

## **REPORT OF THE TOWN COUNSEL (F/Y 2011)**

Time incurred in representing the Town's interests responding to litigation and/or claims has fortunately continued to subside. A Superior Court action against the Town claiming violations of several aspects of the civil right laws was dismissed in the Town's favor, and upheld on appeal. A Federal District Court judge affirmed the authority of a town employee to assert that he had enrolled in a timely fashion in employment performance enhancement courses and judgment so entered. Several appeals asserted by property owners requesting a reduction in their real estate tax assessments were managed in the Appellate Tax Board, some of which remain pending as of the end of the fiscal year. A bid protest at the state department of labor and industries was managed. Assistance was given the Planning Board and Town Planners in advocating for the approval of the tree preservation bylaw being proposed, which was eventually approved by Town Meeting and then the Office of the Attorney General. A citizen's complaint that the Middle School field trip to the Islamic Center Mosque in Boston was violative of civil rights was resolved through deliberative discussions with the complainant's attorney.

The time incurred in addressing legal aspects of private and public land use continued to increase this year, consistent with the experience of the last several years. Town involvement on developments on privately owned property included the build out at 27 Washington Street, involving legal completion of easements agreed upon, commitments of affordable housing, countability of eligible affordable units towards the Town's Affordable Housing Act quota, and like matters. The Town's study committee on the possible acquisition of the St. James site was advised, and the legal title to the property reviewed. The property acquisitions by the Wellesley Housing Development Corporation were reviewed at the corporation's request, in preparation for its presentations to the Board of Selectmen. The developer of the site of the former Wellesley Inn has been in routine contact, explaining the status of that prospective development, which was largely caught up in the widespread devaluation of property values over three years ago. The development along Linden Street, which the developer has branded as Linden Square, was finalized. The affordable housing project on Washington Street at the corner of Hillside Road received considerable attention. Assistance was given to the Executive Director in his negotiating the limited waiver of the Town's right of first refusal on the Glen Grove property on Grove Street. The offer of a landlocked parcel of land off of Kenilworth Road was managed by the Selectmen, who ultimately decided it was not in the Town's interest to accept the offer.

Town owned projects also received attention. The new DPW/MLP garage project has been successfully completed, and all subcontractors' disputes resolved. The new High School, soon to be occupied, required hardly any legal attention whatsoever, which must be a mark of the clear guidance given the project by the High School Building Committee, the School Committee and the Permanent Building Committee not to mention the very able general contractor selected for the job. Assistance was given to the Board of Selectmen and the Council on Aging in their mission to find a new home for the latter's offices. The Town's affordable housing stock continues to increase, with developments now completed at 139 Linden Street and 12-14 Peck Avenue.

Generally, assistance was given over the year to most town departments and committees, including, for example, to the Kepes Panel Study Committee; to the Building Department, reviewing several matters including the immunity that the state enjoys from local zoning; to the Health Department on enforcement issues; and on employee contracts. The new early retirement incentive program authorized by the Municipal Relief Bill was reviewed. Assistance was given in the issuance of common victualler and liquor licenses. The Permit Extension Act was reviewed and advice given. Questions were attended to on the general subjects of the town's financial accounting of wetlands permit receipts and the Council on Aging's volunteer drivers program. A claim of discrimination under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act was managed by the Assistant Superintendent, advice given and a meeting with federal officials attended. The new Open Meeting Law was reviewed and a new Bylaw drafted to ensure local compliance. The local aspects on the general issues of whether, and how centralized maintenance of all town buildings should be achieved was once again reviewed.

As before, requests continued to be responded to on the Conflict of Interest Law, the Uniform Procurement Law, the Open Meeting Law and Public Records Law. Records and witness subpoenas were attended to. All sessions of the Annual and Special Town Meetings were prepared for and attended, as were almost all sessions of the Board of Selectmen's weekly meetings. Meetings of other boards were attended when requested.

The Town continues to be ably represented specially by Morgan, Brown and Joy, the Town's Labor Counsel and other special counsel in education matters and regulatory matters involving the Municipal Light Plant.

More detailed reports are contained in the monthly reports of the Town Counsel, which remain available for public inspection.

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