COMMONWEALTH OF MASSACHUSETTS

ESSEX, ss

SUPERIOR COURT
No. _____

TOWN OF WENHAM, by and through the members of its Select Board,

Plaintiff

v.

COMMONWEALTH OF MASSACHUSETTS; EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES,

Defendants

SUBJECT TO CONSOLIDATION IN PLYMOUTH SUPERIOR COURT BEFORE JUDGE MARK GILDEA

VERIFIED COMPLAINT FOR DECLARATORY and INJUNCTIVE RELIEF and MANDAMUS

Introduction

As detailed below, the Town of Wenham has been a leader in the development of affordable housing. Wenham has also proactively advanced plans for creating more diversity in housing stock. To date, Wenham has complied with the requirements of G.L. c. 40A, §3A ("§3A"). Wenham is also supportive of the goals of §3A but, as addressed below, defendant Executive Office of Housing and Livable Communities ("EOHLC") has improperly, arbitrarily, and inequitably applied the statute and current version of the regulations to Wenham in multiple ways further amplified in this Verified Complaint. Moreover, EOHLC has failed and refused to follow the law and provide a Fiscal Effect Estimate for its proposed regulations implementing §3A – even though this was an action the state agency was expressly ordered to take by the Supreme Judicial Court in its January 2025 *Town of Milton* decision concerning §3A. Issuing the Fiscal Effect Estimate is also a step Wenham's Select Board requested of EOHLC in writing more than one month ago to aid in the Town's own §3A fiscal impact analysis. EOHLC's refusal to follow the law in this regard harms Wenham and other communities who are subject to §3A and entitled to receive and review EOHLC's Fiscal Effect Estimate.

Furthermore, as concluded by the Commonwealth's Division of Local Mandates pursuant to its statutory authority, §3A constitutes an unfunded mandate, for which the Commonwealth has not appropriated the required funds. Moreover, the Commonwealth has failed and refused to acknowledge such funding deficiency despite its admission as to the direct nexus between the statute and the increased costs associated with the potential development, for Wenham, of hundreds of new housing units.

In keeping with its admirable track record, Wenham stands ready to adopt appropriately calibrated zoning bylaws that further facilitate the development of housing, and the Town welcomes the Commonwealth's partnership in this endeavor. To that end, Wenham has already proposed to EOHLC – and also requests through declaratory relief in this action – common-sense adjustments to the §3A requirements imposed on Wenham that will correct the agency's unlawful and arbitrary application of the law on the Town. In the interim, Wenham also seeks preliminary injunctive relief to preserve the status quo until such time as the Commonwealth acknowledges and fulfills its legal obligations to the Town.

Parties And Jurisdiction

1.) The Town of Wenham ("Wenham" or "the Town" or "Plaintiff"), by and through its Select Board, pursuant to G.L. c. 29, § 27C(e), G.L. c. 231A, § 1, *et seq.* and G.L. c. 249, § 5, hereby petitions this Honorable Court for a Declaration that the Town is exempt from the provisions of G.L. c. 40A, § 3A, for an injunction restraining and enjoining the Defendants from enforcement of the provisions of G.L. c. 40A, § 3A, a writ of mandamus requiring Defendants to provide financial impacts and determination of deficiencies, and for an accounting of the amounts of such deficiencies.

2.) Plaintiff, Town of Wenham, is a duly incorporated municipal corporation, situated in Essex County, Commonwealth of Massachusetts, with a usual place of business at 138 Main Street, Wenham, Massachusetts 01984.

3.) Defendant, Commonwealth of Massachusetts is a state organized and existing under the Laws of the United States of America and pursuant to the Constitution of the Commonwealth of Massachusetts, with a usual place of business c/o Secretary of the Commonwealth, One Ashburton Place, Boston, Massachusetts.

4.) Defendant, Executive Office of Housing and Livable Communities ("EOHLC") is a cabinet-level Office of the Commonwealth, established pursuant to G.L. c. 6A, § 16G½, with a usual place of business at 100 Cambridge Street, Boston, Massachusetts.

5.) EOHLC is the instrumentality of the Commonwealth tasked with promulgating guidelines to determine if an MBTA community is in compliance with the provisions of G.L. c. 40A, § 3A.

6.) This Court has jurisdiction over the parties and the subject matter of this Petition pursuant to G.L. c. 29, § 27C, G.L. c. 241, § 1, and G.L. c. 231A, § 1, and G.L. c. 249, § 5.

7.) Venue is appropriate in this Court as the subject matter of the Petition is concerned with, and is situated in, the Town of Wenham, Essex County.

FACTS

8.) Plaintiff incorporates and reasserts the allegations set forth in paragraphs 1-7 above, as if set forth in full herein.

9.) G.L. c. 29, § 27C(a) provides that no "law taking effect on or after January 1, 1981 imposing any direct service or cost obligation upon any city or town shall be effective in any city or town … unless the general court, at the same session in which such law is enacted, provides, by general law and by appropriation, for the assumption by the commonwealth of such cost".

10.) G.L. c. 29, § 27C(c) provides that no "administrative rule or regulation taking effect on or after January 1, 1981 which shall result in the imposition of additional costs upon any city or town shall […] be effective until the general court has provided by general law and by appropriation for the assumption by the commonwealth of such cost".

11.) G.L. c. 40A, § 3A was added by § 18 of Chapter 358 of the Acts of 2020, and was thereafter amended by § 10 of Chapter 29 of the Acts of 2021, effective July 29, 2021.

12.) G.L. c. 40A, § 3A was further amended by §§ 152-153 of Chapter 7 of the Acts of 2023, effective May 30, 2023.

13.) G.L. c. 40A, § 3A was further amended by § 9 of Chapter 150 of the Acts of 2024, effective August 6, 2024.

14.) G.L. c. 40A, § 3A was further amended by §§ 2, 2A, 2B, and 20-26 of Chapter 234 of the Acts of 2024, effective November 20, 2024.

15.) The General Court at no time, whether contemporaneously with enactment of G.L. c. 40A, § 3A, or subsequent thereto has provided by general law or by appropriation funds for the assumption by the Commonwealth of the direct costs to the Town imposed by G.L. c. 40A, § 3A, or the corresponding regulations promulgated by EOHLC.

16.) The Town is defined as one of the "51 cities and towns" pursuant to G.L. c. 161A, § 1 and G.L. c. 40A, § 1A.

17.) As one of the "51 cities and towns", the Town is considered an "MBTA Community" subject to the provisions of G.L. c. 40A, § 3A.

EOHLC's Arbitrary and Illogical Application of the Law to Wenham

18.) Pursuant to G.L. c. 40A, § 3A, the Town as an "MBTA Community" is required to

adopt a zoning by-law providing for at least one (1) district of "reasonable size" in which multi-family housing is permitted by right. According to the statute, the Town is required to enact zoning bylaws that allow, as a matter of right, a district of reasonable size located not more than 0.5 miles from the commuter rail station with a minimum gross density of 15 units per acre. Because Wenham shares a commuter rail station with the Town of Hamilton, the available area to locate a multi-family overlay district within a 0.5 mile radius of the station is drastically reduced.

