



Massachusetts Municipal Lawyers Association

MMLA MUNICIPAL MINUTE

VOLUME I, ISSUE 20 – DECEMBER 14, 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.

**SEASONS GREETINGS, HAPPY
HOLIDAYS, AND HAVE A GREAT NEW
YEAR!**

(PUBLICATION WILL RESUME IN JANUARY 2023)

Upcoming Programs and Events:

- The MMLA is recruiting members to help staff the MMLA’s booth at the upcoming Massachusetts Municipal Association Annual Meeting and Trade Show (**January 20-21, 2023**). This is a great opportunity to network with colleagues and municipal officials. If interested, please email MMLA President Matthew Feher (mfeher@k-plaw.com) with the day(s) and time(s) you are available.
- **Save the Date for Upcoming Programs:**
 - **Massachusetts Municipal Association Annual Conference**, January 20-21, 2023 at the Hynes Convention Center in Boston (MMLA members to present a Municipal Law Update) – Further details can be found on the MMA’s website at <https://www.mma.org/annual-meeting/>.
 - **A two-part “Labor Basics” program** in February (virtual program) and April (in-person). Dates, registration information and further program details will be coming soon.

- **MCLE Municipal Law 2023 Annual Conference** – March 22, 2023
(registration information and further details coming soon on the MCLE website, <http://www.mcle.org>).
- **Executive Board Meetings**: MMLA members are welcome to attend monthly Executive Board meetings, typically held on the second **Thursday** of each month. To attend an Executive Board meeting, please contact MMLA Executive Director/Secretary-Treasurer Jim Lampke (jlampke@massmunilaw.org).

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

- **PLH, LLC v. Town of Ware** (Appeals Court, December 8, 2022; Rule 23.0 Decision):
“The plaintiff, PLH, LLC (PLH), appeals from the Land Court's grant of summary judgment in favor of the defendant, the town of Ware (town). PLH sought to invalidate the town's bylaw requiring a special permit for large ground-mounted solar energy facilities in certain zoning districts. On appeal, PLH claims summary judgment was improper because the special permit requirement violates G. L. c. 40A, § 3, 9th par., the statute that bars municipalities from unreasonably regulating solar installations. We affirm

...

Ware's solar bylaw is far less stringent. Nothing suggests the town has used the special permit requirement to prohibit solar installations or as a pretext for mere preferences regarding land use. See Prime v. Zoning Bd. of Appeals of Norwell, 42 Mass. App. Ct. 796, 803 (1997) (special permit may not be applied to prohibit protected use or impose board's preferences). PLH asserts that the special permit requirement adds unnecessary cost and delay to the approval process. "Excessive cost of compliance with a requirement . . . without significant gain in terms of municipal concerns, might . . . qualify as unreasonable regulation." Rogers, 432 Mass. at 383. Here, the town conceded at oral argument that the special permit prolongs the approval process. However, the planning board reviews both site plans and special permit applications, and applicants can file for both at the same time. The site plan review process already involves the submission of extensive planning documents and the participation of several municipal departments. See Ware Solar Bylaw, §§ 7.4.3-7.4.4. In this context, the additional burden of the special permit application is reasonable considering the municipal interests it serves. The special permit requirement therefore does not violate G. L. c. 40A, § 3, ninth par., and the judge properly granted summary judgment for the town.”

The Municipal Minute welcomes your submissions, such as client advisories/alerts, notable decisions, promotions, achievements, and other content. To submit, please send an email to massadmin@massmunilaw.org.

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

- Amendments to the State Sanitary Code were approved by the Public Health Council on October 12, 2022. These regulations take effect in **April 2023**. The amendments are available [here](#).

* * *

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](#).

Please do not reply to this email as it is sent from an unmonitored email account.

The information provided in this newsletter does not, and is not intended to, constitute legal advice. All information, content, and materials available in this newsletter is for general informational purposes only. Information in this newsletter may not constitute the most up-to-date legal or other information.

This newsletter may contain links to various third-party websites, which are only for the convenience of the reader. The MMLA does not recommend or endorse the contents of any third-party party websites. The content of this newsletter is provided “as is” and no representations are made that the content is error-free. All liability with respect to actions taken or not taken based on the contents of this newsletter are hereby expressly disclaimed.

If necessary, readers of this newsletter should contact their attorney to obtain advice with respect to any particular legal matter. No reader of this newsletter should act or refrain from acting on the basis of information contained in or referenced by this newsletter without first seeking legal advice from counsel. Access to this newsletter does not create an attorney-client relationship between the reader and the newsletter’s authors, contributors, or contributing law firms and their respective employers.