



Massachusetts Municipal Lawyers Association

MMLA MUNICIPAL MINUTE

VOLUME I, ISSUE 1 – FEBRUARY 2, 2022

Greetings, and welcome to the **inaugural** edition of the MMLA Municipal Minute, our planned e-newsletter to you, our Massachusetts Municipal Lawyers Association (MMLA) membership. Our goal of the MMLA Municipal Minute is to bring you up to speed on the **first** and **third Wednesday** of each month, for what you need to know about the MMLA and the practice of municipal law. Make sure to click the hyperlinks below for more information about a particular topic or matter.

Upcoming Programs and Events:

- **February Executive Board Meeting: Thursday, February 10, 2022 (12:30-2pm; Zoom)** – MMLA members are welcome to attend monthly Executive Board meetings, held on the second Tuesday of each month. To attend, please contact MMLA Executive Director/Secretary-Treasurer Jim Lampke (jlampke@massmunilaw.org).
- **MBTA Community Zoning: Wednesday, February 16, 2022 (12-2pm; Zoom)**. Register [here](#) for this program to discuss the [draft guidelines](#) issued by the Department of Housing and Community Development (DHCD) for compliance under new [Section 3A of the Massachusetts Zoning Act](#). These guidelines were recently submitted for public comment (comments due March 31, 2022) and address the requirement for as of right multi-family housing in at least one zoning district in so-called MBTA communities.
- **20th Annual Municipal Law Conference 2022: Wednesday, March 16, 2022 (9am-5pm; Zoom)**. Register on the [MCLE website](#) for the annual Municipal Law Conference covering the latest developments in municipal law. MMLA and MMA co-sponsor this annual program, which provides essential updates on recent developments from the Legislature, government regulators, and the courts on many areas of public sector law. This year's program will address new and evolving developments regarding the public records, open meeting, land use and zoning, environmental laws, public employment law, cybersecurity and data breaches, and 2nd Amendment, home rule and gun regulation. It will also feature a presentation on administrative law.

Recent Decisions of Note:

- [*City of Newton v. Commonwealth Employment Relations Board \(Massachusetts Appeals Court\)*](#) – This decision contains a good discussion about the obligation to bargain over fitness for duty examinations, which in this case involved a psychological fitness for duty examination.
- [*Boston Clear Water Co., LLC v. Town of Lynnfield \(Massachusetts Appeals Court\)*](#) – In this decision, the Massachusetts Appeals Court held that a local conservation commission's failure to conduct a hearing within 21 days after an applicant's notice of intent, under the Wetlands Protection Act and its town bylaw, caused it to lose its authority over a proposed project and forfeit its right to enforce the bylaw, enabling the Department of Environmental Protection's superseding order to control.

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.

MMLA Committee Spotlight: Legislative Committee

The MMLA Minute will regularly spotlight one of its Committees. If you are interested in volunteering on an MMLA Committee, please contact MMLA Executive Director/Secretary-Treasurer Jim Lampke (jlampke@massmunilaw.org) or MMLA President Brandon Moss (brandonhmoss@gmail.com).

For the inaugural edition, the MMLA Minute will spotlight the MMLA's Legislative Committee, which is chaired by Jillian Jagling:

The Legislative Committee prepares recommendations for legislation and reviews bills that are brought to its attention in order to make recommendations to the MMLA Executive Board on whether to support, oppose or take no position. When making recommendations and reviewing bills, the Committee considers a review criteria that includes whether the matter affects cities and town generally, whether any other organizations (such as the Massachusetts Municipal Association) have taken a position, whether the legislation purports to solve a problem faced by municipalities, add to municipal costs, impact collective bargaining, affect public health, safety or welfare, or increase or decrease the flexibility municipalities have in dealing with local issues, and whether the legislation would have any unintended consequences for municipalities which have not been foreseen by the drafters.

The Legislative Committee prepared the 2021-22 Legislative Package in February 2021, which includes a number of refiled and new bills that the Committee recommended, including for example, an act providing for alternative delivery of infrastructure projects, an act relative to authorizing governmental bodies and other approved parties to use shared legal representation

and consultants, an act relative to the effective enforcement of municipal ordinances and bylaws, and an act relative municipal authority in public rights of way.

