

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE RESOLUTION

No. 523 Session of 2007

INTRODUCED BY M. O'BRIEN, W. KELLER, J. TAYLOR, McGEEHAN, BAKER, CLYMER, REICHLEY, MOYER, QUINN, CALTAGIRONE AND JOSEPHS, DECEMBER 3, 2007

AS AMENDED, HOUSE OF REPRESENTATIVES, DECEMBER 11, 2007

A RESOLUTION

1 Urging the ~~Attorney General to ask for~~ DEPARTMENT OF GENERAL <—
2 SERVICES TO SEEK an injunction restraining construction on
3 riparian lands of the Commonwealth OR TO REFER THE ACTION TO <—
4 THE ATTORNEY GENERAL and urging the ~~Attorney General~~ <—
5 DEPARTMENT OF GENERAL SERVICES to appeal a submerged lands <—
6 license issued by the Department of Licenses and Inspection
7 of the City of Philadelphia OR TO REFER THE ACTION TO THE <—
8 ATTORNEY GENERAL.

9 WHEREAS, The riparian rights of the navigable waterways of
10 the Commonwealth of Pennsylvania are held in trust for the
11 public; and

12 WHEREAS, These public rights are protected under Article I,
13 section 27 of the Constitution of Pennsylvania and by
14 Pennsylvania common law; and

15 WHEREAS, The Administrative Code of 1929 clearly states that
16 no interest, easement, sale or exchange of such real estate is
17 permissible without specific authority of the General Assembly;
18 and

19 WHEREAS, The Dam Safety and Encroachment Act of 1978
20 reaffirms the General Assembly's authority over the riparian

1 lands of the Commonwealth; and

2 WHEREAS, The Commerce Department of the City of Philadelphia
3 directed the city's Department of Licenses and Inspection to
4 issue an affirmative decision to grant a submerged lands license
5 to the Pennsylvania Gaming Control Board to construct on
6 submerged lands of the Commonwealth pursuant to section 10 of
7 the act of June 8, 1907 (P.L.488, No.321), entitled "A
8 supplement to an act, entitled "An act to provide for the better
9 government of cities of the first class in this Commonwealth,"
10 approved the first day of June, one thousand eight hundred and
11 eighty-five; creating a Department of Wharves, Docks, and
12 Ferries, for the improvement, regulation, and supervision of the
13 construction, extension, alteration, maintenance, and use of
14 wharves, piers, bulkheads, docks, slips, basins, ferries,
15 harbors, and harbor structures, in cities of the first class;
16 and providing for the making and enforcement of rules and
17 regulations, and fixing certain penalties for violation thereof;
18 and providing for the acquisition of property by said cities, by
19 purchase and by condemnation, for certain purposes," and
20 Chapters 18 through 101 of the City of Philadelphia Municipal
21 Code; and

22 WHEREAS, The act of June 8, 1907 (P.L.488, No.321) empowers
23 the City of Philadelphia to oversee the piers, wharves, docks,
24 slips, bulkheads and basins, but it does not empower the city to
25 convey or license development rights to Pennsylvania lands held
26 in public trust; and

27 WHEREAS, Officials of the City of Philadelphia overstepped
28 their perceived authority in directing the city's Department of
29 Licenses and Inspection to issue a license to construct on
30 submerged lands owned by the Commonwealth; and

1 WHEREAS, The Commonwealth of Pennsylvania is the sovereign
2 over the City of Philadelphia; therefore be it

3 RESOLVED, That the House of Representatives urge the ~~Attorney~~ <—
4 ~~General of the Commonwealth of Pennsylvania~~ DEPARTMENT OF <—
5 GENERAL SERVICES to file for a ~~restraining order against~~ AN <—
6 INJUNCTION RESTRAINING any construction on riparian lands of the
7 Commonwealth OR TO REFER THE ACTION TO THE ATTORNEY GENERAL and <—
8 to file an appeal of the City of Philadelphia Commerce
9 Department's decision to direct the city's Department of
10 Licenses and Inspection to grant a submerged lands license OR TO <—
11 REFER THE ACTION TO THE ATTORNEY GENERAL.