

From: Lorraine Iovanni

Sent: Thursday, September 26, 2024 3:16 PM

To: Gail Hunter <HunterG@manchester.ma.us>; Debbie Powers <powersd@manchester.ma.us>

Subject: [EXTERNAL] - Fwd: Amicus Brief in Support of Milton Filed by Jonathan Murray, KP Law on behalf of Hamilton

----- Original Message -----

From: Lorraine Iovanni <l.iovanni@comcast.net>

To: "harrisona@manchester.ma.us" <harrisona@manchester.ma.us> ,

"roundj@manchester.ma.us" <roundj@manchester.ma.us> ,

"bilottac@manchester.ma.us" <bilottac@manchester.ma.us> ,

"delaneyj@manchester.ma.us" <delaneyj@manchester.ma.us> ,

"sollosyb@manchester.ma.us" <sollosyb@manchester.ma.us> ,

"creightons@manchester.ma.us" <creightons@manchester.ma.us>

Cc: "federspielg@manchester.ma.us" <federspielg@manchester.ma.us> , Marc Resnick <ResnickM@manchester.ma.us>

Date: 09/26/2024 3:13 PM EDT

Subject: Amicus Brief in Support of Milton Filed by Jonathan Murray, KP Law on behalf of Hamilton

Attn: Select Board and Planning Board

Cc: MBTA Task Force Members, Town Planner, and Town Administrator

(Ms. Hunter, please share with MBTA TF Members and PB Members. Thank you.)

(Ms. Powers, please share with Fin Com Members. Thank you.)

[2024_08_19 SB Meeting Packet - Town of Hamilton, MA \(hamiltonma.gov\)](#)

START AT PAGE 14 FOR THE AMICUS CURIAE BRIEF FILED BY JONATHAN MURRAY, KP LAW, ON BEHALF OF HAMILTON, MA

Dear SB and PB,

I am sharing this research with you in the event that you have not read the Amicus Curiae Brief filed by Jonathan Murray of KP Law on behalf of the Town of Hamilton in support of Milton's case. KP Law has represented both Hamilton and Middleborough and is well known to be our Town Counsel.

KP Law makes three arguments:

1. The Attorney General Lacks Standing Or Authorization To Enforce Compliance With Section 3A.
2. Subsection (b) of Section 3A Provides The Sole Remedy For Noncompliance With The Statute.
3. Guidelines Promulgated By EOHLC Are Ultra Vires And Beyond The Scope Of The Legislature's Intent.

Also, excerpted verbatim:

"Ultimately, 'zoning power is one of a town's independent municipal powers included in the [Home Rule Amendment's (art. 89)] board grant of powers to adopt ordinances or by-laws for the protection of the public health, safety, and general welfare.' See Board of Appeals of Hanover v. Housing Appeals Committee, 363 Mass. 339, 359 (1973); see also Durand v. IDC Bellingham, LLC, 440 Mass. 45, 50 (2003) (local zoning power is one of the 'independent municipal powers' granted to towns by the Home Rule Amendment to control 'land usages in an orderly, efficient, and safe manner to promote the public welfare.'"

I want to draw you attention to this interesting *dichotomy*. Jonathan Murray of KP Law has provided advice to our Town on 3A. I am not privy to this advice as it not public record data. But here are questions that any reasonable person may ask:

1. Has KP Law on behalf of MBTS filed an Amicus Curiae Brief in support of Milton, like Hamilton?
2. If not, why not? It is a "friendly" brief.
3. Why are we not waiting for the resolution of the Milton case given the fact that own Town Counsel, Jonathan Murray of KP Law, is representing our Hamilton neighbor and another Town arguing as above; and, in light of the possibility that we *may* not have an impact study concluded in a timely manner before STM?

If Milton prevails, and if MBTS votes this zoning in, how do we reverse the ship? More expenditure of funds? This has been a costly venture thus far.

Today, I became aware of Town Counsel's, Mr. Murray of KP Law, past submission of this brief. KP Law's legal arguments (and they do have a good track record) weighs heavily on whether I myself can truly support any push by the SB to place this zoning on the Warrant for STM. I am aware that KP Law may represent different interests; however, 3A application is generic across the Board for 177 communities.

Respectfully,

Lorraine Iovanni
20 A Pine st