Chair Zulas, Select Board Members, Administrator Milano:

I write concerning the Town of Milton’s compliance with the MBTA Communities Act, G.L. c. 40, § 3A. We understand that responsible Town officials and employees have taken the steps required of them to bring Milton to the precipice of compliance with state law and that whether those steps will be given effect is now in doubt.

The Attorney General’s Office is aware of the recent correspondence between the Town of Milton and the Executive Office of Housing and Livable Communities concerning the status of the Town’s compliance. This is an issue we are closely monitoring, and we have received inquiries concerning what steps the Attorney General’s Office might take, if necessary, to compel compliance. Because compliance with the MBTA Communities Act impacts Milton and more than one hundred other Massachusetts municipalities, we wish to be straightforward about our responsibility to enforce the law and how we intend to meet that responsibility.

It is beyond question that the Commonwealth faces a housing crisis, which is a key factor in the state’s exceptionally high cost of living. Our limited housing supply is also a significant impediment to the economic growth that is needed to keep our communities strong. And it makes Massachusetts all too unaffordable for the next generation of residents, including many who have grown up here, but who, without additional housing development, will be forced to leave their home state.

We all share responsibility for addressing this crisis. The Legislature, acting with broad and bipartisan agreement, took a significant step forward when it voted overwhelmingly to pass the MBTA Communities Act three years ago, in January 2021. The state Senate adopted the law unanimously. The House did so by a vote of 143-4, such that the cumulative legislative vote was 183-4. Then Governor Charles D. Baker signed the Act into law.

The requirements of the Act are plain. An MBTA Community such as Milton “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.” The Act further requires that the
multi-family housing district must be “without age restriction” and must be “suitable for
families with children.” The Act and guidelines adopted by EOHLC under the Act afford
municipalities considerable local discretion as to how to comply with these
requirements. But the law is crystal clear as to whether municipalities must comply:
They must.

The Attorney General’s Office stands ready to work with any municipality that seeks to
meet its legal responsibilities. And, indeed, we already serve as a resource in that
respect to Milton, as well as other communities throughout the state. We know EOHLC
is doing the same. Our strong preference is for cooperation and collaboration, within
the bounds of the law.

We know that the Town of Milton, working with EOHLC and in consultation with this
Office, has taken serious steps toward complying with the requirements of the MBTA
Communities Act. Those steps culminated in the December 11, 2023 representative
town meeting vote adopting a bylaw intended to comply with the Act. We understand
that the question of whether that bylaw will be nullified is the subject of a referendum
early next month. As EOHLC has expressed clearly to the Town, Milton’s eligibility for a
wide variety of state funding will be impacted if the Town rejects compliance with the
MBTA Communities Act.

The Attorney General’s Office is entrusted with the enforcement of the Commonwealth’s
laws, including the MBTA Communities Act. It is essential that government actors—be
they statewide or local—adhere to the law, given that we demand no less from all within
our respective jurisdictions. Milton, for example, does not hesitate to act when
necessary to compel compliance with its bylaws. As a matter of state law, compliance
with the Act is not optional, as we have clearly and consistently advised.¹ My Office will
not hesitate to compel compliance with the MBTA Communities Act, through legal
action if necessary, should a municipality refuse to comply. We are also empowered to
enforce state and federal fair housing laws, which prohibit municipalities from
maintaining zoning rules that impermissibly restrict housing opportunities for protected
groups, including families with children, should the facts indicate a violation of those
laws have occurred.

We ask the Town (including its officials, employees, and agents) to preserve all records
related to the Town’s consideration of multi-family zoning generally, and the MBTA
Communities Act in particular, so that a complete record is available to the Attorney
General’s Office and a court if, and to the extent that, an enforcement action is
necessary.

¹ Attorney General’s Office, “Advisory Concerning Enforcement of the MBTA Communities Zoning Law”
(Mar. 15, 2023).
In closing, we are eager to work with the Town to meet its legal obligations. Should the Town chart a course in contravention of state law, however, the Attorney General’s Office will carry out its responsibility to enforce the law, without hesitation.

Very truly yours,

[Signature]

Andrea J. Campbell
Attorney General

cc: Hon. Ed Augustus, Secretary of the Executive Office of Housing and Economic Development