



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).
- An Act relative to equity in the cannabis industry ([Senate Bill 2801](#)) was amended and now appears as [Senate Bill 2823](#). This bill was passed to be engrossed by the Senate on April 7. On April 11, Senate Bill 2823 was read by the House and referred to the House Committee on Ways and Means. 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).

- [*Jackson Woods Investments, LLC v. Planning Board of Holden*](#) (Appeals Court Docket No. 21-P-266, Rule 23.0 Decision, April 19, 2022) – The Appeals Court affirmed the Land Court’s dismissal of the plaintiff’s complaint as untimely. In particular, the plaintiff sought judicial review under M.G.L. c. 41, § 81BB of the planning board’s denial of its application to amend a condition in its approved subdivision plan. The Land Court determined that the plaintiff should have appealed within 20 days from the original approval and therefore the untimely appeal deprived the Land Court of subject matter jurisdiction.
- [*Trustees of the Winchester House Condominium Trust v. Zoning Board of Appeals of Brookline*](#) (Appeals Court Docket No. 21-P-0069, Rule 23.0 Decision, April 14, 2022) – The Appeals Court affirmed the Land Court’s decision that the plaintiffs lacked standing to challenge the grant a comprehensive permit for construction of a 40-unit mixed income apartment building. In particular, the Appeals Court agreed that the plaintiffs lacked standing on the bases of noise, shadow, and tree impacts.
- [*O’Brien v. Town of Pembroke*](#) (Appeals Court Docket No. 21-P-99, Rule 23.0 Decision, April 8, 2022) – The Appeals Court affirmed the Superior Court’s decision to deny the plaintiff’s motion to amend and grant the defendants’ motion for judgment on the pleadings. In particular, the Appeals Court agreed that the proposed amendment was futile because it was filed outside the three-year statute of limitations for defamation claims. It similarly held that a claim against one of the defendants was similarly untimely, based on the original publication and that a new cause of action did not arise from republication of the alleged defamatory statements. In addition, the Appeals Court held that statements made by the defendants in their official capacities as members of the board of health (which was involved in a routine health and sanitation investigation) were generally subject to a conditional privilege, and that the plaintiff’s allegations failed to overcome this conditional privilege.
- [*Strayton v. Martha’s Vineyard Commission*](#) (Appeals Court Docket No. 21-P-421, Rule 23.0 Decision, April 6, 2022) – The Appeals Court affirmed a decision by the Martha’s Vineyard Commission, which approved a development of regional impact that allowed issuance of a special permit to construct a cell tower on a private individual’s land. While casting doubt on whether a claim of impacts from radiofrequency emissions from a cell tower can support a plaintiff’s standing, the Appeals Court noted a lack of evidence to support the plaintiffs’ standing on that basis. The Appeals Court also agreed that there was insufficient evidence of any effects on the plaintiffs’ views. Although the Appeals Court determined that it lacked jurisdiction to consider the merits of the plaintiffs’ appeal because the plaintiffs were without standing, it also agreed with the Land Court that there was no reason, based on the evidence to trial, to overturn the underlying Martha’s Vineyard Commission decision.

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 Executive Board voted unanimously to approve comprehensive revisions to the MMLA Bylaws following a 2-year review-and-revision process undertaken by the Bylaws Committee. The proposed revisions are intended to bring the MMLA Bylaws up to best governance practices. The next steps in the process involve a reading of the proposed revised MMLA Bylaws and approval by the MMLA membership (to occur at separate meetings). Stay tuned for programming related to these next steps, as well as a summary of the proposed changes and the revised text.
- The MMLA has new employment opportunities just posted on its website for:
 - [City of Gloucester, Assistant General Counsel](#)
 - [Town of Brookline, First Assistant Town Counsel](#)

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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