



LEGAL UPDATE

APPLICANT FOR LTC WAS NOT UNSUITABLE BASED ON BEHAVIOR OF HUSBAND

Guinane v. Chief of Police of Manchester-By-The-Sea, Mass. App. Ct. (Jan. 9, 2026).

RELEVANT FACTS

In May 2022, Barbara Guinane's husband was charged with vandalizing their neighbor's property. The neighbor obtained a harassment prevention order ("HPO") against the husband pursuant to M.G.L. c. 258E. After this incident, the husband's license to carry firearms ("LTC") was suspended by the Chief of Police.

The husband was then involved in a verbal altercation with another neighbor and was charged with threats to commit a crime (to wit: kill) and assault with intent to intimidate based on the victim's race, religion, color and/or disability. This neighbor also obtained an HPO against the husband. As of October, the criminal charges were still pending and the HPOs were active.

In October 2022, Barbara Guinane applied for an LTC. The Chief had concerns that Guinane's husband, an unsuitable and prohibited person who lived with Guinane, would have access to firearms if the LTC was granted to his wife. For this reason, the Chief denied the application finding that Guinane was unsuitable. The finding of unsuitability was based solely on the concerns related to her husband.

Guinane appealed the denial to the Superior Court, which was denied. She then appealed to the Appeals Court.

DISCUSSION

Under M.G.L. c. 140, § 121F, a licensing authority shall deny an application if the applicant is a prohibited person under M.G.L. c. 140, § 121F(j)), or if they are determined to be unsuitable under M.G.L. c. 140, § 121F(k). Pursuant to the language of subsection (k),

For specific guidance on the application of this case or any law, please consult your supervisor or your department's legal advisor.

A determination of unsuitability shall be based on reliable, articulable and credible information that the applicant has exhibited or engaged in behavior that suggests that, if issued a permit, card or license, the applicant may create a risk to public safety or a risk of danger to themselves or others.

The statute requires the licensing authority to issue the license or FID card if it appears the applicant is neither a prohibited person nor unsuitable.

At the hearing, Guinane testified that she had taken a gun safety course and "had obtained a biometric gun safe and a biometric trigger lock, operable only with her fingerprints, so that 'nobody else can use it.'" Pictures of the safe and the lock were introduced at the hearing. She also testified that she was aware of her husband's pending charges and that he did not have an LTC. She was also aware that an LTC holder "would not be giving a gun to someone that did not have a license."

Guinane also testified that she operated a nail salon out of her home and that she was sometimes paid in cash. She also was responsible for her elderly mother and niece who both lived in the home.

Pre-2022, the language of "unsuitability" was broader. However, since the language was amended in 2022, the focus has been narrowed to the behavior of the applicant. In this case, there was no evidence presented that the applicant, Guinane, posed a safety risk to herself or others. Nor was there evidence that she intended to or might be forced to make firearms available to unlicensed individuals, including her husband. The statute does not allow an application to be denied based on speculation.

An application for an LTC shortly after a family member's LTC was suspended (or application was denied) might be considered some evidence that the applicant had "exhibited or engaged in behavior that suggests that, if issued a license, the applicant or licensee may create" a safety risk by making firearms available to the unlicensed family member. But here it did not amount to the requisite "reliable, articulable and credible information" suggesting any appreciable risk that Guinane might do so and was therefore unsuitable.

The Appeals court concluded that the Chief had no reasonable grounds to deny the application.

Although the chief was understandably concerned about public safety, there was no reliable information about behavior by the applicant suggesting that, if issued a license, she would create a risk to public safety or a risk of danger to herself or others. (Emphasis in original.)

The Chief was ordered to grant Guinane's application.

¹ An Act Modernizing Firearm Laws went into effect in October 2024. The Act made significant changes to M.G.L. c. 140; however, none of those changes impact the court's analysis in this case. All statutory references in this summary refer to the current firearm laws.