

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
CIVIL ACTION NO.

ATTORNEY GENERAL,

Plaintiff,

v.

TOWN OF DRACUT,

TOWN OF EAST BRIDGEWATER,

TOWN OF HALIFAX,

TOWN OF HOLDEN,

TOWN OF MARBLEHEAD,

TOWN OF MIDDLETON,

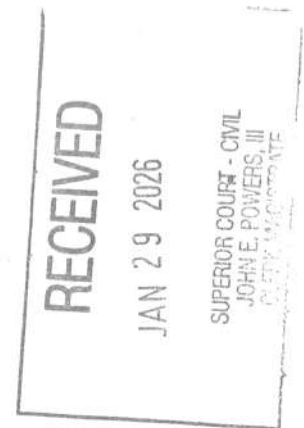
TOWN OF TEWKSBURY,

TOWN OF WILMINGTON,

TOWN OF WINTHROP,

Defendants.

COMPLAINT



INTRODUCTION

1. The Attorney General brings this action to obtain declaratory, injunctive, and other relief against the defendants, Town of Dracut (“Dracut”), Town of East Bridgewater (“East Bridgewater”), Town of Halifax (“Halifax”), Town of Holden (“Holden”), Town of Marblehead (“Marblehead”), Town of Middleton (“Middleton”), Town of Tewksbury (“Tewksbury”), Town of Wilmington (“Wilmington”), and Town of Winthrop (“Winthrop”) (each individually a “Town” and collectively, “Defendants” or “the Towns”), because they have failed to comply

with the provisions of the MBTA Communities Act, codified at G. L. c. 40A, § 3A(a) (“Section 3A” or “the Act”). The Act requires the Towns to have a zoning by-law that provides for at least one district of reasonable size in which multi-family housing is permitted as of right, located within one half-mile of a transit station where possible, and satisfying other specified criteria. See G. L. c. 40A, § 3A(a); 760 Code Mass. Regs § 72.00. The Towns have not met their obligations under this mandatory state law.

PARTIES

2. The Attorney General is the chief law enforcement officer of the Commonwealth. Her principal place of business is located at One Ashburton Place in Boston, Massachusetts. The Attorney General is authorized to bring this action by G. L. c. 12, § 10, which grants her the “broad authority to act in the public interest.” Att’y Gen’l v. Town of Milton, 495 Mass. 183, 192 (2025) (“Milton”) (“the public has an interest in the enforcement of § 3A, the Attorney General is empowered to enforce § 3A”).

3. The Town of Dracut is a Massachusetts municipal corporation with a principal place of business at 62 Arlington Street in Dracut, Massachusetts.

4. The Town of East Bridgewater is a Massachusetts municipal corporation with a principal place of business at 175 Central Street in East Bridgewater, Massachusetts.

5. The Town of Halifax is a Massachusetts municipal corporation with a principal place of business at 499 Plymouth Street in Halifax, Massachusetts.

6. The Town of Holden is a Massachusetts municipal corporation with a principal place of business at 1204 Main Street in Holden, Massachusetts.

7. The Town of Marblehead is a Massachusetts municipal corporation with a principal place of business at 188 Washington Street in Marblehead, Massachusetts.

8. The Town of Middleton is a Massachusetts municipal corporation with a principal place of business at 48 South Main Street in Middleton, Massachusetts.

9. The Town of Tewksbury is a Massachusetts municipal corporation with a principal place of business at 1009 Main Street in Tewksbury, Massachusetts.

10. The Town of Wilmington is a Massachusetts municipal corporation with a principal place of business at 146 Middlesex Avenue in Wilmington, Massachusetts.

11. The Town of Winthrop is a Massachusetts municipal corporation with a principal place of business at 1 Metcalf Square in Winthrop, Massachusetts.

JURISDICTION & VENUE

12. This Court has jurisdiction over the claims for declaratory relief set forth herein.
G. L. c. 231A, § 1.

13. This Court has jurisdiction over the claims for equitable relief set forth herein.
G. L. c. 214, § 1.

14. This Court is an appropriate venue for this action. G. L. c. 223, § 5; G. L. c. 214, § 5.

FACTS

THE LEGISLATURE ENACTS THE MBTA COMMUNITIES ACT

15. The Commonwealth faces a housing crisis, which is a major cause of the state's high cost of living. The Commonwealth's limited housing supply makes Massachusetts unaffordable for too many residents, particularly working families, people with disabilities, and members of groups that have historically been denied the benefits of homeownership. The housing crisis affects all residents of the Commonwealth as increasingly high rents and sale

prices undermine the stability of communities, exacerbate homelessness, cause health problems, and weaken the economy.

