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SJC-13840

TOWN OF MARSHFIELD & another¹ vs. COMMONWEALTH & another.²

Plymouth. March 4, 2026. – September 18, 2026.

Present: Budd, C.J., Gaziano, Kafker, Wendlandt, Georges, Dewar, & Wolohojian, JJ.

Housing and Livable Communities. Housing. Massachusetts Bay Transportation Authority. Municipal Corporations, Expenditure of money, Standing to assert constitutional right, Home rule, By-laws and ordinances, Town meeting. Regulation. Zoning, By-law. Constitutional Law, Standing. Practice, Civil, Standing, Declaratory proceeding, Injunctive relief, Waiver, Motion to dismiss. Waiver.

Civil action commenced in the Superior Court Department on February 27, 2025.

A motion to dismiss was heard by Mark C. Gildea, J.

The Supreme Judicial Court granted an application for direct appellate review.

Robert W. Galvin (David A. Henig also present) for the plaintiffs.

¹ Select board of Marshfield.

² Executive Office of Housing and Livable Communities.

H. Esme Caramello, Assistant Attorney General (Jamie D. Hoag, Assistant Attorney General, also present) for the defendants.

The following submitted briefs for amici curiae:

Thomas R. Kiley & Carl Valvo for One Commonwealth, Inc.

Sammy S. Nabulsi & Sarajane Levien for Abundant Housing MA, Inc., & others.

Jacob M. Love, Karla L. Chaffee, & Jillian Lenson for Citizens' Housing and Planning Association & others.

Anne Brensley, of the District of Columbia, & Michael Walsh for Anne Brensley.

Michael Walsh for Diana Viens.

GEORGES, J. The town of Marshfield (town or Marshfield) and its select board (board) sought declaratory and injunctive relief against the Commonwealth and the Executive Office of Housing and Livable Communities (HLC), claiming that Marshfield is exempt from the Massachusetts Bay Transportation Authority Communities Act, G. L. c. 40A, § 3A (MBTA Act or act). The MBTA Act was enacted in 2021 to address the Commonwealth's housing crisis. It requires municipalities served by the Massachusetts Bay Transportation Authority (MBTA) to have a zoning bylaw or ordinance that permits multifamily housing as of right in at least one reasonably sized district. Marshfield tried twice to adopt zoning amendments that would comply with the act. Each time, town meeting voters rejected the proposal. The board then voted not to submit an interim action plan or take further steps towards compliance.

Marshfield and the board commenced an action in the Superior Court, challenging the MBTA Act and its regulations on

several grounds. A Superior Court judge (motion judge) allowed the defendants' motion to dismiss the complaint, and the plaintiffs appealed. The plaintiffs argue that the MBTA Act is an unfunded local mandate, in violation of G. L. c. 29, § 27C (§ 27C); that it violates the voting rights of Marshfield's town meeting voters under the Massachusetts Declaration of Rights; that it violates the Home Rule Amendment; and that it conflicts with the Zoning Act, G. L. c. 40A, § 5.

We affirm the judgment dismissing the plaintiffs' complaint. The complaint does not plausibly allege that the MBTA Act or its regulations imposed on Marshfield an unfunded local mandate within the meaning of § 27C. The complaint alleges Marshfield incurred costs from evaluating and preparing proposed zoning amendments, and presenting those proposals at town meetings, but it does not allege facts that suggest those costs were involuntarily incurred and exceeded incidental local administration expenses. Its allegation of future direct costs is likewise too conclusory and speculative to state a claim. We further conclude that Marshfield and the board lack standing to assert a constitutional voting rights claim on behalf of Marshfield's town meeting voters. We reach the plaintiffs' waived Home Rule Amendment claim because of its public importance and conclude that the MBTA Act is a valid general

law. Finally, the MBTA Act does not conflict with the Zoning Act, G. L. c. 40A, § 5.³

Background. 1. Statutory and regulatory framework. We first summarize the relevant provisions of the MBTA Act and HLC's regulations to frame the issues on appeal.