19.) Pursuant to regulations promulgated by EOHLC in 760 CMR 72.00, Wenham is required to zone for 365 multi-family housing units in approved district locations. That represents a 25% increase in Wenham's existing housing inventory of 1460 units. EOHLC has imposed a July 14, 2025 deadline for the Town to comply by approving a zoning bylaw and submitting a "District Compliance Application" to EOHLC.

20.) Under the EOHLC regulations, there are four (4) categories of MBTA communities that must submit a "District Compliance Application": Rapid Transit Communities; Commuter Rail Communities; Adjacent Communities; and Adjacent Small Towns.

21.) As a Commuter Rail Community under 760 CMR 72.05(1)(b), the Town's minimum capacity for housing units should stand at fifteen percent (15%) of the Town's total housing units. That would equate to 219 units. Ignoring that categorization, however, EOHLC applies a different formula, a minimum land area multiplier, that increases the required number of units beyond the applicable category limits (by multiplying the minimum land area applicable to an MBTA community by 15, the minimum gross density per acre requirement). Based purportedly on the minimum land area requirement, the regulations thus increase Wenham's minimum housing capacity requirement to 25%. A twenty-five percent (25%) minimum requirement is on par with the requirements of Rapid Transit Communities, such as Quincy, Somerville, and Brookline, rather than a Commuter Rail Community. EOHLC illogically requires this despite Wenham's rural character and the obvious geographic and demographic differences between Wenham and Rapid Transit Communities, as well as its location of more than twenty-five (25) miles away from the City of Boston.

22.) The Town does host an MBTA station, referred to by the MBTA as the "Hamilton/Wenham Station" on the Newburyport/Rockport Line of the Commuter Rail System. However, this station is a shared station between the Towns of Wenham and Hamilton, as the station sits on the shared town-line with its formal address in Hamilton.

Wenham's Successful Track Record of Promoting Affordable Housing is Made More Difficult by EOHLC's Regulations

23.) The Town has been a leader in the development of affordable housing and the promotion of housing diversity. In June 2024, the Select Board adopted a comprehensive Master Plan for Wenham that was the product of 18 months of work led

by a 12-member Master Plan Advisory Committee that convened dozens of public meetings drawing input from all segments of the community. The Town's Subsidized Housing Inventory ("SHI"), at approximately 12.5% of total housing units, exceeds Chapter 40B's 10% threshold, yet the community consensus as codified in the Master Plan is that the Town must create even greater affordable housing opportunities. Specifically, the Master Plan found that "[t]here is a need for a greater diversity of housing affordability and types, including mixed-use live/ work developments, multi-family housing, affordable units, Accessory Dwelling Units, and senior housing."

24.) Contrary to the goal of creating more affordable housing stock, G.L. c. 40A, § 3A does not permit zoning districts under the statute to include an affordable-unit requirement exceeding 10%. This restriction is at cross-purposes with Wenham's inclusionary zoning goals and its Master Plan, and may also serve to reduce the Town's SHI % from its current level of 12.5%.

25.) EOHLC's requirements as presently applied to Wenham also deprive the Town of the flexibility to achieve its goals of expanding inclusionary housing and mixed-use development in a measured and sensible way.

EOHLC's Failure and Refusal to Follow the Law and the Supreme Judicial Court's Directive to Provide a Fiscal Effect Estimate

26.) Wenham has remained compliant with all EOHLC guidelines and deadlines concerning G.L. c. 40A, § 3A, and is so classified by EOHLC. As early as Spring 2023, the Town's Planning Board and Planning Department staff began a process to develop compliant zoning districts. Following many months of intensive, careful work and multiple public forums and Planning Board hearings, that board finalized a set of 3A-compliant zoning districts ("3A Zoning Plan") and then voted to advance the 3A Zoning Plan to the Select Board for potential inclusion in a June 2025 Special Town Meeting warrant.

27.) In preparation for Town Meeting's consideration of the 3A Zoning Plan, the Town convened a multi-member Fiscal Impact Working Group to study, and then advise Town residents on, the ranges of positive or negative fiscal impacts on Wenham from implementation of the 3A Zoning Plan.

28.) On March 18, 2025, the Select Board sent a letter to EOHLC stating in pertinent part the following:

- Wenham is undertaking its own fiscal impact analysis for its 3A Zoning Plan
- The Supreme Judicial Court, in the January 2025 decision entitled *Attorney General v. Town of Milton*, 495 Mass. 183 (2025) (the "*Milton* decision"), ordered

EOHLC to issue a Private and Public Sector Fiscal Effect Estimate pursuant to G.L. c. 30A, § 5

- Such EOHLC Fiscal Effect Estimate is important to Wenham's own efforts to advise its voters on fiscal impacts from the 3A Zoning Plan
- EOHLC, in apparent contravention of the *Milton* decision, had failed to provide a Fiscal Effect Estimate under G.L. c. 30A, § 5
- The determination by the State Auditor's Division of Local Mandates ("DLM") that G.L. c. 40A, § 3A is an unfunded mandate also raised EOHLC's failure to issue a Fiscal Effect Estimate as an impediment to completing its quantification of fiscal impacts
- Wenham respectfully requested that EOHLC issue such estimate and/or advise the Town on when one would be forthcoming

See Letter to EOHLC, attached hereto at **Exhibit 1**.

29.) EOHLC has failed to respond to Wenham's letter. But in filings EOHLC made in early April 2025 in the Superior Court cases brought by Middleton and other municipalities concerning G.L. c. 40A, § 3, the agency effectively answered the question Wenham sought an answer to concerning the Fiscal Effect Estimate. Specifically, EOHLC asserted that it had fulfilled its legal obligation under G.L. c. 30A, § 5, and under the *Milton* decision by simply filling out a transmittal form to the Secretary of State in January 2025 (accompanying its issuance of emergency regulations immediately following the *Milton* decision) that stated as follows:

FISCAL EFFECT - *Estimate the fiscal effect of the public and private sectors.*

For the first and second year: none

For the first five years: none

No fiscal effect: none

30.) EOHLC's simple listing in a transmittal form to the Secretary of State that its regulations' fiscal effect is "none" is not a Fiscal Effect Estimate as contemplated by G.L. c. 30A, § 5, or the *Milton* decision. EOHLC has provided no rationale for its conclusion or even any indication that it engaged in any analysis whatesover to reach these perfunctory conclusions.

31.) In April 2025, upon promulgating its purportedly permanent regulations, EOHLC filed the exact same perfunctory and unsupported "none" answers in the Fiscal Effect portion of the transmittal form to the Secretary of State.

32.) On information and belief, EOHLC engaged in no fact-finding or analysis before reaching its "none" conclusions. The aforementioned EOHLC submittals to the Secretary of State are wholly insufficient as a proper Fiscal Effect Estimate under G.L. c. 30A, § 5, or the *Milton* decision. These submitals also reflect arbitrary conduct by EOHLC that fall well short of its obligation to follow the rule of law.

Harms to Wenham Should EOHLC's Current Course Not be Enjoined and Corrected

33.) As an MBTA Community, the Town's compliance with the provisions of G.L. c. 40A, § 3A and the corresponding EOHLC regulations is purportedly mandatory.