16. In 2021, “the Legislature passed G. L. c. 40A, § 3A, the Massachusetts Bay Transportation Authority (MBTA) Communities Act . . . which was designed to address the ongoing housing crisis in the Commonwealth by requiring cities and towns that benefit from having access to MBTA services to adopt zoning laws that provide for at least one district of multifamily housing ‘as of right’ near their local MBTA facilities.” Milton, 495 Mass. at 185. The “legislative decision to require towns benefiting from MBTA services to permit their fair share of multifamily housing,” id., at 193, reflects the well-established rationale that “it does not serve the general welfare of the Commonwealth to permit one particular town to deflect [a] wave [of housing demand] onto its neighbors.” Zuckerman v. Hadley, 442 Mass. 511, 519 (2004).

17. The Act specifically requires “MBTA communities”—defined as the 177 municipalities within the MBTA’s service area, see G. L. c. 40A, § 1A; G. L. c. 161A, § 1, to “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.” The required district must “(i) have a minimum gross density of 15 units per acre . . . ; and (ii) be located not more than 0.5 miles from a commuter rail station, subway station, ferry terminal or bus station, if applicable.” § 3A(a).

18. In addition, the Act directs the Executive Office of Housing and Livable Communities (“EOHLC”) to “promulgate guidelines to determine if an MBTA community is in compliance” with § 3A(a). See § 3A(c).

19. On August 10, 2022, EOHLC published “Compliance Guidelines for Multi-family Zoning Districts Under 3A of the Zoning Act” (the “Guidelines”). The Guidelines were finalized on August 17, 2023.

20. On January 8, 2025, the Supreme Judicial Court held that, because the Guidelines had not been promulgated as regulations, they “must be repromulgated in accordance with [Chapter 30A].” Milton, 495 Mass. at 196. See G. L. c. 30A.

**THE EXECUTIVE OFFICE OF HOUSING AND LIVABLE COMMUNITIES
PROMULGATES REGULATIONS**

21. Effective January 14, 2025, EOHLC promulgated 760 Code Mass. Regs § 72.00, “Multifamily Zoning Requirement for MBTA Communities,” as emergency regulations, effective upon publication. 1540 Mass. Reg. 117 (Jan. 14, 2025).

22. That emergency promulgation was followed by the promulgation of 760 Code Mass. Regs § 72.00, effective April 11, 2025 (“Regulations”). 1545 Mass. Reg. 61 (Apr. 11, 2025).

23. The Regulations provide that each MBTA community must have a § 3A-compliant district that satisfies minimum thresholds for both land area and multi-family unit capacity. Based on these thresholds, the Regulations establish community-specific minimum requirements that each § 3A district must satisfy to be deemed “of reasonable size.” See 760 Code Mass. Regs. §§ 72.05, 72.12.

24. By statute, compliance with § 3A is determined by EOHLC. G. L. c. 40A, § 3A(c). See 760 Code Mass. Regs § 72.09. To achieve compliance, a municipality that believes it has the required zoning in place must submit a “request for determination of district compliance” to EOHLC. 760 Code Mass. Regs § 72.09(6). The request must include certain required information and documents illustrating that the municipality has a zoning by-law that provides for the multi-family zoning district required by the Act. Upon review of the request, EOHLC will deem the municipality either compliant, conditionally compliant (subject to

specified conditions), or noncompliant with §3A (in which case EOHLC will identify “the steps that must be taken to achieve compliance”). See 760 Code Mass. Regs § 72.09(6)-(7). While a request for determination of district compliance is under review, EOHLC may deem a municipality to be in interim compliance. See 760 Code Mass. Regs § 72.09(8).

25. Each defendant Town was required to submit a district compliance application to EOHLC by July 14, 2025. 760 Code Mass. Regs § 72.09(3) (Table 3); § 72.12.

26. Failure to submit a district compliance application or to be in interim compliance results in the determination that the municipality is noncompliant with § 3A. See 760 Code Mass. Regs § 72.09(3).

THE DEFENDANT TOWNS FAIL TO COMPLY WITH THEIR OBLIGATIONS UNDER SECTION 3A AND THE REGULATIONS

Town of Dracut

27. The Town of Dracut is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

28. Dracut has a town meeting form of government. Section 3A zoning was included on the warrants for the November 18, 2024, special town meeting and the June 2, 2025, annual town meeting in Dracut but failed to pass in both instances. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.dracutma.gov/282/Town-Meeting>.

29. Dracut did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

30. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of East Bridgewater

31. The Town of East Bridgewater is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

32. East Bridgewater has a town meeting form of government. Section 3A zoning was included on the warrants for the October 7, 2024, special town meeting and the May 12, 2025, annual town meeting in East Bridgewater but failed to pass in both instances. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.eastbridgewaterma.gov/1829/Town-Meeting-Information>.

33. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

34. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Halifax

35. The Town of Halifax is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

36. Halifax has a town meeting form of government. Section 3A zoning was included on the warrant for the Town's December 16, 2024, special town meeting but failed to pass. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.halifax->

[ma.org/2129/Town-Meeting-Archive](https://www.halifax-ma.org/2129/Town-Meeting-Archive); <https://www.halifax-ma.org/2103/Annual-Special-Town-Meetings>.

37. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

38. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Holden

39. The Town of Holden is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

40. Holden has a town meeting form of government. Section 3A zoning was included on the warrant for the May 19, 2025, annual town meeting in Holden but failed to pass. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.holdenma.gov/town-clerk/pages/town-election-results-town-meeting-proceedings>.

41. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

42. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Marblehead

43. The Town of Marblehead is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

44. Marblehead has a town meeting form of government. Section 3A zoning was included on the warrant for the May 6, 2024, annual town meeting in Marblehead but failed to pass. The subject was also included on the warrant for the Town's May 5, 2025, annual town meeting, where it passed. However, the zoning by-law was eventually overturned by a referendum ballot vote on July 8, 2025. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://marbleheadma.gov/documents/>.

45. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-.Second>.

46. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Middleton

47. The Town of Middleton is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

48. Middleton has a town meeting form of government. Section 3A zoning was included on the warrant for Middleton's May 14, 2024, annual town meeting and its December 12, 2024, special town meeting but failed to pass on both occasions. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.middletonma.gov/504/Town-Meeting>.

49. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

50. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Tewksbury

51. The Town of Tewksbury is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

52. Tewksbury has a town meeting form of government. Section 3A zoning was included on the warrant for the Town's May 6, 2024, annual town meeting but failed to pass. The subject was also included in a warrant for Tewksbury's May 5, 2025, annual town meeting but no vote was taken on the § 3A article. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.tewksbury-ma.gov/400/Town-Meeting-Minutes>.

53. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

54. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Wilmington

55. The Town of Wilmington is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

56. Wilmington has a town meeting form of government. Section 3A zoning was included on the warrant for Wilmington's May 4, 2024, annual town meeting but the measure was referred back to the Town's planning board in lieu of a vote on adoption. The subject was also included in warrants for the Town's December 9, 2024, special town meeting and its May 3, 2025, special town meeting but failed to pass in both instances. As of the date of this Complaint, the Town has yet to issue a subsequent warrant with an article proposing the adoption of § 3A zoning by-law amendments. See <https://www.wilmingtonma.gov/special-town-meeting>; <https://www.wilmingtonma.gov/special-town-meeting/pages/town-meeting-warrants>.

57. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-.Second>.

58. The Town is therefore noncompliant with § 3A(a) and the Regulations.

Town of Winthrop

59. The Town of Winthrop is an MBTA Community. See G. L. c. 40A, § 1A; G. L. c. 161; 760 Code Mass. Regs § 72.12.

60. Winthrop has a town council form of government. Section 3A zoning was included on the agenda for the Town's November 19, 2024, town council meeting and its June 17, 2025, town council meeting but failed to pass on both occasions. As of the date of this Complaint, the Town has not yet issued a subsequent town council meeting agenda which

includes a vote on proposed § 3A zoning. See

<https://www.winthropma.gov/AgendaCenter/Town-Council-21>.

61. The Town did not submit a request for determination of district compliance by the required July 14, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance. See <https://www.mass.gov/info-details/multi-family-zoning-requirement-for-mbta-communities#complying-with-section-3a-Second>.

62. The Town is therefore noncompliant with § 3A(a) and the Regulations.

CLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF

63. The Attorney General is authorized to take notice of violations of § 3A(a) and the Regulations and, in the public interest, to invoke this Court's jurisdiction to secure compliance with the same. G. L. c. 12 § 10; Att'y Gen'l v. Town of Milton, 495 Mass. 183 (2025).

COUNT I – DECLARATORY RELIEF **All Defendants**

64. The Attorney General realleges and incorporates the preceding paragraphs.

65. An actual controversy exists between the parties arising out of each Town's continuing failure to comply with the requirements of § 3A(a) and the Regulations.

66. Resolution of this controversy by entry of judgment declaring the respective rights of the parties will remove any uncertainty about those rights.

COUNT II – INJUNCTIVE RELIEF **All Defendants**

67. The Attorney General realleges and incorporates the proceeding paragraphs.

68. The Commonwealth is entitled to injunctive relief reasonably tailored to achieve compliance with § 3A and the Regulations.

PRAYER FOR RELIEF

WHEREFORE, the Attorney General respectfully requests that the Court:

- (A) Declare that the defendant Towns have failed to comply with § 3A(a) and the Regulations;
- (B) Declare that each defendant Town must amend its zoning by-law to ensure that it has a zoning district that complies with § 3A(a) and the Regulations and must secure a determination of compliance from EOHLC;
- (C) Award the Commonwealth injunctive relief reasonably tailored to achieve each Town's compliance with § 3A and the Regulations;
- (D) Order such further and other relief as the Court may deem just and proper.

Respectfully submitted,
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