

Representing Clients on Wetlands Permits & Determinations Before Conservation Commissions

Make the tactical and strategic choices for success

Learn about the substantive laws that govern your client's applications, such as the: Wetlands Protection Act and municipal bylaws; Home Rule principles and preemption; Open Meeting Law rules (for live, remote, and hybrid); and related federal and state permits and licenses. Hear the expert faculty explain the procedural steps that determine your client's outcomes, including filing applications, notifying abutters, conducting hearings, building a record, continuing hearings, navigating meeting deadlines, and appealing to a court and/or MassDEP. On the enforcement front, you learn about more complicated aspects, including noncompliance with permits, permit and plan amendments, certificates of compliance (often after the fact), site inspections, violation notices, and enforcement orders. In conclusion, the expert faculty analyze three critical cases limiting government regulation and enforcement over work and activities in or near wetlands, waterbodies, and wildlife habitats:

- *Boston Clear Water Company, LLC v. Town of Lynnfield*, No. 21-P-166, 100 Mass. App. Ct. 657 (2022), is the recent Appeals Court ruling that the Commission loses its Home Rule jurisdiction if the Commission fails to convene the public hearing by 21 days from the NOI being filed, so the only permit needed is from MassDEP.
- *Oyster Creek Preservation, Inc. v. Conservation Commission of Harwich*, 449 Mass. 859 (2007), is the original SJC ruling that the Commission loses its Home Rule jurisdiction (and the applicant does not need the local bylaw or ordinance permit) if the Commission fails to issue its final permit or denial within 21 days of the close of the public hearing.
- *Town of Norton Conservation Commission v. Robert Pesa*, 488 Mass. 325 (2021), is the seminal SJC case supporting a Commission, under the state Wetlands Protection Act, in a long-running attempt to get compliance from recalcitrant landowners, opening a three-year window (statute of repose) against each new landowner.

Agenda

- Substantive Laws Governing Your Client's Applications
- Procedural Steps That Impact Your Client's Outcomes
- Complicated Aspects on the Enforcement Front and Key Cases

Faculty

Gregor I. McGregor, Esq., *McGregor, Legere & Stevens, PC, Boston*, Chair; Luke H. Legere, Esq., *McGregor, Legere & Stevens, PC, Boston*; Richard A. Nysten, Esq., *Lynch, DeSimone & Nysten LLP, Boston*; Sarah A. Turano-Flores, Esq., *Nutter, McClennan & Fish LLP, Boston*



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Tuesday, February 7, 2023

9:30 am–11:30 am

Program Number: 2230280WBC

REBROADCAST

Wednesday, February 22, 2023

12:00 noon–2:00 pm

Program Number: 2230280RBC

REBROADCAST

Thursday, March 2, 2023

3:00 pm–5:00 pm

Program Number: 2230280RB1

ON DEMAND WEBCAST

View after Thursday, March 2, 2023

Program Number: 2230280WBA

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