



WHAT'S NEW IN MUNICIPAL LAW 2020

Alphabetical Listing of ATB and Court Decisions

Beacon Oread LP v. Assessors of Worcester, Appellate Tax Board (“ATB”) Docket Nos. F324268, F324269, F324270, F324271, F324272, F331858, F331859, F331860, F331861, F331862, F331863, F331864, F331865, May 14, 2020 - Assessors relied on the sales comparison approach to value fifteen non-contiguous parcels improved with affordable housing. However, ATB adopted the taxpayer’s income approach because the properties were linked by a common financing scheme and could not be sold separately. Decision for the taxpayer.

<https://www.mass.gov/doc/beacon-oread-lp-v-board-of-assessors-of-the-city-of-worcester-may-14-2020/download>

Boss v. Leverett, 484 Mass. 553, April 23, 2020 - Town responsible for paying 50% of retiree’s health insurance costs, including premium of dependent spouse.

<http://masscases.com/cases/sjc/484/484mass553.html>

Brice Estates, Inc. v. Rutland, MISC 19-000273, Land Court, June 8, 2020 - Land Court upheld Rutland by-law limiting development given issues of water and sewer service capacity. By-law was not of indefinite duration.

<http://masscases.com/cases/land/2020/2020-19-000273-DECISION.html>

Brooks v. Assessors of Worthington, ATB Docket Nos. F329777, F330245, October 31, 2019 - ATB dismissed appeal for lack of jurisdiction where the tax at issue exceeded \$3000 and was not paid.

<https://www.mass.gov/doc/brooks-mark-j-v-board-of-assessors-of-the-town-of-worthington-october-31-2019/download>

Dracut v. Dracut Firefighters Union, 97 Mass. App. Ct. 374, May 1, 2020 - Appeals Court reinstated arbitration award in favor of the plaintiff union where the chief had disallowed firefighters working in district fire stations from travelling to the central fire station for union meetings. Appeals Court found that the non-delegability doctrine forbidding encroachment on management prerogatives did not apply in this case.

<http://masscases.com/cases/app/97/97massappct374.html>

Drake v. Leicester, 484 Mass. 198, February 28, 2020 - In Mass. Tort Claims Act case, “presentment” to executive officer requires that officer be able to “observe” or see the claim. Plaintiff’s presentment by mail reached the officer after the deadline.

<http://masscases.com/cases/sjc/484/484mass198.html>

Dusti v. Shirley, 96 Mass. App. Ct. 1109, November 12, 2019 (Mem. And Order pursuant to Rule 1:28) - Plaintiff seller of real estate sued the town after a buyer was erroneously told by the building inspector that the subject property was not buildable. Buyer rescinded his offer. Appeals Court rejected suit where there was no evidence that plaintiff seller had relied on the building inspector’s representations. (Buyer was not a party to suit.)

<https://casetext.com/case/dusti-v-town-of-shirley>

Gentili v. Sturbridge, 484 Mass. 1010, February 24, 2020 - Trust sued over town’s discharge of water onto its property. SJC ruled against the property owner because the town had acquired a prescriptive easement through its 20 years of adverse use.

<http://masscases.com/cases/sjc/484/484mass1010.html>

Klevan v. Newton, 97 Mass. App. Ct. 87, February 14, 2020 - After a water main break caused sewerage to back up in his basement, plaintiff brought a negligence action against city on a failure to warn theory. Appeals Court reversed Superior Court decision in favor of homeowner, holding that a failure to warn was not an affirmative act to constitute the “original cause” of the flooding and no evidence presented that city was responsible for water main break.

<http://masscases.com/cases/app/97/97massappct87.html>

Magliacane v. Gardner, 483 Mass. 842, January 22, 2020 - Plaintiff sued the city claiming that the city and its water contractors were negligent and created a nuisance by supplying corrosive water to city residents. SJC reversed Superior Court dismissal of case on sovereign immunity grounds. Plaintiff made a timely presentment due to concealment of claim by city.

<http://masscases.com/cases/sjc/483/483mass842.html>

Marchese v. Boston Redevelopment Authority, 483 Mass.149, September 13, 2019 - Plaintiff's claim against the BRA over its acquisition and sale of a prescriptive easement through eminent domain was properly dismissed for lack of standing.

<http://masscases.com/cases/sjc/483/483mass149.html>

Markham v. Chelmsford, Federal District Court Civil Action No. 19-10018-DJC (D. Mass.), August 26, 2019 - Town billed plaintiffs for repairs to a grinder pump which failed in a power outage. The court denied the Town's motion to dismiss constitutional due process claims. Individual plaintiff and allied organization were held to have standing.

<https://casetext.com/case/markham-v-town-of-chelmsford>

Maroney v. Planning Bd. of Haverhill, 97 Mass. App. Ct. 678, June 15, 2020 - Plaintiff developer lost standing in his suit for building permits when his interest in subject property was foreclosed. Appeals Court reversed the Superior Court award of damages to the city for zoning violations because city failed to follow appropriate procedures to impose fines.

<http://masscases.com/cases/app/97/97massappct678.html>

New Bedford v. New Bedford Police Union, 97 Mass. App. Ct. 502, May 27, 2020 - Appeals Court affirmed Superior Court decision to vacate an arbitration award. Arbitrator upheld the union's claim of a collective bargaining agreement violation where the chief assigned officers to perform background checks during regular hours. Arbitrator exceeded his authority by substituting his judgment for that of the chief in assigning and deploying police officers.