The Committee is currently also tracking bills concerning the Open Meeting Law, including legislation impacting town meetings and municipal elections, and will be discussing legislation on Body Worn Cameras at the next meeting. The Committee will also be looking towards and strategizing regarding the next legislative session and any anticipated municipal modernization legislation that might be included.

MMLA members can submit requests for the MMLA to take a position on bills, which are reviewed by the Executive Board and may be referred to the Legislative Committee for consideration and recommendation on whether MMLA should support, oppose or take no position. MMLA members are also invaluable resources to the Legislative Committee, which encourages members to be involved and share information that they have on legislation, regulations and other public agency matters impacting municipalities.

Legislative Committee members include: Jillian Jagling (Chair), Matt Feher (Vice Chair), John Barrett, Stephen Roche, Shannon Phillips, John Finnegan, James Lampke, Bob Ritchie, Henry Luthin, and Ivria Glass Fried. MMLA members can reach out to Jillian at jjagling@westgrouplaw.com with questions or suggestions for the Legislative Committee.

Recent Additions to Members Library:

- A recording of the MMLA's January 12, 2022 program involving Ralph Sacramone, Executive Director of the Massachusetts Alcoholic Beverages Control Commission, was added to the MMLA Members Library. A copy of the recording is available [here](#).

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

Other News and Reminders:

- At its January 2022 meeting, the MMLA Executive Board voted:
 - To subscribe to [InstaTrac](#), a legislation monitoring service, which will aid the MMLA and its Legislative Committee in tracking the latest legislative developments on Beacon Hill.
 - To join the [Massachusetts Nonprofit Network](#), an organization comprised of Massachusetts nonprofit organizations. As you may recall, the MMLA is organized as a 501(c)(3) nonprofit organization.
 - To accept the recommendation of the Amicus Committee and authorize the Amicus Committee to file an *amicus curiae* brief in the matter of [Armstrong v. Theoharides](#), which is currently pending at the Massachusetts Supreme Judicial

Court (SJC-13210). This appeal concerns two cases challenging the City of Boston's Downtown Waterfront Municipal Harbor Plan and has the potential of impacting harbor management plans statewide.

- The MMLA is assembling a Working Group of MMLA members to review DHCD's guidelines under Section 3A of the Zoning Act and work on the MMLA's comments to these guidelines (before the March 31, 2022 deadline). All MMLA members are welcome and invited to participate. Please contact MMLA President Brandon Moss (brandonhmoss@gmail.com) if you are interested in serving on the MBTA Community Guidelines Working Group.
- On January 31, 2022, the MMLA provided its Annual Municipal Law Update at the Massachusetts Municipal Association Annual Meeting, which was held virtually. A link to access information about the program is [here](#). The panel was headlined by MMLA members Donna Brewer and Maura O'Keefe and moderated by MMLA President Brandon Moss. Attendees were brought up to speed on important developments in municipal law as they relate to Massachusetts cities and towns, in areas such as land use and zoning, municipal finance and taxation, public governance, and other areas with significant developments.
- The MMLA recently posted employment opportunities on its website for:
 - [Department of Housing and Community Development – Counsel II](#)
 - [Miyares and Harrington LLP](#)
- The Massachusetts Supreme Judicial Court Standing Committee on Lawyer Well-Being focuses on ensuring that all Massachusetts lawyers achieve a healthy, positive, and productive balance of work, personal life, and health. The Standing Committee recently issued its [2021 Annual Report](#). In addition, you can access the Standing Committee's most recent Legal Well-Being News (December 2021) [here](#). Yesterday, the Standing Committee released a voluntary, confidential Independent Survey of MA Attorney Well-Being, which is available [here](#) and should take 10-15 minutes to complete. This survey should have also been separately emailed to you by the Standing Committee. For questions about the survey, please email MALawyerWellBeing@norc.org. Please stay tuned for upcoming MMLA lawyer well-being programming.

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.

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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