

Commonwealth of Massachusetts
EXECUTIVE OFFICE OF HOUSING &
LIVABLE COMMUNITIES

Maura T. Healey, Governor ◆ Kimberley Driscoll, Lieutenant Governor ◆ Edward M. Augustus, Jr., Secretary

By email (nmilano@townofmilton.org)

January 9, 2024

Select Board Chair Michael F. Zullas
Town of Milton
525 Canton Avenue
Milton, MA 02186

RE: Town of Milton's Compliance with MBTA Communities Law

Dear Chairman Zullas:

Thank you, Chairman Zullas and Town staff, for keeping the Executive Office of Housing and Livable Communities (EOHLC) informed regarding the Town of Milton's actions and plans to achieve compliance with G.L. c. 40A, § 3A (the MBTA Communities law), including the zoning plan passed at the Special Town Meeting in December 2023 and the February 13, 2024 referendum on that plan. This letter is intended to clarify Milton's current status with respect to compliance with the MBTA Communities law, the impact of the referendum, and the consequences of non-compliance. Specifically, EOHLC will find Milton noncompliant with the MBTA Communities law if the zoning that was approved by Special Town Meeting in order to comply with the law cannot go into effect because it is overturned by the upcoming ballot vote. In turn, noncompliance would render the Town ineligible for significant grant funding and put it at a competitive disadvantage for myriad additional programs.

Milton's Current Status

After seeking and receiving guidance from EOHLC, Milton's legislative body (Town Meeting) adopted an MBTA Communities Multi-family Overlay District zoning plan at its December 11, 2023 meeting. Milton would have met its obligations under the MBTA Communities Law with submission of an application and adopted zoning consistent with EOHLC guidance by the end of year deadline for Rapid Transit Communities

Milton did not submit an application by that deadline, however. Instead, a referendum vote which could overturn Town Meeting's adoption of the zoning is scheduled for February 13, 2024.. At present, Milton is the only Rapid Transit Community that has not met the end of year deadline. Repeal of the MBTA Communities Multi-Family Overlay District would result in Milton's zoning not meeting the requirements of the MBTA Communities law.

EOHLC has delayed taking action on Milton's failure to submit an application by the deadline in recognition of the significant affirmative steps Milton has taken to comply with the MBTA Communities requirements:

- In 2023 Milton sought and received technical assistance from EOHLC and its partner Massachusetts Housing Partnership (MHP) to help the town develop a multi-family zoning district.
- With this technical assistance, town officials produced a proposed amendment to the town's zoning code and zoning map to allow multi-family zoning.
- Milton submitted a "pre-adoption" application so that EOHLC staff could review draft zoning and compliance model results.
- Town staff consulted numerous times with EOHLC staff to develop the final zoning that was presented on the Special Town Meeting warrant.
- The town held a Special Town Meeting in December at which the proposed zoning was adopted.
- The town also shared with EOHLC copies of compliance materials, including the final zoning text and associated zoning map amendments adopted by Special Town Meeting, the compliance model and the GIS shapefiles, and other materials that the town had "in hand," prior to the Rapid Transit Communities deadline.

If the referendum upholds adoption of the plan, and if on January 11, 2024 the Select Board confirms to EOHLC in writing its intent to promptly submit a District Compliance application, EOHLC is prepared to exercise its discretion to excuse the Town's failure to meet the application deadline. If not, EOHLC expects to find the Town non-compliant without further delay.

Consequences of non-compliance

The consequences of non-compliance are significant.

- As Attorney General Andrea Campbell advised communities on [March 15, 2023](#), compliance with the MBTA Communities law is mandatory.
- By statute, compliance is a prerequisite to receive MassWorks, HousingWorks and Housing Choice grants. Milton has benefited from these grant programs in the past. In 2023 Milton received a \$30,000 Community Planning grant to fund planning activities for MBTA Communities law compliance, and Milton also received a \$30,000 Community Planning grant to draft zoning language for MBTA Communities law compliance. In 2021, Milton received \$60,000 from EOHLC (then DHCD) in consultant services to assist businesses recover from impacts of the COVID-19 pandemic through the Local Rapid Recovery Program (LRRP).
- **Municipalities that are compliant** with MBTA Communities will have a **strong competitive advantage** in all the capital programs offered by the Executive Office of Housing and Livable Communities (EOHLC), as well as other grants that are a part of the Community One Stop for Growth consolidated grant programs:
 - MassWorks , EOED
 - HousingWorks, EOHLC
 - Housing Choice grants, EOHLC

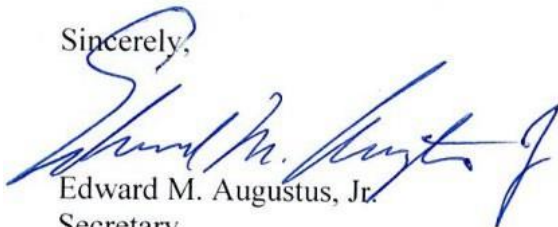
- Community Planning Grants, EOHLC
- Massachusetts Downtown Initiative, EOED
- Urban Agenda, EOED
- Rural and Small Town Development Fund, EOED
- Brownfields Redevelopment Fund, MassDevelopment
- Site Readiness Program, MassDevelopment
- Underutilized Properties Program, MassDevelopment
- Collaborative Workspace Program, MassDevelopment
- Real Estate Services Technical Assistance, MassDevelopment
- Commonwealth Places Programs, MassDevelopment

While non-compliance is not an absolute bar to participation in these additional programs, in general an application by a non-compliant community is unlikely to be selected for funding absent extraordinary circumstances.

- As described in the Guidelines, the following grants that are not part of the Community One-Stop for Growth consolidated grant process will also take non-compliance into consideration:
 - Land Use Planning Grants, EOEEA,
 - Local Acquisitions for Natural Diversity (LAND) Grants, EOEEA, and
 - Municipal Vulnerability Preparedness (MVP) Planning and Project Grants, EOEEA

EOHLC provides this information in the hopes that it will be helpful to the Town of Milton in complying with its legal obligations. We hope to continue working with you to ensure that Milton can build on the steps it has already taken towards compliance with the MBTA Communities law.

Sincerely,



Edward M. Augustus, Jr.
Secretary

cc: Senator Walter F. Timilty
 Representative William J. Driscoll
 Representative Brandy Fluker Oakley
 Nicholas Milano, Town Administrator, Town of Milton
 Tim Czerwienski, AICP, Director of Planning and Community Development, Town of Milton