34.) Pursuant to G.L. c. 40A, §3A(b), failure by the Town to submit a "District Compliance Application" to EOHLC by July 14, 2025, will result in the Town's ineligibility for funding from, *inter alia*, Housing Choice Initiative, the Local Capital Projects Fund, and the MassWorks infrastructure program, among other grant programs prescribed in the EOHLC regulations.

35.) The Supreme Judicial Court stated in the *Milton* decision that, in addition to the potential loss of grant funds due to noncompliance, G.L. c. 40A, §3A establishes an affirmative mandate on all applicable communities to adopt complying zoning bylaws.

36.) The construction of 365 housing units will result in substantial infrastructure impacts to the Town, including, without limitation, impacts to the Town's water system, public safety services, educational services and buildings, roads, and other general governmental services. Mitigating such impacts will require a substantial appropriation of funds for the expenses and improvements necessary to service 365 new units of housing.

37.) Specifically, as to public safety, the Town will be compelled to retain several new fire fighters and police officers in order to comply with accepted standards to ensure public health and safety, and purchase equipment and supplies to support the same, including but not limited to new fire and police vehicles.

38.) As to education, the unanticipated influx of 365 new units would likely result in more than one hundred new students. While the Town of Wenham is committed to providing a high-quality education to each and every student that enters into its school district, the cost for each such additional student to the taxpayers could be substantial.

Additionally, it is likely that capital improvements would be needed to accommodate such new students given space limitations and accepted standards for class sizes.

39.) The influx of new units would also significantly strain existing water services. The Town would be compelled to allocate substantial operating and capital funds to connect up to 365 new units to the Town's water services. Additional expenses relating to expanded services and equipment for waste disposal would also be required.

40.) While 365 new units of housing will result in increased revenue through property taxation, such new growth would be dwarfed by the expenses and capital costs associated with the services discussed in the preceding paragraphs.

The Law Imposes an Unfunded Mandate on Wenham

41.) The Towns of Wrentham and Middleborough, and the City of Methuen filed written requests with DLM seeking a determination that G.L. c. 40A, § 3A imposed an unfunded mandate on municipalities within the meaning of G.L. c. 29, § 27C.

42.) In response, DLM has issued determinations that G.L. c. 40A, § 3A constitutes an unfunded mandate, including a Determination for the Town of Wrentham, dated February 21, 2025. **Exhibit 2,** *DLM Determination—Wrentham.*

43.) As stated in such DLM Determination, the mandate established under the statute and as affirmed by the SJC, will result in material impacts to the Town's infrastructure, necessitating new investment therein. As noted in the DLM Determinations, the Commonwealth has acknowledged, in the adoption of G.L. c. 40A, §3A and the regulations promulgated thereunder, that such impacts will occur and are the obligation of the host community.

44.) However, DLM was unable to determine the actual amount of such deficiency, in part because EOHLC has failed to provide a Fiscal Effect Estimate as required under G.L. c. 30A, §5. DLM concluded that it will complete such analysis when EOHLC completes its statutorily required fiscal impact analysis. And while EOHLC has issued a self-serving determination that there are no costs associated with compliance, such determination was issued despite EOHLC's and the Commonwealth's implementation of a specific infrastructure grant program that acknowledges the municipal costs for implementation of infrastructure to support the by-right zoning.

45.) In the interim and as acknowledged by DLM, pursuant to G.L. c. 29, § 27C(e), a municipality saddled with a statutory and/or regulatory unfunded mandate may be exempted from compliance pending funding for and/or reimbursement of direct costs imposed by a statute or regulation.

46.) Because G.L. c. 40A, § 3A and 760 CMR 72.00 impose direct financial obligations on the Town, for which no contemporaneous appropriation has been made by the General Court at the time of the adoption of such statute, the Town must be excused from compliance, unless and until the Town is appropriated funds for any direct costs that may be imposed on the Town by G.L. c. 40A, § 3A, and 760 CMR 72.00, and there is legislative appropriation for those costs going forward.

47.) Despite the directives in the DLM determinations, the Commonwealth and EOHLC have publicly asserted, through the office of the Attorney General, that DLM's conclusions are incorrect and that compliance with G.L. c. 40A, §3A will be enforced, notwithstanding the Commonwealth's failure to fund the statute or produce a required Fiscal Effect Estimate.

COUNT I
(Declaratory Relief—G.L. c. 29, § 27C(e); G.L. c. 231A)

48.) Plaintiff incorporates and reasserts the allegations set forth in paragraphs 1-47 above, as if set forth in full herein.

49.) G.L. c. 40A, § 3A, and the regulations promulgated pursuant thereto constitute an unfunded mandate.

50.) Because no contemporaneous appropriation was made by the Legislature to fund the provisions of G.L. c. 40A, § 3A, or the corresponding regulations promulgated by EOHLC, the Town should be excused from compliance with the requirements of G.L. c. 40A, § 3A and those regulations.

51.) An actual case and controversy exists as to the applicability and enforceability of the provisions of G.L. c. 40A, § 3A, and the corresponding regulations promulgated by EOHLC as against the Town of Wenham.

52.) Additionally, G.L. c. 40A, § 3A, and the regulations promulgated thereto are illogical and arbitrary as the minimum housing unit requirements, by inequitably requiring both the Town and the Town of Hamilton to separately comply with the requirements, despite sharing their MBTA station, resulting in a situation contrary to the letter and intent of the regulations themselves.

53.) Additionally, G.L. 40A, § 3A and the EOHLC regulations promulgated in connection therewith illogically and arbitrarily require the Town to comply with minimum housing unit requirements that, at 25% of total housing units, are the equivalent of the requirements made for Rapid Transit Communities, such as Quincy, Somerville, and Brookline, which is incompatible with the Town's status as a Commuter Rail Community under 760 CMR 72.05(1)(b). Wenham's proper percentage should be no greater than 15%.

54.) The Court should determine and declare that the EOHLC regulations are invalid for failure to comply with the requirement to provide a good faith Fiscal Effect Estimate.

55.) Absent a declaration from this Court with respect to the foregoing, there will be continued uncertainty as to the applicability and enforceability of the provisions of G.L. c. 40A, § 3A, and the corresponding regulations promulgated by EOHLC as against the Town.

COUNT II
(Injunctive Relief—EOHLC)

56.) Plaintiff incorporates and reasserts the allegations set forth in paragraphs 1-55 above, as if set forth in full herein.

57.) The irreparable harm to the Plaintiff substantially outweighs any hardship that may be claimed by the Defendants in the imposition of an unfunded mandate or the erroneous application of EOHLC's regulations to the Town.

58.) The public interest and the interests of the Plaintiff substantially outweigh the interests of the Defendants in the imposition of an unfunded mandate and the erroneous application of EOHLC's regulations to the Town.

59.) Injunctive Relief excusing the Town from compliance with the Commonwealth's unfunded mandate is expressly contemplated under G.L. c. 29, §27C.

60.) The Plaintiff has no other adequate remedy at law.

COUNT III
(Violation of G.L. c. 30A; Mandamus-EOHLC)

61.) Plaintiff incorporates and reasserts the allegations set forth in paragraphs 1-60 above, as if set forth in full herein.

