



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

ANDREA JOY CAMPBELL  
ATTORNEY GENERAL

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

**BY EMAIL**

The Select Board &  
Town Administrator Nicholas Milano  
Office of the Select Board  
525 Canton Avenue  
Milton, MA 02186

Chair Zullas, 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.<sup>1</sup> 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.

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<sup>1</sup> 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,

A handwritten signature in blue ink, appearing to read 'A. Campbell', with a stylized flourish at the end.

Andrea J. Campbell  
Attorney General

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