

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 Carver is a Massachusetts municipal corporation with a principal place of business at 108 Main Street in Carver, Massachusetts.

JURISDICTION & VENUE

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

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

6. 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

7. 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.

8. 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).

9. 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).

10. 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).

11. 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.

12. 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**

13. 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).

14. 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).

15. 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.

16. 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).

17. The Town is characterized as an “Adjacent Small Town” and was thus required to submit a district compliance application to EOHLC by December 31, 2025. 760 Code Mass. Regs §§ 72.12 (Table of MBTA Community Categories and Requirements) and 72.09(3) (Table 3).

18. 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 TOWN FAILS TO COMPLY WITH ITS OBLIGATIONS UNDER SECTION 3A
AND THE REGULATIONS**

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

20. Carver has a town meeting form of government. Section 3A zoning was included on the warrant for the October 7, 2025, 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.

21. Carver did not submit a request for determination of district compliance by the required December 31, 2025, deadline and, as of the date of this Complaint, has not submitted a request for determination of district compliance.

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

CLAIMS FOR DECLARATORY AND INJUNCTIVE RELIEF

23. 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

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

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

26. 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

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

28. 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 Town has failed to comply with § 3A(a) and the Regulations;

(B) Declare that the 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 the 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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