62.) Pursuant to G.L. c. 30A, § 5, EOHLC has a clear-cut, non-discretionary duty to provide a Fiscal Effect Estimate of any proposed regulation, including that on the public and private sectors, for the first and second year, as well as a projection over the first five-year period, or alternatively must file a bona fide statement of no fiscal effect with the Secretary of the Commonwealth.

63.) EOHLC has provided what its purports to be a Fiscal Effect Estimate under G.L. c. 30A, § 5, but such estimate reflects zero costs which does not comport with the Commonwealth's own admissions as to cost.

64.) As stated in the DLM Determination, DLM is unable to complete its full and complete assessment of the deficiency in funding until such time as EOHLC provides DLM with the statutorily required Fiscal Empact Estimate.

65.) EOHLC's failure and ongoing refusal, even in the face of Wenham's direct written request (see Exhibit 1 attached hereto), to provide reasonable fiscal impact analysis disables the Town as well as DLM from completing their analyses. EOHLC is also harming the Town, which is entitled to ascertain the level of required funding prior to complying with the mandate established under G.L. c. 40A, §3A.

66.) The Commonwealth's Fiscal Effect Estimate in support of the emergency and final EOHLC regulations lacks a substantial basis, was not made in good faith, and was used for the purpose of evading the purposes of G.L. c. 30A.

67.) The Court should determine that the EOHLC regulations are invalid for failure to comply with the requirement to provide a good faith Fiscal Effect Estimate.

68.) Alternatively, mandamus should issue requiring the Commonwealth to provide such analysis to DLM and for DLM to complete its determination as to the deficiency in funding as required as a matter of law and is a necessary prerequisite prior to the Town's compliance with G.L. c. 40A, §3A.

69.) The Town will be irreparably harmed if mandamus is not issued and, comparatively, the Defendants will suffer no harm in that such mandamus merely ensures compliance with the law.

70.) The public interest supports the issuance of a writ of mandamus.

71.) The Town has no other adequate remedy at law.

COUNT IV
(Accounting and Funding—G.L. c. 29, § 27C(e))

72.) Plaintiff incorporates and reasserts the allegations set forth in paragraphs 1-71 above, as if set forth in full herein.

73.) If forced to comply with the unfunded mandate, the Town will be forced to assume substantial costs directly incurred as a result of G.L. c. 40A, § 3A and the corresponding regulations promulgated by EOHLC.

74.) DLM has not yet issued its determination as to the amounts of deficiency resulting from the Commonwealth's failure to assume the direct costs of G.L. c. 40A, § 3A and the corresponding regulations promulgated by EOHLC.

75.) Pending DLM's determination, and pursuant to this Honorable Court's authority under G.L. c. 27, § 27C(e), Plaintiff requests this Honorable Court determine the amount of such deficiency and order the Defendants to assume the direct costs of compliance by appropriating funds to the Town within the same fiscal year, as required by law.

76.) In the event that the Commonwealth does not assume such direct costs, the Court should determine and order that the Town is exempt from compliance with G.L. c. 40A, §3A.

WHEREFORE, Plaintiff prays that this Honorable Court enter judgment as follows:

1.) Entering a declaration that G.L. c. 40A, §3A constitutes an unfunded mandate and that pursuant to G.L. c. 29, § 27C(e) that the Town of Wenham is excused from compliance with the provisions of G.L. c. 40A, § 3A, and the corresponding regulations promulgated by EOHLC.

2.) Entering a declaration that the regulations promulgated by EOHLC cannot be applied to the Town to the extent the Town is illogically and arbitrarily required to comply with minimum housing unit requirements that are the equivalent of the requirements made for Rapid Transit Communities, such as Quincy, Somerville, and Brookline, which is incompatible with the Town's status as a Commuter Rail Community under 760 CMR 72.05(1)(b).

3.) Entering a declaration that G.L. c. 40A, § 3A, and the regulations promulgated thereto cannot be applied to the Town to the extent that they are illogical and arbitrary as the minimum housing unit requirements inequitably require both the Town and the Town of Hamilton to separately comply with the requirements, despite sharing their MBTA station, resulting in a situation contrary to the letter and intent of the regulations themselves.

4.) Enjoining and restraining EOHLC or the Commonwealth from both enforcing G.L. c. 40A, §3A and the corresponding regulations until such time as the Commonwealth adequately funds the necessary infrastructure improvements for compliance with such statute and from withholding funding under those programs identified in G.L. c. 40A, § 3A(b) and the corresponding regulations promulgated by EOHLC based on any claimed non-compliance on the part of the Town with the requirement to submit a District Compliance Application to EOHLC.

5.) Determining and declaring that the EOHLC regulations are void due to the failure to provide a good faith Fiscal Effect Estimate.

6.) Issuing a writ of mandamus to EOHLC compelling EOHLC to provide DLM and the Town with the required Fiscal Effect Estimate of the impacts of G.L. c. 40A, §3A, and

its implementing regulations, and excusing the Town from compliance with such statute and regulations until DLM completes such analysis and funding is provided.

7.) Determining the amounts of deficiency resulting from the Commonwealth's failure to appropriate funds for and assume the direct costs of the unfunded mandate imposed by G.L. c. 40A, § 3A and the corresponding regulations promulgated by EOHLC.

8.) Ordering the Commonwealth to assume the costs resulting from any compliance with G.L. c. 40A, § 3A and the corresponding regulations promulgated by EOHLC, or absent such funding, order that the Town shall be exempt from compliance with G.L. c. 40A, §3A.

9.) Awarding the Plaintiff its reasonable costs and attorneys' fees.

10.) All other relief this Court deems meet and just.

Plaintiff,
TOWN OF WENHAM, by and through its
SELECT BOARD,

by their Attorneys,

/s/ Per C. Vaage

Jason R. Talerman, Esq. (BBO# 567927)
Per C. Vaage, Esq. (BBO# 664385)
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Dated: April 22, 2025

VERIFICATION

I, Joseph Pessimato, the Wenham Assistant Town Administrator, hereby verify and swear under the pains and penalties of perjury that the facts relating to the Town of Wenham, as asserted in the foregoing complaint are accurate to the best of my knowledge and belief. I hereby certify that I have been duly authorized by the Town of Wenham Select Board to verify and approve this Verified Complaint.

Joseph Pessimato

Joseph Pessimato, Assistant Town Administrator

EXHIBIT 1

Town of Wenham

Town Hall
138 Main Street
Wenham, MA 01984

Select Board and Town Administrator

TEL 978-468-5520x2 FAX 978-468-8014

Town of Wenham
Select Board's Office
Wenham Town Hall
138 Main Street
Wenham, MA 01984

March 18, 2025

Secretary Augustus
Executive Office of Housing and Livable Communities (EOHLC)
100 Cambridge Street, Suite 300
Boston, MA 02114

RE: Fiscal Impact Study

Dear Secretary Augustus,

As the Town of Wenham ("Town" or "Wenham") plans for its Special Town Meeting in June 2025 to put its MBTA Communities Act ("Act" or "3A") re-zoning proposal before voters, it needs EOHLC's assistance projecting potential public and private sector fiscal impacts from full implementation of the Act and EOHLC's anticipated implementing regulations.

