

COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE OFFICE OF ENERGY & ENVIRONMENTAL AFFAIRS  
**DEPARTMENT OF ENVIRONMENTAL PROTECTION**  
ONE WINTER STREET, BOSTON, MA 02108 617-292-5500

**THE OFFICE OF APPEALS AND DISPUTE RESOLUTION**

**December 3, 2018**

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In the Matter of  
The Landing Group, Inc.

OADR Docket Nos. 2018-016 and 2018-017  
Unilateral Administrative Orders – Cease &  
Desist

Rockport, MA

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**RECOMMENDED FINAL DECISION**

In these consolidated appeals, Petitioner The Landing Group, Inc. (“TLG”) appeals two Unilateral Administrative Orders (UAOs) issued by the Massachusetts Department of Environmental Protection (“MassDEP”) in August, 2018. The Orders were issued pursuant to the Massachusetts Wetlands Protection Act (“MWPA”), M.G.L. c. 131, § 40, and the Wetlands regulations at 310 CMR 10.00 (the August 16<sup>th</sup> Wetlands UAO), and the Public Waterfront Act (“PWA”), M.G.L. c. 91, and the Waterways regulations at 310 CMR 9.00 (the August 24<sup>th</sup> Waterways UAO). The UAOs alleged violations of the MWPA and the PWA, respectively, at property owned by TLG at 175 Granite Street on Pigeon Cove in Rockport, MA.

MassDEP has moved to dismiss the appeals as moot. As the basis for its motion, MassDEP avers that it rescinded the UAOs on October 15, 2018 after a complaint was filed in Superior Court by the Commonwealth of Massachusetts against TLG and its president on

September 4, 2018 alleging the same or similar violations as those alleged in the Orders,<sup>1</sup> and after a preliminary injunction was entered by the court against TLG on September 19, 2018.<sup>2</sup> See Notices of Withdrawal of Unilateral Administrative Orders attached to MassDEP's Motion to Dismiss. The motion is unopposed.

After reviewing the motion and the record in the appeals, I recommended that the MassDEP Commissioner issue a Final Decision dismissing the appeals as moot as there remains no underlying agency action to appeal. See 310 CMR 1.01(5)(a)2; See In the Matter of Boston Redevelopment Authority, OADR Docket No. 2008-128, 2017 MA ENV LEXIS 19, 23-24, Recommended Final Decision on Remand (February 2, 2017), adopted by Final Decision on Remand (February 15, 2017); see also In the Matter of Rezendes Family Limited Partnership No. 1, Docket No. 980066, Final Decision, 1999 MA ENV LEXIS 65 (January 19, 1999).

Date: 12/3/2018



Jane A Rothchild  
Presiding Officer

### **NOTICE- RECOMMENDED FINAL DECISION**

This decision is a Recommended Final Decision of the Presiding Officer. It has been transmitted to the Commissioner for his Final Decision in this matter. This decision is therefore not a Final Decision subject to reconsideration under 310 CMR 1.01(14)(d), and may not be appealed to Superior Court pursuant to M.G.L. c. 30A. The Commissioner's Final Decision is subject to rights of reconsideration and court appeal and will contain a notice to that effect.

Because this matter has now been transmitted to the Commissioner, no party shall file a motion to renew or reargue this Recommended Final Decision or any part of it, and no party shall communicate with the Commissioner's office regarding this decision unless the Commissioner, in his sole discretion, directs otherwise.

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<sup>1</sup> Commonwealth v. The Landing Group, Inc. & another, Essex Superior Court Civil Action No. 1877CV01261.

<sup>2</sup> Memorandum of Decision and Order on Plaintiff's Motion for Preliminary Injunction, Essex Superior Court Civil Action No. 1877CV01261 (Drechsler, J.), attached to MassDEP's Motion to Dismiss.

## SERVICE LIST

IN THE MATTERS OF:

THE LANDING GROUP, INC.

Docket Nos. 2018-016 & 2018-017

Rockport

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DEPARTMENT

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Recommended Final Decision

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