In 2021, the Legislature enacted the MBTA Act. See G. L. c. 40A, § 3A, inserted by St. 2020, c. 358, § 18 (effective Jan. 14, 2021). The act was designed to address the Commonwealth's housing crisis. It requires certain communities served by the MBTA (MBTA communities) to have "a zoning ordinance or by-law that provides for at least [one] district of reasonable size in which multi-family housing is permitted as of right." G. L. c. 40A, § 3A (a). A noncompliant MBTA community is ineligible for certain grant funding from programs such as the Housing

³ We acknowledge the amicus briefs submitted in support of the defendants by One Commonwealth, Inc.; Abundant Housing MA, Inc., Dr. Chris Herbert, and Professor John Infranca; Citizens' Housing and Planning Association, the Metropolitan Area Planning Council, Central Massachusetts Housing Alliance, Massachusetts Association of Community Development Corporations, the Massachusetts Housing Finance Agency, Community Economic Development Assistance Corporation, Massachusetts Housing Partnership Fund Board, the Black Economic Council of Massachusetts, the Home Builders and Remodelers Association of Massachusetts, Inc., the Boston Foundation, NAIOP Massachusetts, Jewish Alliance for Law and Social Action, Harbor Light Homes, the Greater Boston Real Estate Board, the Massachusetts Association of Realtors, the Planning Office for Urban Affairs, Capstone Communities LLC, and Building a Better Wellesley; Anne Brensley; and Diana Viens.

Choice Initiative, the Local Capital Projects Fund, the MassWorks infrastructure program, and the HousingWorks infrastructure program. G. L. c. 40A, § 3A (b).⁴

HLC is responsible for issuing standards to determine compliance with the MBTA Act.⁵ G. L. c. 40A, § 3A (c). HLC issued compliance guidelines on August 17, 2023. As relevant here, those guidelines set December 31, 2024, as the deadline for certain MBTA communities, such as Marshfield, to request a determination from HLC that its zoning complied with the act. On January 8, 2025, we determined that the guidelines were invalid because HLC had not complied with the Administrative Procedure Act. See Attorney Gen. v. Milton, 495 Mass. 183, 196 & n.22 (2025) (Milton). See also G. L. c. 30A, §§ 3, 5.

⁴ "MBTA community" is defined to include Marshfield. See G. L. c. 40A, § 1A (including "other served communities as defined in [G. L. c. 161A, § 1,]" within definition of "MBTA community"); G. L. c. 161A, § 1 (listing Marshfield among "[o]ther served communities"). "Multi-family housing" is defined as "a building with [three] or more residential dwelling units or [two] or more buildings on the same lot with more than [one] residential dwelling unit in each building." G. L. c. 40A, § 1A. Lastly, "[a]s of right" is defined as "development that may proceed under a zoning ordinance or by-law without the need for a special permit, variance, zoning amendment, waiver or other discretionary zoning approval." Id.

⁵ HLC's predecessor, the Department of Housing and Community Development, was initially charged with promulgating guidelines. See St. 2021, c. 29, § 10. As of May 2023, HLC took charge of implementing the MBTA Act. See St. 2023, c. 7, § 153.

After Milton, HLC promulgated emergency guidelines setting forth revised procedures.⁶ See 760 Code Mass. Regs. §§ 72.00 (Jan. 31, 2025) (effective Jan. 14, 2025). These revised guidelines gave noncompliant MBTA communities until July 14, 2025, to request HLC's written determination of compliance. See 760 Code Mass. Regs. § 72.09 (Jan. 31, 2025). Additionally, to achieve interim compliance, each noncompliant municipality was required to submit an interim action plan by February 13, 2025, explaining how it intended to achieve compliance by the July 2025 deadline. See id. (interim action plan must provide information about, among other things, municipality's timeline to create compliant zoning district).

2. Facts. We recite the facts asserted in the complaint, accepting them as true for purposes of reviewing the dismissal. See Edwards v. Commonwealth, 477 Mass. 254, 255 (2017), S.C., 488 Mass. 555 (2021).⁷

⁶ On April 11, 2025, after Marshfield filed suit, HLC promulgated its final guidelines. See 760 Code Mass. Regs. §§ 72.00 (Apr. 11, 2025). The provisions of the emergency guidelines that we cite are, in relevant part, not different from the finalized guidelines.

