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March 11, 2026

Doris L. Jemiolo, Town Clerk
Town of Blandford
1 Russell Stage Road, No. 11
Blandford, MA 01008

Re: Blandford Special Town Meeting of November 17, 2025 -- Case # 12153
Warrant Article # 1 (Zoning)

Dear Ms. Jemiolo:

Article 1 - Under Article 1, the Town voted to amend its zoning by-laws to add a new Section 18, "Temporary Moratorium on the Construction of Large-Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems." Section 18 (B), "Temporary Moratorium," imposes a temporary moratorium on the use of land or structures for Large-Scale Ground Mounted Solar Photovoltaic Installations ("large solar installations") and Battery Energy Storage Systems ("BESS") through May 31, 2026, or the date on which the Town adopts amendments to the zoning by-laws concerning large solar installations and BESS, whichever occurs earlier.

As explained in detail below, we must disapprove Article 1 because it violates G.L. c. 40A, § 3's prohibition against prohibiting or unreasonably regulating solar and related uses, because the proposed moratorium lacks any articulated public health, safety, or welfare justification sufficient to justify the moratorium's prohibition (even for a short amount of time) on these Dover amendment protected uses.[1,2] This decision describes the by-law; discusses the

[1] We recognize that at the August 19, 2019 Blandford Special Town Meeting, under Article 20, the Town adopted a temporary moratorium (through June 30, 2020) on the "use of land or structures for ground mounted solar photovoltaic installations" and the Attorney General approved this temporary moratorium in a decision issued on December 10, 2019 in Case # 9608. The Attorney General's approval of Article 20 was issued prior to the Supreme Judicial Court's decision in the case of Tracer Lane II Realty, LLC v. City of Waltham, 489 Mass. 775, 781 (2022). However, since the Tracer Lane II case, the Attorney General has disapproved temporary moratoriums on solar and BESS uses. See footnote # 2 for more information on the decisions disapproving the temporary moratoriums.

[2] We have previously disapproved moratoriums of solar or BESS uses. See decisions issued to the Towns of: Northfield on October 30, 2024 in Case # 11346; Ware on March 15, 2023 in Case # 10725 and Carver on November 14, 2022 in Case # 10526. In addition, we have disapproved zoning by-laws that prohibit "stand alone" or "independent" BESS. See decisions issued to the Towns of Wareham on April

Attorney General's standard of review of town by-laws under G.L. c. 40, § 32; and then explains why, governed as we are by that standard, we disapprove Article 1.

Our analysis of Article 1 is substantially influenced by the Supreme Judicial Court's decision in Tracer Lane II Realty, LLC v. City of Waltham, 489 Mass. 775, 781 (2022) (the determination whether a by-law facially violates Section 3's prohibition against unreasonable regulation of solar installations will turn in part on whether the by-law "restricts rather than promotes the legislative goal of promoting solar energy in the Commonwealth"). However, we note that our disapproval in no way implies agreement or disagreement with any policy views that may have led to the passage of the moratorium. The Attorney General's limited standard of review requires her to approve or disapprove by-laws based solely on their consistency with state law, not on any policy views she may have on the subject matter or wisdom of the by-law. Amherst v. Attorney General, 398 Mass. 793, 795-96, 798-99 (1986).

I. Summary of Article 1

Under Article 1, the Town voted to amend its zoning by-laws to adopt a new Section 18, "Temporary Moratorium on the Construction of Large-Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems." Section 18 (B), "Temporary Moratorium," provides that the moratorium relates to the "use of land or structures" for large solar installations and BESS and that it will be in effect through May 31, 2026 or until such time as the Town adopts zoning amendments "concerning" large solar installations and BESS, whichever occurs earlier.

Section 18 (A), "Authority and Purpose," explains that the Town "currently has three approved large-scale ground mounted solar photovoltaic installations...completed or under construction, two that are in the permitting process and three more than have expressed interest in pursuing permitting." Section 18 (A) states that large solar installations and BESS "are allowed pursuant to site plan review and special permit in the Agricultural zoning district, which includes approximately 90% of the Town's land area." The Town states that it is "experiencing unexpectedly high demand for large scale solar facility special permits." Id. The Town contends that because of the "potential availability of large areas of open space in the Town, it is anticipated that applications to site large scale solar facilities and battery energy storage systems in the Town will continue unabated" and that this is "raising unanticipated legal, planning, and economic issues and creating an urgent need to regulate the use." Id. In addition, the Town states that it has learned that there are plans to address "transmission and distribution infrastructure" capacity issues with a "substantial substation expansion project proposed" within the Town and that the project will "increase the system hosting capacity of the regional grid." Id.

As a result of the planned substation expansion, the Town asserts that the "expanded capacity of the upgraded substation is expected to make Blandford more attractive to commercial energy developers seeking special permits or other local approvals" and that the Town's "current

22, 2024 in Case # 11191; Leyden on April 16, 2024 in Case # 10919; Pelham on December 4, 2023 in Case # 11057; Spencer on May 30, 2023 in Case # 10804; and Wendell on March 1, 2023 in Case # 10721. These decisions can be found on the Municipal Law Unit's website at www.mass.gov/ago/munilaw (decision lookup link).

zoning framework does not adequately account for the likely volume, intensity, and cumulative impacts of such development, nor does it reflect the modern technological, environmental, and land use implications of utility-scale battery energy storage systems or co-located renewable installations." Id. The Town states that "large portions of the Town, including approximately 90% of its land area, remain potentially open to commercial-scale energy development under outdated and insufficiently protective standards." Id.

