



Massachusetts Municipal Lawyers Association

MMLA MUNICIPAL MINUTE

VOLUME I, ISSUE 8 – MAY 18, 2022

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:

- **Proposed Revised MMLA Bylaws Reading: Today, Wednesday, May 18 (12-2pm; Zoom).** A reading of the proposed revised MMLA Bylaws must occur before they are voted by the MMLA general membership (likely to be scheduled with the MMLA's Annual Business Meeting in June, details to follow). To attend the reading program, please register using this [link](#). As an added enticement to attend today's reading program, there will be a raffle drawing for a \$50 Amazon gift card, with the winner to be randomly drawn from those MMLA members who are in attendance at the reading program (note that current members of the Executive Board are ineligible for the raffle).
- **Land Acquisitions and Dispositions 101: Thursday, May 26 (12-2pm; Zoom).** A free webinar panel on municipal land acquisitions and dispositions. To attend this webinar, please register using this [link](#). Come learn from Mina Makarious (Anderson & Kreiger), Jennie Merrill (Miyares & Harrington), and Emily Izzo (Department of Revenue's Bureau of Municipal Finance Law). Topics will include Chapter 30B, eminent domain, land restrictions, Article 97, town meeting requirements, purchase and sale agreements, and financing issues. This program is open to MMLA members and non-MMLA members. Please email Ivria Fried (ifried@miyares-harrington.com) with any questions.
- **Save the Date** for an educational program followed by MMLA's Annual Business Meeting on **Wednesday, June 8, 2022 at 12:30 p.m. via Zoom**. Further details and registration information will be announced and posted on the website soon.
- **June Executive Board Meeting: Thursday, June 9, 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:

- [*Immanuel Corp. v. Zoning Board of Appeals of Uxbridge*](#) (Appeals Court Docket No. 21-P-0295, Rule 23.0 Decision, May 13, 2022) – The Appeals Court affirmed a Superior Court decision determining that the local zoning board properly upheld a zoning enforcement officer’s cease and desist order. The challenged cease and desist order determined that a soil importation activity violated the local zoning bylaws. The Appeals Court rejected the appellant’s argument that the soil importation was not prohibited by the zoning bylaws or that it was authorized under the applicant’s previous permits for gravel excavation/earth removal. Instead, the Appeals Court concluded that an amendment to the zoning bylaws more clearly prohibiting commercial landfilling did not foreclose an interpretation of the previous zoning bylaws as proscribing that type of use.
- [*Town of Northborough v. Anza*](#) (Appeals Court Docket No. 21-P-0442, Rule 23.0 Decision, May 13, 2022) – The Appeals Court affirmed a civil contempt judgment resulting from the defendants’ violation of a preliminary injunction and the denial of a motion to vacate the contempt judgment. In particular, the Appeals Court determined that the underlying preliminary injunction involved a clear and unequivocal command because it unambiguously prohibited the defendants from holding or storing organic material that was unsuitable to feed animals or livestock. The defendants’ conduct amounted to a clear violation of the preliminary injunction.
- [*Wang v. Planning Board of Lexington*](#) (Appeals Court Docket No. 21-P-0513, Rule 23.0 Decision, May 12, 2022) – The Appeals Court reversed and remanded a Superior Court decision that granted summary judgment to the defendants in a case arising out of a special permit granted to construct a 16-unit residential development. In particular, the Appeals Court determined that the plaintiff abutter was a person aggrieved with standing to challenge the underlying special permit decision based on whether that decision complied with a planning board subdivision regulation requiring reservation of an easement providing access to his property. The Appeals Court remanded the case to the Superior Court to determine if the easement provided required access from a proposed loop road to the plaintiff abutter’s property.
- [*Town of Oxford v. Smith*](#) (Appeals Court Docket No. 21-P-0404, Rule 23.0 Decision, May 11, 2022) – The Appeals Court determined that the entry of a default judgment resulting from the defendant’s failure to appear in Land Court after receiving notice of a tax title foreclosure proceeding resulted in a waiver of his argument that M.G.L. c. 60 denied him due process.
- [*Framingham Housing Authority v. Serfozo*](#) (Appeals Court Docket No. 21-P-0775, Rule 23.0 Decision, May 9, 2022) – The Appeals Court affirmed a Superior Court decision upholding a Civil Service Commission that a housing authority failed to satisfy its burden of showing “just cause” to terminate an individual’s employment. The Appeals Court determined that the Civil Service Commission decision was supported by substantial evidence.

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:

- At its May 2022 meeting, the MMLA Executive Board voted to accept the Nominating Committee’s recommendation to nominate the following slate of officers and directors to serve for the 2022-23 term (July 1, 2022-June 30, 2023): Matthew Feher (President); Karis North (Vice-President); James Lampke (Secretary-Treasurer); Ivria Fried; Christopher Brown; Christine Griffin; David Shapiro; Susan Murphy; Shawn Williams; Brian O’Donnell; Donna MacNicol; Ellen Callahan Doucette (Immediate Past President); and Brandon Moss (Immediate Past President). The MMLA thanks James Timmins, Maura O’Keefe, and Immediate Past President Peter Mello for their service and contributions on the MMLA Executive Board. A vote on the Nominating Committee’s recommended slate will be held at the MMLA’s Annual Business Meeting (to be scheduled no later than June 30).
- The MMLA has a new employment opportunity posted on its website for [City of Worcester, Assistant City Solicitor, Head Litigator](#) (closes May 20, 2022).

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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