



*Massachusetts Municipal Lawyers Association*

# **MMLA MUNICIPAL MINUTE**

## **VOLUME I, ISSUE 10 – JUNE 15, 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.

### **2022-23 MMLA Membership Applications and Dues**

Watch the MMLA website and Listserv for an upcoming announcement about emailing of applications through Survey Monkey for the MMLA membership year that begins July 1, 2022 and ends June 30, 2023. **All applications must be made electronically this year.** We will be implementing a membership software package during the upcoming year (Wild Apricot) and having updated membership records in an electronic form will ensure an accurate and efficient transition.

As announced at the June 8, 2022 Annual Business Meeting, the 2022-2023 dues structure includes a **new pilot program providing organizational rates** for law firms, municipalities, non-municipal government agencies, and other private organizations of certain sizes (as an alternative to the individual membership rate). This means that, to join or renew this year, applications can be submitted and dues paid **either** for an (1) individual or (2) organization on behalf of all current or new eligible members. An organization's listed eligible members will not need to apply separately or pay at the individual rate. A copy of the 2022-23 dues structure is available [here](#).

Survey Monkey will once again be used to submit applications online. In addition, an organizational membership spreadsheet will be available for use of organizations applying on behalf of all current or new members and paying a flat rate for those members.

You will receive more specific information about applying by Survey Monkey or organizational spreadsheet with the application email. If you have questions or need assistance, please contact Kathleen Colleary at [kcolleary@msn.com](mailto:kcolleary@msn.com).

## **Upcoming Programs and Events:**

- **July Executive Board Meeting: Thursday, July 14, 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](mailto:jlampke@massmunilaw.org)).
- **Save the Date:** The August Half-Day Luncheon and Seminar is back this year! This annual event is returning to the Publick House in Sturbridge on **Thursday, August 11, 2022**, beginning at 11:30 a.m. Chaired once again by Mark G. Cerel, Franklin and Medway Town Counsel, this year's program will focus on municipal shared services, such as intermunicipal agreements, regionalization, and mutual aid. Panelists for the program include Kathleen Colleary (retired Department of Revenue), Donna Brewer (Miyares and Harrington, LLP), Cheryl Sbarra (Massachusetts Association of Health Boards); Jack Collins (Collins & Associates) and Steve Torres (West Group Law PLLC). Further details and registration information will be announced soon.

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

- *[City of Lawrence v. Lei](#)* (Massachusetts Appeals Court, Docket No. 21-P-477, Rule 23.0 Decision, June 14, 2022) – This appeal concerned Housing Court orders approving a receiver's sale of the plaintiff's residential property and extending the receivership. The receiver was appointed under M.G.L. c. 111, § 127I based on violations of the State Sanitary Code. The Appeals Court rejected the plaintiff's arguments that the sale constituted an unconstitutional taking and that he did not receive service of the motion to extend the receivership.
- *[Schmitt v. Director of Board of Health of Montague](#)* (Massachusetts Appeals Court, Docket No. 21-P-842, Rule 23.0 Decision, June 14, 2022) – This appeal concerned a Superior Court's decision to dismiss the plaintiff's negligence and declaratory judgment claims. It arose out of inspections of the plaintiff's apartment related to the State Sanitary Code. In particular, the Appeals Court agreed that Section 10(f) of the Tort Claims Act provided an immunity against the plaintiff's claims involving the alleged negligent inspection of his apartment by employees of a town's board of health. In addition, the Appeals Court determined that the plaintiff failed to state a claim for declaratory judgment because he failed to exhaust his administrative remedies to obtain the enforcement action to which he claimed entitlement.
- *[Miller v. City of Worcester](#)* (Massachusetts Appeals Court, Docket No. 21-P-0907, Rule 23.0 Decision, June 13, 2022) - The Appeals Court affirmed the Superior Court's decision to dismiss a taxpayers' lawsuit challenging construction of new school facilities on municipal property. In particular, the Appeals Court determined that an equity decree from the Supreme Judicial Court barred the plaintiffs' claims as a matter of claim preclusion and that the plaintiffs lacked standing.

- [\*Furtado v. Town of Falmouth\*](#) (Massachusetts Appeals Court, Docket No. 21-P-0078, Rule 23.0 Decision, June 8, 2022) – The Appeals Court affirmed the Superior Court's decision that an amended complaint failed to state any claim against a police officer because it failed to show or explain how the officer violated any legal duty owed to the plaintiff or was responsible for any violation committed by any other defendant. The Appeals Court also agreed that the plaintiff's amended complaint was untimely.
- [\*Pinecroft Development, Inc. v. Zoning Board of Appeals of West Boylston\*](#) (Massachusetts Appeals Court, Docket No. 21-P-523, June 3, 2022) – This appeal dealt with the rules governing split lots. Applying those rules, the Appeals Court concluded that the relevant dimensions of the applicant's project were measured in relation to the boundaries of the entire lot, not merely the boundaries of the portion that allowed four-unit dwellings. As a result, the proposed project met the minimum lot area requirement.
- [\*Tracer Lane II Realty v. City of Waltham\*](#) (Supreme Judicial Court, Docket No. SJC-13195, June 2, 2022) – This appeal concerned the 9th paragraph of Section 3 of the Zoning Act, which shields solar energy systems from local regulation except to the extent necessary to protect the public health, safety, or welfare. The SJC determined that an access road was part of the proposed solar energy system because it would assist with the system's construction, maintenance, and connection to the electrical grid. As a result, the Zoning Act's protection for solar energy systems applied to the access road. The SJC recognized that the statutory protection provided municipalities with greater flexibility for regulating solar energy systems as compared to the use of land for education, religion, and child care. However, the municipal zoning code unduly restricted solar energy systems. In that regard, the SJC noted that, even if solar energy systems were permitted under the municipal zoning code, large-scale systems such as the applicant's proposed project were restricted to only 1% to 2% of the municipality's total land area. As a result, this limited available area violated the statutory protection for solar energy systems absent a reasonable basis grounded in public health, safety, or welfare.

***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](mailto:massmadmin@massmunilaw.org).***

### **Other News and Reminders:**

- At the MMLA's June 8, 2022 Annual Business Meeting:
  - Attendees received a copy of the 2021-22 Officer and Committee Reports, which is available [here](#).

- The MMLA membership unanimously voted to approve revisions to the MMLA Bylaws, which take effect on July 1, 2022. A copy of the revised MMLA Bylaws is available [here](#).
- The MMLA membership unanimously voted to approve the officers and directors for the July 1, 2022-June 30, 2023 term: Matthew G. Feher (President); Karis L. North (Vice-President); James B. Lampke (Executive Director/Secretary-Treasurer); Brandon H. Moss (Immediate Past President); Ellen Callahan Doucette (Past President); Christopher L. Brown (Director); Ivria Glass Fried (Director); Christine M. Griffin (Director); Donna MacNicol (Director); Susan C. Murphy (Director); Brian C. O'Donnell (Director); David Shapiro (Director); and Shawn A. Williams (Director).
- Quincy City Solicitor James Timmins was appointed as Chair of the Amicus Committee effective June 7, 2022. The MMLA extends its appreciation to Falmouth Town Counsel Maura O'Keefe for her hard work and efforts as Amicus Committee Chair.
- The MMLA has new employment opportunities posted on its website for:
  - [Town of Milford, Town Counsel](#)
  - [City of Worcester, Assistant City Solicitor I, Assistant City Solicitor III, and Assistant City Solicitor Head Litigator \(Three Positions\)](#)

***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](mailto: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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