



Massachusetts Municipal Lawyers Association

MMLA MUNICIPAL MINUTE

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Greetings, and welcome to this issue of the MMLA Municipal Minute, our e-newsletter to you, our Massachusetts Municipal Lawyers Association (MMLA) membership. Make sure to click the hyperlinks below for more information about a particular topic or matter.

Upcoming Programs and Events:

- **Rescheduled April Executive Board Meeting: Thursday, April 21, 2022 (12:30-2pm; Zoom).** MMLA members are welcome to attend monthly Executive Board meetings, typically held on the second **Thursday** of each month. To attend, please contact MMLA Executive Director/Secretary-Treasurer Jim Lampke (jlampke@massmunilaw.org).

Recent Decisions, Rulings, Cases, and Legislative Developments of Note:

- The Division of Local Services (DLS) of the Department of Revenue is currently aggregating legislative recommendations/proposals into a single document (like what was assembled for the 2016 Municipal Modernization Act). DLS recently reached out to the MMLA about legislative considerations to bring to DLS's attention, and MMLA's Legislative Committee will be working with DLS in that regard. If you or your municipality has any recommendations, please contact MMLA Legislative Committee Chair Jillian Jagling (jjagling@westlawgroup.com).
- Proposed cannabis legislation (Senate Bill 2660 (S2660) and its House companion version) were in the House and Senate Ways and Means Committees. The new draft for S2660 was reported from the Senate Ways and Means Committee and appears as [Senate Bill 2801 \(S2801\)](#) (An Act relative to equity in the cannabis industry). The MMLA Legislative Committee is looking to assist the Massachusetts Municipal Association (MMA), which strongly opposes the provisions of the proposed legislation. In particular, MMA requested assistance with highlighting specific legal and other concerns with the "safe harbor period," the overlay with the Cannabis Control Commission (CCC), and contract law implications of ex post facto applicability of the proposed legislation to 2016. The MMLA Legislative Committee welcomes input from the MMLA's

membership, which will assist the MMLA Legislative Committee with determining whether to take a position on the proposed legislation. If you are interested in providing input, please contact MMLA Legislative Committee Chair Jillian Jagling (jjagling@westlawgroup.com).

- [Chapter 42 of the Acts of 2022](#) – An Act making appropriations for fiscal year 2022 to provide for supplementing certain existing appropriations and for certain other activities and projects. This Act originates from legislation that the Governor partially signed into law on April 4, 2022. In part, the Act extends pandemic-era restaurant policies involving outdoor dining and the sale of beer, wine, and to-go cocktails to April 1, 2023.
- [Reuter v. City of Methuen](#) (SJC Docket No. 13121, April 4, 2022) – The Supreme Judicial Court (SJC) held that when an employer untimely pays late wages under the Massachusetts Wage Act (which is enforceable through M.G.L. c. 149, § 150), the appropriate remedy is trebling the amount of the late-paid wages as liquidated damages. In doing so, the SJC disagreed that the appropriate remedy was trebling interest on the late-paid wages. This decision arose from a dispute over the late payment of an employee’s accrued vacation time, which was not paid at the time of the employee’s termination. While raised as an issue in a concurring opinion, the SJC declined to address the status of “any damages incurred” under M.G.L. c. 149, § 150, and instead placed its primary focus on “lost wages and other benefits” (the latter of which are expressly subject to trebling as liquidated damages).
- [Kelley v. City Known as the Town of Greenfield](#) (Appeals Court Docket No. 21-P-157, Rule 23.0 Decision, March 24, 2022) – The Appeals Court affirmed the grant of summary judgment resulting from the plaintiff’s failure to establish a prima facie case under the Massachusetts Whistleblower Statute. Specifically, the plaintiff failed to rely on sufficient evidence to show causation between the plaintiff’s alleged protected activity and the mayor’s independent decision to terminate the plaintiff.
- [Boston Clear Water Co., LLC v. Conservation Commission of Lynnfield](#) (Appeals Court Docket No. 21-P-514, Rule 23.0 Decision, March 23, 2022) – The Appeals Court affirmed a decision of the Superior Court to affirm a conservation commission’s enforcement order against a commercial entity that operated a water distribution business involving the sale of spring water to consumers and wholesale bottlers, but on different grounds. The Appeals Court held that the commercial entity did not violate the local wetlands bylaw or its associated local regulations. However, the Appeals Court held that the commercial entity should have filed a notice of intent because of material alterations occurring within the 100-foot buffer zone established under 310 CMR 10.02(b).
- [Epstein v. Planning Board of Marblehead](#) (Appeals Court Docket No. 21-P-296, Rule 23.0 Decision, March 22, 2022) – The Appeals Court affirmed the Land Court’s decision to affirm approval of an application for a special permit for site plan approval to demolish and remove an existing house and construct a new single-family house in its place (which included bringing the house into conformity with zoning requirements).

Do you have any decisions that you would like to share with the MMLA membership and/or have posted on the MMLA website, such as recent federal or state court or administrative decisions? Note that the MMLA is looking to create a database of notable Supervisor of Public Records decisions, which are presently unavailable through a publicly available online search platform – we welcome your submissions. Please send an email containing any recent decisions that you would like to spotlight, to massmadmin@massmunilaw.org.

Recent Additions to Members Library:

Do you have any recent decisions, templates, forms, or other sample documents you would like to include in the MMLA Members Library? If so, please forward any materials or recent decisions by email to massmadmin@massmunilaw.org.

Other News and Reminders:

- The MMLA has new employment opportunities just posted on its website for:
 - [Massachusetts Department of Housing and Community Development, Counsel II](#)
 - [City of Cambridge, Deputy City Solicitor](#)
- If you are interested in being considered for appointment to the Massachusetts Bar Association's Public Law Section Council for the 2022-23 year, please contact MMLA Member Amanda Zuretti (azuretti@petrinilaw.com) by April 11. The Public Law Section Council consists of attorneys who serve or represent local government and state agencies.

Do you have any news or other information that you would like to share with the MMLA membership? For example, do you have any recent achievements, MMLA members in the news, or promotions or career opportunities? If so, please send an email to massmadmin@massmunilaw.org.

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This newsletter is sent as a service to our membership. If you would like to update your contact information or city/town affiliation, please visit the [MMLA website](#).

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