⁷ Because the judge declined to convert the motion to dismiss into a motion for summary judgment, we do not consider the affidavits submitted by the plaintiffs with their briefing as part of the record. See Coghlin Elec. Contrs., Inc. v. Gilbane Bldg. Co., 472 Mass. 549, 552 n.5 (2015).

On April 22 and December 16, 2024, Marshfield held special town meetings to consider zoning amendments intended to bring the town into compliance with the MBTA Act.⁸ Both proposals failed. On February 10, 2025, the board unanimously voted not to approve an interim action plan. On February 19, 2025, HLC notified Marshfield that the town was not in compliance and therefore risked losing State grant funding.

Before the board met to discuss HLC's February 19 letter, the division of local mandates (DLM), a division of the State Auditor's office, see G. L. c. 11, § 6, issued on February 21, 2025, letters to the city of Methuen and towns of Middleborough and Wrentham.⁹ DLM concluded that the MBTA Act constituted an unfunded local mandate under § 27C because it imposed more than incidental local administration expenses on municipalities. In part, DLM relied on the fact that the Commonwealth had awarded some MBTA communities "technical assistance" grant funding for the "very purpose of developing zoning compliant with the [MBTA]

⁸ To amend its zoning bylaws, and thereby comply with the MBTA Act, Marshfield was procedurally required to, among other things, hold a public hearing on the proposed revision. See G. L. c. 40A, § 5, second par. At this public hearing, a majority vote of Marshfield voters would be needed to adopt the bylaw. See G. L. c. 40A, § 5, fifth par.

⁹ Because the plaintiffs incorporated the DLM letters by reference in their complaint, we may consider them in reviewing the motion to dismiss. See Edwards, 477 Mass. at 257 n.5.

Act." See Executive Office of Housing and Livable Communities, 3A Technical Assistance Awards & Resources, <https://www.mass.gov/info-details/3a-technical-assistance-awards-resources> [<https://perma.cc/Q2EZ-NZTL>] (listing applicants receiving grants for "planning and zoning projects related to compliance with [G. L. c. 40A, § 3A]").

After receiving the HLC letter and considering DLM's determination, the board voted to seek judicial relief from the MBTA Act's zoning requirement.

3. Procedural history. Marshfield and the board filed their complaint against the Commonwealth and HLC on February 27, 2025. They asserted that the MBTA Act and HLC's regulations violated § 27C and G. L. c. 40A, § 5, and sought declaratory and injunctive relief. The Commonwealth and HLC moved to dismiss all counts for lack of subject matter jurisdiction and failure to state a claim. See Mass. R. Civ. P. 12 (b) (1) and 12 (b) (6), 365 Mass. 754 (1974). After a hearing, the motion judge allowed the motion to dismiss. As relevant here, the motion judge concluded that Marshfield had failed to plead facts plausibly showing that the MBTA Act imposed an unfunded local mandate. Additionally, the motion judge ruled that the act did not unlawfully interfere with the town's authority to develop and enforce zoning bylaws.

The plaintiffs appealed, and we allowed their application for direct appellate review.

Discussion. 1. Standard of review. We review the allowance of a motion to dismiss de novo, accepting the well-pleaded factual allegations in the complaint as true and drawing all reasonable inferences in the plaintiff's favor. Cannata v. Mashpee, 496 Mass. 188, 191 (2025). We do not, however, accept legal conclusions, even if framed as factual allegations. See Cubberley v. Commerce Ins. Co., 495 Mass. 289, 292-293 (2025). To survive a motion to dismiss, the claimant must allege facts that plausibly suggest "an entitlement to relief above the speculative level." Hornibrook v. Richard, 488 Mass. 74, 78 (2021), citing Iannacchino v. Ford Motor Co., 451 Mass. 623, 636 (2008).

The plaintiffs challenge the validity of the MBTA Act on several grounds. First, they argue that the MBTA Act is an unfunded local mandate under § 27C and that Marshfield is exempt from compliance until the Commonwealth supplies the funding necessary to comply. Second, they argue that the MBTA Act's zoning requirement infringes on the constitutional voting rights of town meeting voters. Finally, they argue that the zoning requirement also violates the town's zoning authority under the Home Rule Amendment and G. L. c. 40A, § 5. We address the unfunded mandate claim first.

