



MASSACHUSETTS
LAND TRUST
COALITION

CONSERVATION PARTNERS MEETING

6-12-2026

RECENT CASES OF INTEREST

Town of Nahant v. Northeastern University (SJC-13844) Argued 2-2-2026 No Decision Yet

Issue – Was the town’s taking by Eminent Domain of 12 acres of university land long used as a park valid or can the taking be reversed on the ground that the town’s taking for open space was merely “pretextual” to the objective of stopping development?

Relevance for Land Conservation – The decision will affect the risk that municipal acquisition of open space could be challenged as merely intended to stop development and stopped on that account. MLTC joined in an amicus brief.

Sunpin Energy Services, LLC v. Zoning Board of Appeals of Petersham (SJC-13860) Argued 4-8-2026 No Decision Yet

Issue – Did the Petersham Zoning Bd of Appeal err by considering the impacts of cutting trees and statewide climate implications in denying a solar farm which is a protected zoning class under the so-called Dover Amendment.

Relevance for Land Conservation – Although this is litigation over the application of protection provided under zoning to favor religious, educational and other uses, the lower court ruling seemed to say that the local regulators should not consider climate or statewide considerations in its decisions.

Emerald Necklace Conservancy v. City of Boston (No. SJC-13865) Argued 4-8-2026 No Decision Yet

Issue – Does a long-term lease of a decrepit White Stadium to a professional soccer team require Article 97 approval for the change of use or the use of existing and new rights of way over Franklin Park.

Relevance for Land Conservation – While the conversion of a high school stadium to a private event stadium with full services and limited student use is a rare event, the conversion of existing park roads and new roads across Article 97 land is of vital importance when applied across the state to utility corridors and such, and the Appeals Court ignored the issue. MLTC, Kestrel and Greater Worcester Land Trusts joined others in an amicus brief.

Banevicius v. Town of Barnstable (No. SJC-13845.) Decided May 20, 2026

Issue – Abutters (or interested parties such as land trusts) do not have a right to act where the notice provisions of MGL c 61A are violated by the landowner and the town administrator does not communicate the notice of withdrawal to the public or other municipal agencies, hereby eliminating discussion of the Right Of First Refusal (ROFR) by which the town or its assignee (such as a land trust) could acquire the agricultural land.

Relevance for Land Conservation – The SJC held that the abutters did not have “standing” to bring the case – i.e. the statute did not grant rights for any party except the municipality to act to enforce the ROFR. Despite the allegation that the town administrator intentionally failed to publicize the ROFR opportunity, there is no available recourse to the public. MLTC led unsuccessful discussions this session to amend MGL c 61A to require, among other things, municipal public hearings before letting the ROFR lapse. Perhaps this case will inspire reform in the next legislative session or maybe a different case would recognize the need for a broader right to protect the public interests in the ROFR where town officials have thwarted notice.

Town of Westwood v. Westwood Land Trust (Norfolk County Superior Court No. 2582CV00808) Ruling May 7, 2026

Issue – The Westwood Land Trust, as holder of a CR) had the right to deny the landowner Town of Westwood the right to lease land to a private local farmer, despite terms of the CR permitting agriculture with permission of the holder “not to be unreasonably withheld”.

Relevance for Land Conservation – The extent to which a court should give deference to a subjective permission by the holder of a CR in Massachusetts is of obvious importance to any land trust, so a decision supporting a decision to deny a request is useful to conservation interests. Unfortunately, in this case the decision has no “precedential” (legally influencing other cases) value because it was not an appellate court and, moreover, the decision seemed

based on the judge's impression that a commercial farming use was inappropriate on CR restricted land. (Tangentially, please note that this dispute between the town and the WLT included a town meeting vote in which the citizens voted to deny funds for the town to fight the land trust. The town has stated that it will not appeal the ruling.)

Town of Wellesley v. DECAMM, EOEH & LC and Mass Bay Community College (JUST Filed 6-9-2026, in Norfolk Superior Court)

Issue – Did land, acquired by the state for educational purposes decades ago, acquire Article 97 protection due to its consistent use as open space by residents of Wellesley, including construction and maintenance of trails, etc.?

Relevance for Land Conservation – The applicability of Article 97 to publicly held land has been the subject to several SJC cases in recent years with factual analysis in each case focusing on the intent and documentation on the land's acquisition and its actual use. In this case, Mass Bay CC seeks to dispose of a parcel of about 45 acres (of which only about five acres has been developed as a parking lot) in order to meet its financial needs and for the development of 180 +/- units of housing to help meet the Commonwealth's drastic housing needs. In nine months of discussion, the state has expressed willingness to limit development as much as possible to the parking lot (some allege that it would be only the five acres, but I haven't seen that from DECAMM), with the rest being restricted to conservation, including uses now carried out. The undeveloped land abuts Wellesley conservation land and has effectively been used as town recreation land with the college's knowledge and at least implicit permission.

Please Note -- These are brief case summaries of complex matters of law and fact. Counsel should be consulted if that matter may be relevant to you. No legal opinions are intended.