As you know, the Supreme Judicial Court, in its January 2025 decision in *Attorney General v. Town of Milton*, 495 Mass. 183 (2025) ("*Milton*"), held that among the reasons for the Court's invalidation of EOHLC's prior MBTA Communities Act Guidelines was the absence of two different types of fiscal impact analyses: (1) small business impact, as set forth in G.L. c. 30A, §§ 2-3; and (2) "private and public sector" fiscal impact, as set forth separately in G.L. c. 30A, § 5. *See Milton*, at 196 n.22 ("As noted in note 10, supra, it appears from the record that [EOHLC, in addition to not performing a small business impact analysis] also failed to file with the Secretary of the Commonwealth a statement estimating the fiscal impact of the proposed regulations on the private and public sectors as required by G. L. c. 30A, § 5. This, too, renders the guidelines ineffective").

Milton goes on to quote the full relevant language of § 5, as follows: "No rule or regulation so filed with the state secretary shall become effective until an estimate of its fiscal effect including that on the public and private sector, for its first and second year, and a projection over the first five-year period, or a statement of no fiscal effect has been filed with said state secretary."

The Town is aware that EOHLC issued a two-page checklist last month entitled "Initial Small Business Impact Statement." But the Town is unaware whether EOHLC has issued the broader – and presumably more meaningful – public and private sector fiscal impact analysis required by G. L. c. 30A, § 5, and the Supreme Judicial Court in its *Milton* ruling. In her recent letter concerning whether the Act is an unfunded mandate, the Massachusetts Auditor also referenced the absence of this private and public sector fiscal impact analysis under § 5 as a reason for the incomplete analysis her office undertook on the unfunded mandate question.

The Town respectfully requests that EOHLC confirm it will be issuing the required private and public sector fiscal impact analysis. We further request an estimated timetable for release of the analysis. The Town also urges that the analysis be detailed, comprehensive, well-supported, so that it can serve as a helpful tool for MBTA Communities like Wenham to utilize in their own municipality-specific fiscal impact analyses.

The Town has begun its own fiscal impact analysis to present to voters at its June Special Town Meeting when our Planning Board's 3A-compliant re-zoning proposal will be considered. Having EOHLC's private and public sector fiscal impact analysis in hand soon will greatly assist the Town in its effort to complete our Wenham-specific analysis, as well as to provide our voters with all relevant information.

Sincerely,

Peter M. Clay

Gary R. Cheeseman

Deirdre T. Pierotti

Benjamin P. Tymann

Karen E. Anger

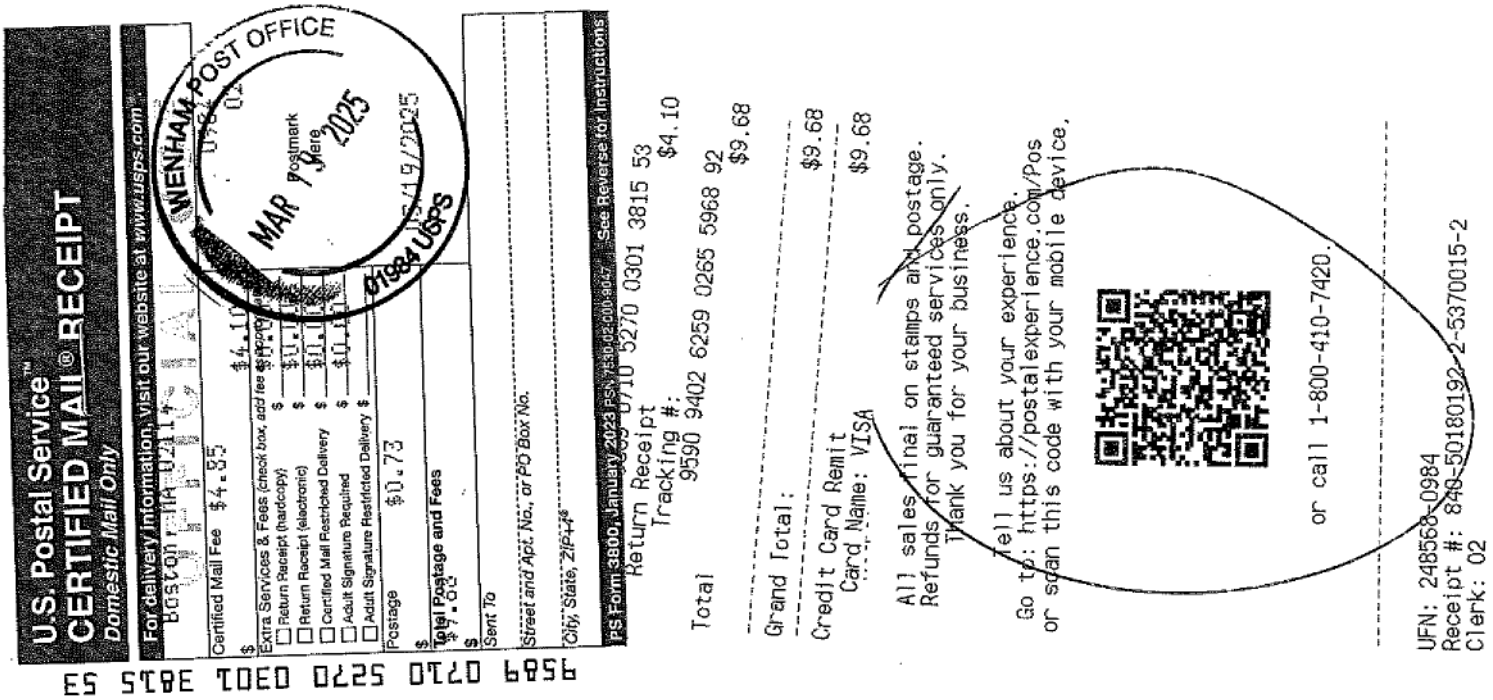

EXHIBIT 2

DIANA DIZOGLIO
AUDITOR

The Commonwealth of Massachusetts

AUDITOR OF THE COMMONWEALTH

DIVISION OF LOCAL MANDATES

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February 21, 2025

By First-Class Mail & Email <SBOffice@wrentham.gov>

Town of Wrentham Select Board
79 South Street
Wrentham, MA 02093

RE: Mandate Determination related to MBTA Communities Act (M.G.L. c. 40A, § 3A)

Dear Select Board Members:

On October 15, 2024, on behalf of the Town of Wrentham, you requested that the Office of the State Auditor (OSA), through the Division of Local Mandates (DLM), provide a determination of whether M.G.L. c. 40A, § 3A (the MBTA Communities Act, the Act, or § 3A), constitutes an unfunded mandate imposed on cities and towns by the Commonwealth within the meaning of M.G.L. c. 29, § 27C (the Local Mandate Law), and the total annual financial impact thereof for a period of no less than 3 years. In response to your request, this office sent correspondence dated November 27, 2024, requesting a waiver of the 60-day timeline under M.G.L. c. 29, § 27C. On December 5, 2024, Michael King, Interim Town Manager, indicated that the Wrentham Select Board voted unanimously to deny our waiver request. On December 12, 2024, further correspondence was sent stating that this office was unable to issue a determination due to litigation in connection with the MBTA Communities Act that was before the Supreme Judicial Court of Massachusetts at that time. The Court issued its decision in *Attorney General v. Town of Milton*, No. SJC-13580, on January 8, 2025.[1]

[1] *Attorney General v. Town of Milton & another; Executive Office of Housing and Livable Communities, third-party defendant*, Mass., No. SJC-13580, slip op. (January 8, 2025), *available at* https://www.mass.gov/doc/attorney-general-v-town-of-milton-executive-office-of-housing-and-livable-communities-sjc-13580/download (accessed February 18, 2025).