2. Unfunded local mandate claims. A State law constitutes a local mandate, subject to the funding requirements of G. L. c. 29, § 27C (a), if it (1) takes effect after 1980, (2) changes existing law, and (3) imposes "any direct service or cost obligation" on the municipality above "incidental local administration expenses" (emphasis added). G. L. c. 29, § 27C (a).¹⁰ See Lexington v. Commissioner of Educ., 393 Mass. 693, 697 (1985) (challenged law must change existing law to constitute local mandate). This same analysis applies to State regulations. See Norfolk v. Department of Env'tl. Quality Eng'g, 407 Mass. 233, 239-240 (1990) (despite difference in statutory language, construing § 27C [c] to have same scope as § 27C [a]).

Although § 27C does not define "direct service or cost obligation" or "incidental local administration expenses," G. L. c. 29, § 27C (a), our cases clarify that the obligation must be

¹⁰ As relevant here, where a law or regulation imposes a direct service or cost obligation on a municipality, and the Commonwealth has not appropriated the necessary funds to reimburse such municipality, the municipality may be exempted from that law or regulation by a Superior Court order, until the Commonwealth reimburses it the amount of the deficiency. See G. L. c. 29, § 27C (e). We briefly note that a State law also falls outside the ambit of § 27C if the municipality accepts the law either "by vote or by the appropriation of money" for purposes of that law. G. L. c. 29, § 27C (a). Here, although the complaint is silent on whether Marshfield has accepted the MBTA Act, we assume it has not. Cf. Lexington v. Commissioner of Educ., 393 Mass. 693, 698 n.7 (1985) (parties stipulated to this fact).

"mandatory," meaning that "the municipality has no choice but to comply and to pay the costs," Norfolk, 407 Mass. at 239. Costs that result from a municipality's voluntary choices about how to comply are not "direct service or cost obligation[s]" within the meaning of the statute. Id. at 240, quoting G. L. c. 29, § 27C (a). Additionally, we have described "incidental local administration expenses" as "relatively minor expenses related to the management of municipal services" that are "subordinate consequences of a municipality's fulfilment of primary obligations." Worcester v. Governor, 416 Mass. 751, 758 (1994).

Marshfield's § 27C claim rested on two categories of municipal expense. The first consisted of costs incurred in evaluating and preparing proposed zoning amendments, and presenting those amendments at a town meeting. The second consisted of anticipated future costs that Marshfield attributed to the act and HLC's emergency regulations. The complaint also incorporated DLM's February 21, 2025, determination letters, in which DLM concluded that the MBTA Act is an unfunded local mandate.

The defendants argue that Marshfield's incurred costs are incidental local administration expenses and that, to the extent Marshfield incurred additional expense by pursuing a more tailored or complicated path to compliance, those costs were voluntarily assumed rather than imposed by the act. The

defendants also argue that Marshfield's allegations of future costs are too indirect and speculative to state a claim under § 27C.

The plaintiffs first specify their allegedly incurred costs in paragraph fifty-one of the complaint. There, Marshfield alleged that it incurred "costs and expenses in evaluating and drafting proposed zoning bylaws and presenting them to [t]own [m]eetings that have not been paid by the Commonwealth and/or HLC." We accept those allegations as true. The plaintiffs concede that the costs of presenting a proposal through the local legislative process, including, for example, the costs of conducting the town meeting itself, are incidental local administration costs under § 27C. See G. L. c. 40A, § 5 (zoning bylaws must be adopted or changed "only in the manner hereinafter provided"). As to the remaining activities, the complaint alleges only that Marshfield incurred costs to evaluate and draft compliant zoning bylaws. It does not describe the nature, amount, or necessity of those costs in a way that plausibly suggests they were unavoidable expenditures required by the MBTA Act, rather than incidental local administration expenses or costs Marshfield chose to incur in pursuing its preferred path to compliance. See Worcester, 416 Mass. at 758 ("relatively minor expenses related to the management of municipal services" excluded from § 27C); Norfolk,

407 Mass. at 239 (cost must be mandatory to fall within scope of § 27C). Marshfield did not need to plead every invoice or line item, but it did need to allege enough factual content to distinguish its costs from those § 27C excludes, i.e., voluntarily assumed expenses and incidental local administration costs. Cf. Spokane v. Monsanto Co., 237 F. Supp. 3d 1086, 1094-1095 (E.D. Wash. 2017) (dismissing counterclaims where party merely alleged incurring response costs and failed to plead sufficient facts to suggest that such costs were "necessary," which was element of claim). Paragraph fifty-one does not do so.