<http://masscases.com/cases/app/97/97massappct502.html>

Newton v. Newton Police Assoc., 97 Mass. App. Ct. 1127, July 1, 2020 (Mem. And Order pursuant to Rule 1:28) - Appeals Court reversed Superior Court decision vacating an arbitration award. Arbitrator's award was reinstated for "late cancellation fees" due to three officers for their detail work.

<https://caselaw.findlaw.com/ma-court-of-appeals/1469368.html>

NHP Properties Business Trust v. Assessors of East Longmeadow, ATB Docket No. F336991, June 8, 2020 - Taxpayer failed to carry its burden of proof where it proposed a valuation based on the income approach.

<https://www.mass.gov/doc/nhp-properties-business-trust-nka-ccp-properties-v-board-of-assessors-of-the-town-of-east/download>

Pelleverde Capital LLC v. Assessors of West Bridgewater, ATB Docket Nos. F328570, F329852, F332235, May 29, 2020 - Taxpayer's claim for a Clause 45th exemption for its solar generating property failed where the electricity it produced was sold to the Town of West Bridgewater to power nontaxable property.

<https://www.mass.gov/doc/pelleverde-capital-llc-v-town-of-west-bridgewater-may-29-2020/download>

Plymouth v. Power, 97 Mass. App. Ct. 532, May 29, 2020 – Although town was required to file District Court proceeding within 40 days to determine applicant unsuitable for FID card, failure to file did not result in constructive issuance of FID card to applicant. Issue of unsuitability is to be determined by District Court by preponderance of the evidence.

<http://masscases.com/cases/app/97/97massappct532.html>

Plymouth Retirement Bd. v. C.R.A.B., 483 Mass. 600, December 3, 2019 - Police officer who is a member of a municipal retirement system must remit payments to obtain creditable service for prior work as a permanent-intermittent police officer.

<http://masscases.com/cases/sjc/483/483mass600.html>

RCN Becocom LLC v. Commissioner et al., ATB Docket Nos. C312499 et al., C312268 et al., January 30, 2020 - ATB rejected telephone company's claims of overvaluation based on a portfolio bulk sales transaction with allocated prices. Evidence failed to prove that the Commissioner's assessed telephone company values were substantially too high.

<https://www.mass.gov/doc/rcn-becocom-llc-v-commissioner-of-revenue-and-boards-of-assessors-of-various-cities-and-towns/download>

Roman Catholic Bishop of Springfield v. Assessors of Easthampton, ATB Docket Nos. F326584, F329254, 332144, F334804, January 31, 2020 - Taxpayer established a basis for a Clause 11th exemption for its real estate by proving that the dominant use of the property was for religious purposes.

<https://www.mass.gov/doc/roman-catholic-bishop-of-springfield-v-board-of-assessors-of-the-city-of-easthampton-january-31/download>

Rosenfeld and CommCan v. Mansfield, 28 LCR 184, April 8, 2020 - Town could not use its zoning authority to prevent conversion of medical marijuana dispensary to a recreational marijuana establishment. (Appeal filed with Appeals Court.)

<http://masscases.com/cases/land/2020/2020-19-000357-DECISION.html>

Springfield Rescue Mission v. Assessors of Springfield, ATB Docket No. F331730, September 25, 2019 - ATB found that subject property was owned by the taxpayer as of July 1 exemption date and dominant use of the property was for religious purposes to qualify for exemption under Clause 11th. (Appeal filed with Appeals Court.)

<https://www.mass.gov/doc/springfield-rescue-mission-v-board-of-assessors-of-the-city-of-springfield-september-25-2019/download>

Tallage Lincoln, LLC v. Williams, 485 Mass. 449, August 19, 2020 - SJC held that assignee of tax title accounts under G.L. 60, s. 52 had no authority to add subsequently paid taxes to the redemption amount.

<http://masscases.com/cases/sjc/485/485mass449.html>

United Salvage Corp. of America v. Assessors of Framingham, ATB Docket Nos. F329077, F332069, May 29, 2020 – Taxpayer seeking Clause 45th exemption for its solar generating property failed to qualify where the electricity produced was sold to power nontaxable property owned by City of Framingham. Exemption requires energy be used for properties taxable under c. 59.

<https://www.mass.gov/doc/united-salvage-corp-of-america-v-board-of-assessors-of-the-city-of-framingham-may-29-2020/download>

Ware v. Owners Unknown, 29 LCR 54, January 31, 2020 - Claimant for undeveloped property which was sold by town for unpaid taxes acted too late to vacate a foreclosure decree ten years old. Unless due process rights are at issue, law allows one year for motions to vacate foreclosure degrees. Case in on appeal.

<http://masscases.com/cases/land/2020/2020-17-130930-ORDER.html>

Western Mass. Elec. Co. v. Assessors of Springfield, ATB Docket Nos. F315550, F319349, May 12, 2020 - ATB rejected utility company's overvaluation claim based on net book value for electric-generating assets. ATB upheld assessors' values based on a blended methodology of replacement cost new less accumulated depreciation and net book value.

<https://www.mass.gov/doc/western-massachusetts-electric-company-v-board-of-assessors-of-the-city-of-springfield-may-12/download>

Williams v. Boston Public Health Comm'n, 95 Mass. App. Ct. 1125, August 27, 2019 (Mem. And Order pursuant to Rule 1:28), *further appellate review denied*, 483 Mass. 195 (2019) - Appeals Court reversed the dismissal of a wrongful death action under the Mass. Torts Claims Act, holding that the plaintiff's allegations sufficient in that intervention by public employees made the decedent's position worse.

<https://www.mass.gov/files/documents/2019/08/27/18P0859.pdf>