DLM has conducted extensive legal and policy review regarding the requested matter, including review of the *Milton* decision and the emergency regulations filed thereafter by the Administration,[2] and determines that the MBTA Communities Act constitutes an unfunded mandate. DLM's analysis in arriving at said determination is set forth below. Regarding the fiscal impact, the Court in its decision noted the absence of the required statements under M.G.L. c. 30A, § 5, estimating the fiscal effect of proposed regulations on the public and private sector, and considering the impact of such regulations on small business, rendering the guidelines promulgated by the Executive Office of Housing and Livable Communities (EOHLC) ineffective.[3] DLM requires additional time to perform a thorough analysis of the costs imposed as the impact of the MBTA Communities Act is still being determined. Such analysis will include review of the required fiscal impact statements by EOHLC and implementing other data collection measures as necessary.

M.G.L. c. 29, § 27C — the Local Mandate Law

In general terms, the Local Mandate Law provides that any post-1980 state law, rule, or regulation that imposes additional costs, excluding incidental local administration expenses, upon any city or town is conditional on local acceptance or being fully funded by the Commonwealth.[4] A city or town may request that DLM determine whether a law, rule, or regulation imposes a mandate within the meaning of the Local Mandate Law and, if so, the costs of compliance and the amount of any deficiency in funding by the Commonwealth.[5] Alternatively, or in addition to asking DLM for such a determination, a community alleging an unfunded mandate may petition the Superior Court for a determination of deficiency and an exemption from compliance until the Commonwealth provides sufficient funding.[6]

In order to determine that a state law imposes a mandate within the meaning of the Local Mandate Law, the law must take effect on or after January 1, 1981, must be a new law changing existing law, and must result in a direct service or cost obligation imposed on municipalities by the Commonwealth that amounts to more than an incidental local administration expense.[7] Moreover, the challenged law must not be exempted from application of the Local Mandate Law, whether by express override of the Legislature, application of federal law or regulation, or other exemption.

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[2] 760 CMR 72.00: Multi-Family Zoning Requirement for MBTA Communities (2025), *available at* https://www.mass.gov/regulations/760-CMR-7200-multi-family-zoning-requirement-for-mbta-communities (accessed February 18, 2025).
[3] *See Milton* at 7, 22.
[4] *See* M.G.L. c. 29, §§ 27C(a)–(c).
[5] *See* M.G.L. c. 29, § 27C(d).
[6] *See* M.G.L. c. 29, § 27C(e).
[7] *See City of Worcester v. the Governor*, 416 Mass. 751 (1994).

Once DLM has determined that a law imposes a mandate within the meaning of the Local Mandate Law, the analysis turns to whether the Commonwealth has provided sufficient funding to assume the costs imposed by the law in question. The Local Mandate Law clearly states that "the general court, at the *same session* in which such law is enacted, [must provide], *by general law and by appropriation*, for the assumption by the commonwealth of such cost[s], . . . and . . . by appropriation in *each successive year* for such assumption" (emphasis added).[8] The Supreme Judicial Court has recognized that "the 'plain meaning' of [M.G.L.] c. 29, Section 27C(a), is that funding be provided at the *same time* that [the] mandate is imposed on cities and towns," and that the language of the statute "means that the Legislature envisioned a scheme wherein cities and towns would be reimbursed *in advance — or, at least, contemporaneously* — for costs incurred pursuant to the mandate" (emphasis added).[9] Furthermore, funding must be provided by a specific allocation of funds and cannot be fulfilled merely by increasing unrestricted local aid, as "[s]uch an approach would render the [Local Mandate Law] meaningless, for it would always be possible to attribute undesignated increases in State aid to the local mandate being challenged."[10] In short, for funding to be sufficient, the imposed costs must be assumed by the Commonwealth and appropriation made contemporaneously with and specific to the mandate in question.

M.G.L. c. 40A, § 3A — the MBTA Communities Act

The MBTA Communities Act provides as follows:

"Section 3A: Multi-family zoning as-of-right in MBTA communities

Section 3A. (a)(1) An MBTA community shall have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right; provided, however, that such multi-family housing shall be without age restrictions and shall be suitable for families with children. For the purposes of this section, a district of reasonable size shall: (i) have a minimum gross density of 15 units per acre, subject to any further limitations imposed by section 40 of chapter 131 and title 5 of the state environmental code established pursuant to section 13 of chapter 21A; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.

(b) An MBTA community that fails to comply with this section shall not be eligible for funds from: (i) the Housing Choice Initiative as described by the governor in a message to the general court dated December 11, 2017; (ii) the Local Capital Projects Fund established in section

[8] *See* M.G.L. c. 29, § 27C(a).
[9] *See Town of Lexington v. Commissioner of Education,* 393 Mass. 693, 698–701 (1985).
[10] *See id.* at 701.

2EEEE of chapter 29; (iii) the MassWorks infrastructure program established in section 63 of chapter 23A, or (iv) the HousingWorks infrastructure program established in section 27 ½ of chapter 23B.

(c) The executive office of housing and livable communities, in consultation with the executive office of economic development, the Massachusetts Bay Transportation Authority and the Massachusetts Department of Transportation, shall promulgate guidelines to determine if an MBTA community is in compliance with this section."[11]

An MBTA community is defined as "a city or town that is: (i) one of the 51 cities and towns as defined in section 1 of chapter 161A; (ii) one of the 14 cities and towns as defined in said section 1 of said chapter 161A; (iii) other served communities as defined in said section 1 of said chapter 161A; or (iv) a municipality that has been added to the Massachusetts Bay Transportation Authority under section 6 of chapter 161A or in accordance with any special law relative to the area constituting the authority."[12] The Town of Wrentham is specified as one of the other served communities in clause (iii).[13]

Application of the Local Mandate Law to the MBTA Communities Act

The MBTA Communities Act provisions contained in § 3A were added by § 18 of Chapter 358 of the Acts of 2020, effective January 14, 2021, amended by § 10 of Chapter 29 of the Acts of 2021, effective July 29, 2021, further amended by §§ 152-153 of Chapter 7 of the Acts of 2023, effective May 30, 2023, and further amended by § 9 of Chapter 150 of the Acts of 2024, effective August 6, 2024.[14] Accordingly, the MBTA Communities Act is a law that took effect on or after January 1, 1981.