Paragraph fifty-two adds that Marshfield "expect[s] to incur additional costs as the direct result" of the MBTA Act and HLC's regulations. That allegation is also deficient. Describing future costs as "direct" states a legal conclusion, not a well-pleaded fact. See Curtis v. Herb Chambers I-95, Inc., 458 Mass. 674, 676 (2011) ("we look beyond the conclusory allegations in the complaint"). The complaint does not identify the future costs or include facts showing how the act itself will impose them rather than the town voluntarily assuming them because of local policy choices or other reasons. If the alleged future costs concern another effort to amend the zoning bylaw, the complaint does not allege facts suggesting that those costs would differ in character from the alleged costs already

incurred. If instead the costs concern future municipal services associated with later housing development, the alleged costs are indirect and speculative. See Kennedy v. Commonwealth, 92 Mass. App. Ct. 644, 651 (2018) (alleged future costs to support school were indirect and speculative).

The DLM letters do not supply the facts missing from the complaint. The letters were issued in response to requests from Methuen, Middleborough, and Wrentham, not Marshfield. DLM did not identify any municipality-specific mandatory costs, much less any costs imposed on Marshfield. The letters may support the general proposition that some municipalities incurred expenses in connection with MBTA Act compliance, but they do not show that Marshfield incurred costs outside § 27C's exclusion for incidental local administration expenses and voluntarily incurred expenses.

Nor would DLM's conclusion that the MBTA Act constitutes an unfunded local mandate bind this court. See Norfolk, 407 Mass. at 237-241 (ruling that challenged regulation was not unfunded local mandate despite contrary DLM determination). DLM itself acknowledged that its interpretation was "subject to . . . judicial determination." The ultimate legal question whether factual allegations establish an unfunded mandate under § 27C is one for the court. See Worcester, 416 Mass. at 754, 762 (whether challenged law or regulation constitutes unfunded local

mandate is "question[] of law for this court to resolve"). Accordingly, DLM's determination cannot remediate the inadequacy of the plaintiffs' factual pleadings. See Leavitt v. Brockton Hosp., Inc., 454 Mass. 37, 39 n.6 (2009) (courts disregard "legal conclusions cast in the form of factual allegations").

Lastly, the grant-related facts referenced in DLM's letters do not alter the analysis. The "[t]echnical [a]ssistance" grants provided funding for "planning and zoning projects related to compliance with [G. L. c. 40A, § 3A]." Executive Office of Housing and Livable Communities, 3A Technical Assistance Awards & Resources, <https://www.mass.gov/info-details/3a-technical-assistance-awards-resources> [<https://perma.cc/7RXT-ET5V>]. One listed award, for example, provided more than \$30,000 to help a municipality "implement zoning changes as a result of the new [MBTA Act]." Id. The project descriptions for those grants show that some municipalities received assistance for work connected to MBTA Act compliance. They do not show whether those costs were mandatory expenditures imposed by the act rather than costs attributable to local choices about how to pursue compliance. See Norfolk, 407 Mass. at 238-239 (costs that are voluntarily incurred are outside scope of § 27C). Nor do they show what costs Marshfield itself incurred or whether Marshfield's costs were comparable to those incurred by municipalities awarded grants. The grant-related

facts therefore do not supply the missing factual allegations needed to adequately allege a § 27C claim.

On this complaint, the plaintiffs fail to state an unfunded local mandate claim under § 27C. They do not adequately allege costs outside the statute's exclusion for incidental local administration expenses, or facts showing that the alleged costs were mandatory expenditures imposed by the MBTA Act. We therefore need not decide whether costs associated with MBTA Act compliance are categorically excluded from § 27C. See Bonan v. Boston, 398 Mass. 315, 323 (1986) (declining to address lawfulness of challenged provision in zoning code where insufficient facts were alleged, because "there may be material facts not before us that bear on the [issue]").

