONSTRUCTION)** in **(CITY/TOWN)**, Massachusetts. The property for which the permit is requested is located at **(ADDRESS OF PROPERTY)**.

In accordance with Massachusetts General Law, Chapter 40, Section 54A, a permit shall not be issued without first obtaining, after a public hearing, the consent in writing to the issuance of such permit from the Secretary and Chief Executive Officer of the Massachusetts Department of Transportation (MassDOT).

I hereby request that a public hearing be held for **(NAME OF APPLICANT)** to determine whether consent will be granted by MassDOT to construct (proposed project) on the former railroad property referenced above.

Sincerely,

(BUILDING INSPECTOR'S SIGNATURE)

(PRINT NAME)

(TITLE)

M.G.L. CHAPTER 40, SECTION 54A, APPLICATION

(PLEASE TYPE OR PRINT)

Please answer in detail

1. CONTACT PERSON:

2. ADDRESS OF CONTACT PERSON:

Tel. No:

3. BUILDING INSPECTOR OR CITY/TOWN OFFICIAL:

4. ADDRESS OF BUILDING INSPECTOR OR CITY/TOWN OFFICIAL:

5. NAME OF PRESENT PROPERTY OWNER:

6. ADDRESS OF PROPERTY OWNER:

7. NAME OF APPLICANT:

8. ADDRESS OF APPLICANT:

CO APPLICANT (IF APPLICABLE):

9. PROPERTY LOCATION (CITY/TOWN):

10. TYPE OF CONSTRUCTION:

.

TOTAL NUMBER OF STRUCTURES TO BE CONSTRUCTED: _____

USE: COMMERCIAL, RESIDENTIAL, INDUSTRIAL: _____

13. PROPERTY IS:

- on railroad corridor
- appurtenant to a railroad corridor
- includes land both appurtenant to a corridor and on a corridor

If property is adjacent to the railroad corridor, please indicate approximate distance from (former) railroad property boundary line to the proposed structure

14. PROPERTY IS ADJACENT TO:
(Check N/A, if not applicable)

- an abandoned railroad line
- an active railroad line
- N/A

Name of Right of Way – i.e. Branch Line

Distance from boundary line to nearest track:

15. APPROX. WIDTH OF CORRIDOR:

16. TOTAL PARCEL AREA INCLUDING FORMER RAILROAD PROPERTY:

15a **REQUIRED** - ATTACH A DESCRIPTION OF PROPERTY TO BE CONSTRUCTED

APPROXIMATE AREA OF FORMER RAILROAD PROPERTY

17. CITY/TOWN ASSESSOR'S PARCEL IDENTIFICATION NUMBER:

Lot # _____ Map # _____

18. FORMER RAILROAD OWNER:

Date of Abandonment:

19. APPROXIMATE DATE OF RAILROAD DISPOSITION

20. DATE OF PRESENT OWNER ACQUISITION:

21. Under *M.G.L., Chapter 40, Section 54A Statute* the Secretary of MassDOT will notify both the City/Town Building Inspector and Applicant in writing. If the applicant would like other person(s) to be copied, please indicate name(s) and address(s') below:

Print Name

Signature

Applicant, Contact Person or Attorney

Sample
40/54A Hearing Notice

[PROPERTY ADDRESS]

[File number]

Legal Notice

**The Commonwealth of Massachusetts
Massachusetts Department of Transportation**

Notice of Hearing

Upon the request of [NAME] the Building Inspector of the [CITY/TOWN], Massachusetts pursuant to Massachusetts General Laws, Chapter 40 Section 54A, the Massachusetts Department of Transportation shall conduct a hearing to determine whether a building permit shall be issued to [NAME] for [DESCRIPTION OF PROPOSED CONSTRUCTION] located at [ADDRESS], Massachusetts and bound by [GENERAL DESCRIPTION OF PARCEL]. The parcel includes part of the properties of the [NAME OF RAILROAD].

The hearing will take place on [DATE] at [TIME] at the Department of Transportation, Ten Park Plaza, Suite [#] Boston, MA 02116. All interested parties should attend. Inquires regarding this hearing may be made to Massachusetts Department of Transportation – Rail and Transit Division at (857) 368-8964.

**THE ADVERTISEMENT TEAR SHEET FROM A LOCAL NEWSPAPER MUST BE SENT TO
MASSDOT'S RAIL AND TRANSIT DIVISION PRIOR TO THE HEARING DATE.**