Furthermore, the MBTA Communities Act is a new law changing, not merely clarifying, existing law.[15] The MBTA Communities Act creates a new zoning requirement, requiring that all MBTA communities zone at least 1 district in which multi-family housing is permitted as of right, subject to other requirements.[16] Prior to enactment of the MBTA Communities Act, no such district was required. Emergency regulations filed by EOHLC on January 14, 2025, provide significant context regarding the breadth of considerations necessary for compliance with the Act – "[w]hat

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[11] M.G.L. c. 40A, § 3A; St. 2020, c. 358, § 18; amended St. 2021, c. 29, § 10; amended St. 2023, c. 7, §§ 152-153; amended St. 2024, c. 150, § 9.
[12] M.G.L. c. 40A, § 1A; St. 2020, c. 358, § 16. *See* Appendix A.
[13] M.G.L. c. 161A, § 1.
[14] St. 2020, c. 358, § 18; amended St. 2021, c. 29, § 10; amended St. 2023, c. 7, §§ 152-153; amended St. 2024, c. 150, § 9.
[15] *See Worcester,* 416 Mass. at 756; *see also Lexington,* 393 Mass. at 697.
[16] M.G.L. c. 40A, § 3A(a)(1).

it means to allow Multi-family housing 'as of right' … [t]he metrics that determine if a Multi-family zoning district is 'of reasonable size' … [h]ow to determine if a Multi-family zoning district has a minimum gross density of 15 units per acre … [t]he meaning of M.G.L. c. 40A, § 3A's mandate that 'such multi-family housing shall be without age restrictions and suitable for families with children' … [t]he extent to which MBTA communities have flexibility to choose the location of a Multi-family zoning district" – as well as permissible steps toward compliance, all of which constitute a substantive change in municipal zoning authority.[17]

The analysis continues with an evaluation of whether the MBTA Communities Act *imposes* a direct service or cost obligation on municipalities by the Commonwealth that amounts to more than an incidental local administration expense. The MBTA Communities Act provides in relevant part that "[a]n MBTA community *shall* have a zoning ordinance or by-law that provides for at least 1 district of reasonable size in which multi-family housing is permitted as of right" (emphasis added). M.G.L. c. 4, § 6 provides that "[w]ords and phrases shall be construed according to the common and approved usage of the language." Given this, "[t]he word 'shall' is ordinarily interpreted as having a mandatory or imperative obligation."[18]

Neither is the MBTA Communities Act conditional upon local acceptance. M.G.L. c. 4, § 4 provides that "[w]herever a statute is to take effect upon its acceptance by a municipality or district, or is to be effective in municipalities or districts accepting its provisions, this *acceptance shall be*, except as otherwise provided in that statute, in a municipality, *by vote of the legislative body*, subject to the charter of the municipality, or, in a district, by vote of the district at a district meeting" (emphasis added). The Commonwealth has specifically included language in various statutes conditioning effectiveness upon local acceptance (local option statutes).[19] In contrast, the MBTA Communities Act applies to all municipalities meeting the definition of an "MBTA community."[20]

The Court in *Milton* confirmed this interpretation of the MBTA Communities Act as imposing an obligation on MBTA communities, concluding that the town's proposed reading that the only consequence to an MBTA community for failing to comply would be the loss of certain funding opportunities would "thwart the Legislature's purpose by converting a *legislative mandate* into a matter of fiscal choice" (emphasis added).[21]

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[17] *See* 760 CMR 72.03 et seq.
[18] *Galenski v. Town of Erving,* 471 Mass. 305, 309 (2015), *quoting Hashimi v. Kalil,* 388 Mass. 607, 609 (1983).
[19] *See Galenski,* 471 Mass. 305*; see also Adams v. City of Boston,* 461 Mass. 602 (2012).
[20] M.G.L. c. 40A, § 1A; St. 2020, c. 358, § 16. *See* Appendix A.
[21] *Milton* at 17.

As for costs of implementation, the MBTA Communities Act requires MBTA communities to have "a zoning ordinance or by-law" providing for a district that meets specific criteria. Although the total fiscal impact of implementation cannot be determined without further data collection, it is apparent that, at a minimum, direct costs exist in developing compliant zoning that amount to more than incidental local administration expenses. Incidental local administration expenses "are relatively minor expenses related to the management of municipal service and . . . are subordinate consequences of a municipality's *fulfilment of primary obligations*" (emphasis added).[22] The implication is that expenses incurred by a municipality in fulfilling its primary obligations are not incidental local administration expenses and, consequently, one must look to the purpose of the statute to determine the primary obligation imposed on the municipality. The purpose of the MBTA Communities Act as stated in the emergency regulations is "to encourage the production of Multi-family housing by requiring MBTA communities to adopt zoning districts where Multi-family housing is allowed As of right…."[23]. The Commonwealth through EOHLC, after review of submitted applications, awarded "technical assistance" grant funding to some MBTA communities for the very purpose of developing zoning compliant with the Act.[24] Accordingly, DLM determines that the MBTA Communities Act imposes direct service or cost obligations on municipalities by the Commonwealth that amount to more than incidental local administration expenses.

MBTA Communities Act Funding

The MBTA Communities Act does not provide a funding mechanism for compliance with its provisions.[25] The statutory language of § 3A and the original enacting legislation of Chapter 358 of the Acts of 2020 fail to provide for the assumption by the Commonwealth of the costs imposed by the MBTA Communities Act and did not contain an appropriation for § 3A.[26] The FY 2022 budget, passed during the same annual session as when the MBTA Communities Act became effective (the first annual session of the 2021–2022 biennial legislative session), and all other appropriations bills passed during the same annual session, likewise did not contain an

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[22] *See Worcester*, 416 Mass. at 758–759 (where the primary obligation imposed by a regulation was "to identify children in need of special education," written parental notification was "a subordinate administrative task"; where the primary obligation of a law was "to provide school accessibility to students with limited mobility," the requirement for the annual submission of school building access plan imposed "only administrative expenses incidental (subordinate) to the primary obligation").

[23] 760 CMR 72.01.

[24] *See* Executive Office of Housing and Livable Communities, *3A Technical Assistance Awards & Resources*, available at https://www.mass.gov/info-details/3a-technical-assistance-awards-resources (accessed February 18, 2025).

[25] *Cf.* St. 1983, c. 503, *An Act Extending the Time of Voting in Certain Elections* ("SECTION 3. As hereinafter provided, the commonwealth shall pay to each city and town an amount sufficient to defray the additional costs imposed on the city or town under the provisions of this act.").

[26] *See* M.G.L. c. 40A, § 3A; St. 2020, c. 358.

appropriation for § 3A.[27] Neither was the MBTA Communities Act specifically exempted from application of the Local Mandate Law by the Commonwealth.[28]

As stated above, the Commonwealth has already provided grant funding to some MBTA communities for certain costs of drafting compliant zoning. In addition, the Commonwealth continues to anticipate that the MBTA Communities Act will impose costs on MBTA communities. Section 2A of Chapter 150 of the Acts of 2024 includes the following line item:

> 7004-0077.. For a local capital projects grant program to support and encourage implementation of the housing choice designation for communities that have demonstrated housing production and adoption of housing best practices, *including a grant program to assist MBTA communities in complying with the multi-family zoning requirement in section 3A of chapter 40A of the General Laws*..... $50,000,000 (emphasis added)

Further, Section 4 of said chapter 150 provides in part:

> (a) There shall be in the executive office of housing and livable communities a HousingWorks infrastructure program to: (i) issue infrastructure grants that support housing to municipalities and other public entities … ; or (ii) assist municipalities to advance projects that support housing development, preservation or rehabilitation. Preference for grants or assistance under this section shall be given to: … (C) *multi-family zoning districts that comply with section 3A of said chapter 40A* …. (emphasis added)

However, establishment of the grant programs above did not occur contemporaneously with the enactment of § 3A, nor did they provide the required specific allocation of funds to municipalities for the costs of compliance with § 3A.[29] Moreover, there are questions as to whether a grant

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[27] *See* St. 2021, c. 24; St. 2021, c. 23; St. 2021, c. 29; St. 2021, c. 76.