3. Constitutional voting rights claim. The plaintiffs also argue that the MBTA Act's zoning requirement infringes on the constitutional voting rights of the town meeting voters. The complaint did not include a free-standing constitutional voting rights claim. The parties dispute whether the plaintiffs preserved the argument by raising it at the motion hearing and in a later Superior Court filing. We need not decide whether these efforts preserved the argument, or whether Marshfield should have sought leave to amend the complaint, because neither Marshfield nor the board has standing to assert a claim based on

the purported constitutional voting rights of Marshfield's town meeting voters.

Marshfield is a political subdivision of the Commonwealth and therefore may not challenge the constitutionality of State laws, aside from exceptions not applicable to this voting rights claim. See Dartmouth v. Greater New Bedford Regional Vocational Tech. High Sch. Dist., 461 Mass. 366, 379-381 (2012) (general prohibition against political subdivision raising constitutional claims challenging State statute or act); Spence v. Boston Edison Co., 390 Mass. 604, 610 (1983) (State agency's constitutional claims were "barred by the long-standing and far-reaching prohibition on constitutional challenges by governmental entities to acts of their creator State"). "The decisional law rests on the proposition that constitutional protections belong to 'persons' . . . who are generally considered independent of the Commonwealth" (citation omitted). Dartmouth, supra at 380. Cf. Slama v. Attorney Gen., 384 Mass. 620, 623 (1981) (city lacked standing where it had "no right to vote" [citation omitted]). The board members fare no better. Because they sue only in their official capacities and allege no injury personal to themselves, the board members likewise lack standing. See Assessors of Haverhill v. New England Tel. & Tel. Co., 332 Mass. 357, 362 (1955) (public officers generally cannot challenge constitutionality of statute). See also Gardner v.

Massachusetts Turnpike Auth., 347 Mass. 552, 559 (1964)

(declining to determine whether private rights of public officers were "so involved as to permit them to raise constitutional issues").

4. Zoning authority claims. The plaintiffs argue that the MBTA Act unlawfully intrudes on Marshfield's municipal authority granted by the Home Rule Amendment¹¹ and the Zoning Act, G. L. c. 40A, § 5. Put differently, they contend both that the act violates the Home Rule Amendment and that it conflicts with the Zoning Act. We address each argument in turn.

a. Home Rule Amendment claim. The plaintiffs contend that the MBTA Act violates the Home Rule Amendment by depriving

¹¹ Article 89 of the Amendments to the Massachusetts Constitution, known as the Home Rule Amendment, expanded local municipalities' power to self-govern. See West St. Assocs. LLC v. Planning Bd. of Mansfield, 488 Mass. 319, 321-322 (2021). The purpose of the Home Rule Amendment is to "grant and confirm to the people of every city and town the right of self-government in local matters, subject to the provisions of this article and to such standards and requirements as the general court may establish by law in accordance with the provisions of this article." Art. 89, § 1, of the Amendments to the Massachusetts Constitution. To that end, the Home Rule Amendment empowered municipalities to "exercise any power or function which the general court has power to confer upon it, which is not inconsistent with the constitution or laws enacted by the general court . . . in conformity with powers reserved to the general court by [§ 8]." Art. 89, § 6, of the Amendments to the Massachusetts Constitution. Section 8 states, in pertinent part: "The general court shall have the power to act in relation to cities and towns, but only by general laws which apply alike to all cities or to all towns, or to all cities and towns, or to a class of not fewer than two" Art. 89, § 8, of the Amendments to the Massachusetts Constitution.

municipalities of meaningful authority to adopt or amend zoning bylaws, except by approving an MBTA Act compliant bylaw. Based on the record before us, this claim is waived.¹² Nevertheless, because the issue is of public importance and the result is unchanged, we exercise our discretion to reach the merits. See Mullins v. Pine Manor College, 389 Mass. 47, 63 (1983).

Before turning to the merits, we note that a municipality may challenge a statute for purportedly violating the Home Rule Amendment. See Clean Harbors of Braintree, Inc. v. Board of Health of Braintree, 415 Mass. 876, 880-881 (1993) (municipality has standing to assert claim that statute violates Home Rule Amendment). We assume, without deciding, that the board may also do so here. See id. (same); Kennedy, 92 Mass. App. Ct. at 649-650 (same for school district).

