



DLS

DIVISION OF LOCAL SERVICES
MA DEPARTMENT OF REVENUE

Supporting a Commonwealth of Communities

“What’s New in Municipal Law” 2024

Agenda for Today

9:00-10:00 DLS Updates & General Court Cases

10:00-10:20 Break

10:20-12:00 Legislation, Empowerment Act & Court Cases Morning Workshops

12:00-1:15 Lunch

1:30-3:00 Afternoon Workshops

Announcement: Ask the Chief



As a complement to the Bureau's Attorney of the Day service, local officials can utilize a Zoom link every Wednesday between 10:00 AM and 12:00 PM to speak directly with the Bureau's legal counsel, primarily the Bureau Chief. Local officials only need to [click the button on the DLS website](#) and will then be placed in a waiting room and addressed in the order of arrival.

Expanding to include Tuesdays beginning Jan 1, 2025!

Announcement: State Tax Forms Page Now Live!

 OFFERED BY [Division of Local Services](#)

State Tax Forms

These forms are commonly used by local officials in conducting business, primarily by assessors, collectors and treasurers personnel.

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- ▼ Assessor Forms
- ▼ Treasurer Forms

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DLS aims to create one centralized location for all forms that local finance officials may need in the performance of your statutorily imposed obligations.

DLS will continue to update this page with revised or additional forms that are requested by local officials. Please email dlslaw@dor.state.ma.us with any requests.

Recent Cases

Legislation Retroactivity

Haverhill Stem LLC vs. Fiorentini
SUPERIOR COURT CIVIL ACTION No. 2177CV00375

- **Haverhill Stem operated a retail recreational marijuana store in Haverhill since May 2020**
- **Parties entered into a Host Community Agreement**
- **In 2021, Stem brought this suit against the City after a dispute arose between the parties regarding the assessment and documentation of the first annual impact fee under the parties' HCA**
- **Then the Legislature amended the provisions of law that govern impact fees**
- **Legal issue: do the 2022 statutory and 2023 regulatory amendments apply to the 2018 HCA**
- **In the end, the Court rejects Stem's argument that the amendments to the statutes and regulations should apply to the HCA**

Recent Cases

Local Bylaws

Six Brothers, Inc. v. Brookline

493 Mass. 616 (March 8, 2024)

- In 2018, the Legislature prohibited the sale of tobacco products to people under the age of twenty-one
- Town then further banned sale of tobacco to anyone born after January 1, 2000
- Retailers of tobacco products filed suit and argue, among other things, that the state law preempts the local action and, if not, that the local action frustrates the state law's purpose
- Court: Upholds local bylaw; no “sharp conflict” between state and local law
- Court: no express or implied preemption and a history of local action on this subject

Young v. Lee

103 Mass. App. Ct. 1124 (February 29, 2024)

- **Complaint challenged the Town of Lee's selectboard's approval of a settlement agreement with GE**
- **The challenge, in part, is whether the selectboard violated town bylaw section 43-2 governing settlement of claims**
- **Court finds for the Town and points to the plain language of the section and the broad language of “any” claim giving the selectboard that authority which was not precluded by another section**

Recent Cases

Eminent Domain

Nahant v. 12.5 Acres of Land +/- Situated in Nahant

2024 Mass. Super. LEXIS 37 (April 16, 2024)

- Discussed this parcel in another case at last year's conference
- While that case was pending, Nahant sought to take certain parts of the same property by eminent domain which would also have the effect of stopping the development plans
- Northeastern University objected to the eminent domain action accusing the Town of taking in bad faith and for improper reasons
- In ruling in favor of Northeastern, the Court says the taking was in bad faith

Recent Cases

Land Use

Carroll vs. Select Board of Norwell

493 Mass. 178 (January 5, 2024)

- Parcel was acquired by the town in 1989; in 2004 town meeting voted to authorize the board to make land “available ... for affordable housing”
- Predevelopment starts in 2021
- Citizen petition successful in 2021 telling selectboard to turn land to conservation commission
- Selectboard however does not declare that the land is no longer needed for affordable housing purposes
- Court: land could not be transferred to another public use without the selectboard first determining that the land was no longer needed for affordable housing

Recent Cases

Betterments

Notre Dame Training School v. Tyngsborough

103 Mass. App. Ct. 1126 (March 8, 2024)

- **Notre Dame operates a day school in Town**
- **2015 annual town meeting voted to approve a "sewer system infrastructure project" financed in substantial part by betterment assessments**
- **Declare uniform unit method but to calculate each nonresidential property's total sewer units, the board included in its regulations a formula that further relied on the property's average water usage over the prior two years**
- **Town instead used formula based on projections of potential water use based on the size of the building space on each property**
- **Court: Must use formula established in Town regulations**

Recent Cases

Social Media

**Michelle O'Connor-Ratcliff, ET AL., Petitioners v.
Christopher Garnier, ET UX.**

601 U. S. ____ (2024) (March 15, 2024)

- **Case concerns local officials posting on their own social media accounts**
- **Court ruled that public officials who post about topics relating to their work on their personal social media accounts are acting on behalf of the government, and therefore can be held liable for violating the First Amendment when they block their critics, only when they have the power to speak on behalf of the state and are actually exercising that power**
- **Court reverses 9th Circuit Court to comply with this standard**