[28] *Cf.* St. 1993, c. 71, *An Act Establishing the Education Reform Act of 1993* ("SECTION 67. This act shall apply to all cities, towns, and regional school districts, notwithstanding section twenty-seven C of chapter twenty-nine of the General Laws and without regard to any acceptance or appropriation by a city, town, or regional school district or to any appropriation by the general court.") *See Lexington,* 393 Mass. at 698 ("[the challenged law] does not indicate any express amendment or repeal of section 27C"); *see also School Committee of Lexington v. Commissioner of Education,* 397 Mass. 593, 595-596 (1986) ("One option was to provide specifically that [the challenged law] supersedes [the Local Mandate Law]. . . . [T]he Legislature could either have repealed or superseded an aspect of [the Local Mandate Law] directly.").

[29] *See Lexington*, 393 Mass. at 699-700 (where the Supreme Judicial Court of Massachusetts recognized that a method by which reimbursement may be sought by cities and towns *after the costs have been incurred* and *without an appropriation of funds specifically targeted to the assumption of incurred costs* does not pass muster under M.G.L. c. 29, § 27C(a) (emphasis added)).

program requiring municipalities to compete for funding to support and encourage compliance with a law, even if created and funded contemporaneously with the law in question, would satisfy the Local Mandate Law because such a program is not intended to assume all costs imposed.[30]

The emergency regulations also make reference to potentially necessary funding for compliance with § 3A: "For purposes of the unit capacity analysis, it is assumed that housing developers will design projects that work within existing water and wastewater constraints, and that developers, *the municipality, or the Commonwealth will provide funding for infrastructure upgrades as needed* for individual projects" (emphasis added).[31] Whether a particular expense is imposed by the MBTA Communities Act within the meaning of the Local Mandate Law will require further data collection and analysis. DLM will implement data collection measures necessary to determine the estimated and actual financial effects on each MBTA community of the MBTA Communities Act. In the interim, because the Commonwealth did not assume the costs of the MBTA Communities Act by general law and by appropriation in the 2021 session contemporaneously with the effective date of the MBTA Communities Act, DLM determines that the current method of funding by the Commonwealth of the costs of compliance with § 3A incurred by MBTA communities does not satisfy the requirements of the Local Mandate Law.

Conclusion

It is the determination of DLM that the provisions of the MBTA Communities Act *impose an unfunded mandate* within the meaning of the Local Mandate Law as the current method of funding by the Commonwealth of § 3A compliance costs incurred by municipalities does not satisfy the requirements of the Local Mandate Law. DLM cautions that, as with all determinations, the conclusions herein are based on DLM's interpretation and application of current law and judicial precedent and, accordingly, are subject to legislative or regulatory changes or judicial determination. As stated above, DLM will conduct data collection measures as necessary and will report on the financial effects of the MBTA Communities Act when the process concludes.

This opinion does not prejudice the right of any city or town to seek independent review of the matter in Superior Court in accordance with M.G.L. c. 29, § 27C(e). This determination does not guarantee that expenses will, in fact, be reimbursed, as the Supreme Judicial Court has opined that a municipality's sole recourse for an unfunded mandate is to petition the Superior Court for an exemption from compliance.[32]

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[30] *See id.*
[31] 760 CMR 72.05(1)(e)2.
[32] *See Worcester,* 416 Mass. at 761–762.

Thank you for bringing this important matter to our attention. We look forward to continuing to work with you in service to the residents of Wrentham and our Commonwealth.

Sincerely,

Jana DiNatale
Director of Division of Local Mandates
Office of State Auditor Diana DiZoglio

cc: Michael J. King, Interim Town Manager, Town of Wrentham
Kimberley Driscoll, Lieutenant Governor of the Commonwealth
Andrea Campbell, Attorney General of the Commonwealth
Karen E. Spilka, President of the Senate
Ronald Mariano, Speaker of the House
Edward M. Augustus Jr., Secretary, Executive Office of Housing and Livable Communities
Adam Chapdelaine, Massachusetts Municipal Association Executive Director and Chief Executive Officer
Elizabeth T. Greendale, President of the Massachusetts Town Clerks' Association

Appendix A: MBTA Communities[33]

"51 cities and towns", the cities and towns of Bedford, Beverly, Braintree, Burlington, Canton, Cohasset, Concord, Danvers, Dedham, Dover, Framingham, Hamilton, Hingham, Holbrook, Hull, Lexington, Lincoln, Lynn, Lynnfield, Manchester-by-the-Sea, Marblehead, Medfield, Melrose, Middleton, Nahant, Natick, Needham, Norfolk, Norwood, Peabody, Quincy, Randolph, Reading, Salem, Saugus, Sharon, Stoneham, Swampscott, Topsfield, Wakefield, Walpole, Waltham, Wellesley, Wenham, Weston, Westwood, Weymouth, Wilmington, Winchester, Winthrop and Woburn.

"Fourteen cities and towns", the cities and towns of Arlington, Belmont, Boston, Brookline, Cambridge, Chelsea, Everett, Malden, Medford, Milton, Newton, Revere, Somerville and Watertown.

"Other served communities", the cities and towns of Abington, Acton, Amesbury, Andover, Ashburnham, Ashby, Ashland, Attleboro, Auburn, Ayer, Bellingham, Berkley, Billerica, Boxhorough [sic], Boxford, Bridgewater, Brockton, Carlisle, Carver, Chelmsford, Dracut, Duxbury, East Bridgewater, Easton, Essex, Fitchburg, Foxborough, Franklin, Freetown, Georgetown, Gloucester, Grafton, Groton, Grove land, Halifax, Hanover, Hanson, Haverhill, Harvard, Holden, Holliston, Hopkinton, Ipswich, Kingston, Lakeville, Lancaster, Lawrence, Leicester, Leominster, Littleton, Lowell, Lunenburg, Mansfield, Marlborough, Marshfield, Maynard, Medway, Merrimac, Methuen, Middieborough. [sic] Millbury, Millis, Newbury, Newburyport, North Andover, North Attleborough, Northborough, Northbridge, Norton, North Reading, Norwell, Paxton, Pembroke, Plymouth, Plympton, Princeton, Raynham, Rehoboth, Rochester, Rockland. Rockport, Rowley, Salisbury, Scituate, Seekonk, Sherborn, Shirley, Shrewsbury, Southborough, Sterling, Stoughton, Stow, Sudbury, Sutton, Taunton, Tewksbury, Townsend, Tyngsborough, Upton, Wareham, Way land, West Boylston, West Bridgewater, Westborough, West Newbury, Westford, Westminster, Whitman, Worcester, Wrentham, and such other municipalities as may be added in accordance with section 6 or in accordance with any special act to the area constituting the authority.

[33] M.G.L. c. 161A, § 1.