

Campbell sues Milton over snub of state housing law

The lawsuit comes two weeks after town voters rejected zoning plan that would've complied with MBTA Communities Act

By [Andrew Brinker](#) Globe Staff, Updated February 27, 2024, 10:26 a.m.



Attorney General Andrea Campbell on Tuesday filed a lawsuit against the Town of Milton for being out of compliance with the MBTA Communities law. MARY SCHWALM/ASSOCIATED PRESS

Attorney General Andrea Campbell filed a lawsuit Tuesday against the town of Milton for failing to comply with a new state housing law.

The suit marks a dramatic escalation in the state's attempt to compel municipalities that have long been loath to accept new housing to ease the path to building. It comes less than two weeks after [voters in Milton rejected a plan](#) from town officials that would have complied

with the MBTA Communities Act and allowed more than 2,000 new units in [several corners of town](#).

“The housing affordability crisis affects all of us: families who face impossible choices between food on the table or a roof over their heads, young people who want to live here but are driven away by the cost, and a growing workforce we cannot house.” Campbell said in the statement. “The MBTA Communities Law was enacted to address our region-wide need for housing, and compliance with it is mandatory.”

The lawsuit, filed to a single-justice session of the Supreme Judicial Court in Suffolk County, comes after Milton officials in recent days have been [mulling their next steps](#).

It did not come as a surprise. Ahead of the referendum, Campbell had threatened to sue if residents rejected the plan.

The Select Board and the Planning Board held a joint meeting in executive session on Monday afternoon to discuss the possibility of legal action from Campbell’s office. Both the town and state officials had said in recent weeks that they wanted to work together to find a path forward, but Milton’s Planning Board, which is now responsible for drafting a new zoning proposal, said in a meeting late last week said they would draft a plan to comply only if the town’s requirements under the law were lessened. MBTA Communities, passed in 2021, is considered the most ambitious state housing law in decades.

It requires cities and towns served by the T to create zoning that allows for more multifamily housing. Milton, along with 11 other communities close to Boston, were required to meet an end-of-2023 deadline to pass new zoning in order to be considered in compliance. Another 130 communities have until the end of this year to submit new zoning to the state.



COMMONWEALTH OF MASSACHUSETTS
SUPREME JUDICIAL COURT FOR SUFFOLK COUNTY

SUFFOLK, ss.

No. SJ-2024-____

ATTORNEY GENERAL,

Plaintiff,

v.

TOWN OF MILTON and
JOE ATCHUE,

Defendants

ATTORNEY GENERAL'S COMPLAINT AND BRIEF

1. The Attorney General brings this action to obtain declaratory, injunctive, and other relief against the Town of Milton ("Town" or "Milton") concerning the Town's failure to comply with mandatory state law--specifically, the provision of the MBTA Communities Act, codified at G.L. c. 40A, § 3A(a), that requires the Town to have a zoning by-law that provides for at least one district of reasonable size in which multi-family housing is permitted as of right, that is located within a half-mile of a transit station, and that satisfies other specified criteria.



The lawsuit represents the latest turn in a saga that has roiled the suburban town of 28,000. Milton Town Meeting voted in December by a two-thirds majority to approve a plan crafted by

town leaders to comply with MBTA Communities, but a group of residents who were dissatisfied with the zoning — and the town’s requirement to rezone more broadly — quickly gathered enough signatures to trigger a referendum.

Campaigning ahead of that vote, two weeks ago, revealed deep political divides in town, turning neighbor against neighbor. In the end, residents voted to overturn the plan, essentially ordering town officials to restart the process, which could take months.

“It is a great disappointment for the citizens of Milton that the Attorney General has lead with all sticks and no carrots,” said Denny Swenson, one of the leaders of the No campaign. “It is a shame that it may take defending this lawsuit for the citizens of Milton to finally get heard. The town has available strong defenses to this litigation.”

That vote represented a setback to the Healey administration’s efforts to dig out of the state’s housing crisis, and some housing advocates worried that Milton’s vote could spark broader resistance to MBTA Communities. Indeed, since the referendum, residents and local officials in other communities around Greater Boston have used it as a rallying cry, hoping to defy the law in their town as well.

“We are reviewing the complaint filed by the Attorney General and we look forward to defending the town,” Town Administrator Nicholas Milano said in a statement Tuesday. “The Milton Select Board is meeting tonight to discuss the complaint and the town’s next steps.”

Legal experts and advocates told the Globe in recent weeks that the suit could have far-reaching implications for MBTA Communities law, potentially strengthening the teeth behind the state’s bid to compel cities and towns to help dig the state out of its housing crisis.

Campbell’s suit asks a judge to affirm that MBTA Communities and the guidelines created by the state’s housing office are mandatory and that Milton be given three months to pass a compliant zoning district. If the town does not meet that deadline, the suit asks a judge to prevent the town from enforcing any existing local zoning rules that are inconsistent with the town’s MBTA Communities obligation.

And, if Milton “proves unable or unwilling to comply” the suit asks that a judge fine the town or appoint a special master to draft a zoning proposal that complies with the law.

Governor Maura Healey, whose administration last week said it would [withhold some state grants from Milton](#) for as long as the town remains out of compliance, said that she supports Campbell's lawsuit as well, and that every community has a role to play in addressing the state's deep housing shortage.

"I hope we can work with Milton and see a new plan," Healey said on GBH's Boston Public Radio Tuesday. "But the message should be clear to every community out there that we meant what we said in terms of compliance and enforcement."

Matt Stout of the Globe Staff contributed to this report.

This is a developing story and will be updated.

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