¹² The plaintiffs allege that they raised this argument below in their reply to an amicus curiae brief and at the motion to dismiss hearing. The Home Rule Amendment is not mentioned in that reply. The plaintiffs have failed to provide a sufficient record to establish that they raised the Home Rule Amendment argument at the motion hearing. See Mass. R. A. P. 18 (b) (4), as appearing in 481 Mass. 1637 (2019) ("Depending on the issues raised on appeal . . . [f]ailure to reproduce the entire transcript may result in waiver of the issue"). Thus, it would appear on this record that the plaintiffs have raised this argument for the first time on appeal. But even if they did raise it at the hearing, the motion judge was well within his discretion not to address it. Cf. Business Interiors Floor Covering Business Trust v. Graycor Constr. Co., 494 Mass. 216, 222-223 (2024) (argument raised for first time at hearing on summary judgment motion "was not properly raised" and motion judge did not abuse discretion disregarding it).

The Home Rule Amendment preserves municipal authority over local matters, see Clean Harbors of Braintree, Inc., 415 Mass. at 881, but it does not prevent the Legislature, through a valid general law addressing a matter of Statewide concern, from imposing substantive requirements that municipalities must implement through existing local procedures, see Board of Appeals of Hanover v. Housing Appeals Comm. in the Dep't of Community Affairs, 363 Mass. 339, 360 (1973) (municipal lawmaking powers may not be used to "frustrate[] the purpose or implementation" of State laws that comply with Home Rule Amendment). See also art. 89, §§ 1, 6, 8, of the Amendments to the Massachusetts Constitution; Dartmouth, 461 Mass. at 382 ("Home Rule Amendment is to be construed narrowly").

The MBTA Act addresses the Commonwealth's housing crisis, a subject not confined to any one municipality. That subject falls squarely within the Legislature's retained authority under the Home Rule Amendment. See, e.g., Dartmouth, 461 Mass. at 382 (comprehensive overhaul of public school education is matter of general concern); Clean Harbors of Braintree, Inc., 415 Mass. at 882 (waste treatment facility was "certainly" matter of general concern, even though amended law only applied to facility in one municipality); Board of Appeals of Hanover, 363 Mass. at 359-360 ("the Home Rule Amendment has not altered the Legislature's supreme power in zoning matters"). Cf. Grace v. Brookline, 379

Mass. 43, 55-56 (1979), citing cases (our case law demonstrates that "a shortage of housing threatens the public interest"). The MBTA Act therefore does not violate the Home Rule Amendment.

b. Zoning Act claim. The plaintiffs also contend that the MBTA Act conflicts with G. L. c. 40A, § 5 (§ 5). They reason that § 5 permits Marshfield to amend its zoning bylaws only through town meetings, while the MBTA Act requires the town to have compliant zoning. In substance, the plaintiffs argue that the act "compel[s]" Marshfield's town meeting voters to "vote yes and approve the [a]ct."

There is no conflict. The MBTA Act does not displace the procedures set out in § 5 for adopting or amending local zoning bylaws. It leaves those procedures in place and imposes a substantive State law requirement that the resulting zoning must satisfy. See Milton, 495 Mass. at 189 n.15 ("it is clear that the Legislature intended to require MBTA communities to comply with the act").

Town meeting voters retain the authority to debate, amend, approve, or reject any proposal placed before them under § 5. But that authority does not include the power to exempt the town from an obligation imposed by a valid State law. Cf. Boss v. Leverett, 484 Mass. 553, 559 n.14 (2020) ("This court, on multiple occasions, has reiterated that a municipality may not enact a policy that is inconsistent with State law"). The

consequence of rejecting a compliant proposal is noncompliance with the MBTA Act, not a conflict between that act and § 5. See Peters v. Michienzi, 385 Mass. 533, 537 (1982) ("allegedly conflicting provisions of a statute should, if possible, be construed in a way that is harmonious and consistent with the legislative design").

Conclusion. For the reasons stated above, we affirm the judgment dismissing the plaintiffs' complaint.

So ordered.