Section 18 (A) continues on to state that the Town "seeks to avoid unintended consequences of unchecked or poorly regulated commercial solar and battery energy storage development while it undertakes a deliberate and comprehensive planning process." Further the Town states that during the moratorium period, the planning process will "include public input, expert consultation, and the development of zoning amendments that ensure any future energy development is consistent with the Town's land use goals, environmental protections, rural character, infrastructure limitations, public safety, and State regulations." Id. The Town asserts that the moratorium is "necessary, reasonable, and narrowly tailored to serve the public interest while the Town updates its bylaws to responsibly manage a rapidly evolving energy landscape" and that further, the moratorium will not apply to "residential roof mounted or small or medium ground mounted solar installations." Id. As a basis of the moratorium, the Town states in Section 18 (A):

> The Town's recent attempts to address the impact of large-scale solar facilities and battery energy storage systems through amendments to its Zoning By-laws have been only partially successful, due in large part to changes in the law. The Town needs time to study the impacts of large-scale solar facilities and larger battery energy storage systems on the Town and its planning goals. Imposition of a temporary moratorium on the Construction of Large-Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems will allow sufficient time to assess these issues and amend the Zoning By-laws to conform to legal requirements and address the impact of these facilities on the Town's environmental resources and its planning goals.

Lastly, Section 18 (B) provides that during the moratorium period, "the Town shall undertake a planning process to study, review, analyze and address what revisions to the Zoning By-laws relative to Large Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems are needed or desirable to allow for and regulate such use consistent with applicable law while protecting the Town's environmental resources and furthering its planning goals."

II. Attorney General's Standard of Review of Zoning Bylaws

Our review of Article 1 is governed by G.L. c. 40, § 32. Under G.L. c. 40, § 32, the Attorney General has a "limited power of disapproval," and "[i]t is fundamental that every presumption is to be made in favor of the validity of municipal by-laws." Amherst v. Attorney General, 398 Mass. 793, 795-96 (1986). The Attorney General does not review the policy arguments for or against the enactment. Id. at 798-99 ("Neither we nor the Attorney General may comment on the wisdom of the town's by-law.") "As a general proposition the cases dealing with the repugnancy or inconsistency of local regulations with State statutes have given considerable

latitude to municipalities, requiring a sharp conflict between the local and State provisions before the local regulation has been held invalid." Bloom v. Worcester, 363 Mass. 136, 154 (1973).

Article 1, as an amendment to the Town's zoning by-laws, must be accorded deference. W.R. Grace & Co. v. Cambridge City Council, 56 Mass. App. Ct. 559, 566 (2002) ("With respect to the exercise of their powers under the Zoning Act, we accord municipalities deference as to their legislative choices and their exercise of discretion regarding zoning orders."). When reviewing zoning by-laws for consistency with the Constitution or laws of the Commonwealth, the Attorney General's standard of review is equivalent to that of a court. "[T]he proper focus of review of a zoning enactment is whether it violates State law or constitutional provisions, is arbitrary or unreasonable, or is substantially unrelated to the public health, safety or general welfare." Durand v. IDC Bellingham, LLC, 440 Mass. 45, 57 (2003). "If the reasonableness of a zoning bylaw is even 'fairly debatable, the judgment of the local legislative body responsible for the enactment must be sustained.'" Id. at 51 (quoting Crall v. City of Leominster, 362 Mass. 95, 101 (1972)). However, a municipality has no power to adopt a zoning by-law that is "inconsistent with the constitution or laws enacted by the [Legislature]." Home Rule Amendment, Mass. Const. amend. art. 2, § 6.

III. Article 1 Violates G.L c. 40A, § 3

Because the new Section 18 adopted under Article 1 prohibits the "use of land or structures" for large solar installations and all BESS during the moratorium period, including the construction of these uses, it results in a prohibition on large solar installations and BESS,[3] with no articulated evidence of an important municipal interest, grounded in protecting the public health, safety, or welfare, that is sufficient to outweigh the public need for solar energy systems, and therefore, the proposed moratorium conflicts with G.L c. 40A, § 3. For this reason, we disapprove Article 1. See Tracer Lane II Realty, 489 Mass. at 781.

One of the Town's main reasons for the proposed moratorium appears to be the number of existing or proposed projects in the Town and the expanded capacity of a substation that may further increase permit applications. However, given that large solar installations and BESS are a use protected under G.L. c. 40A, § 3, concern for the number of projects in Town does not constitute a sufficient municipal interest grounded in protecting the public health, safety, or welfare, that is sufficient to justify the moratorium, as explained below.

Solar energy facilities and related structures have been protected under Section 3 for almost 40 years, since 1985 when the Legislature passed a statute codifying "the policy of the

[3] The new Section 18 is entitled "Temporary Moratorium *on the Construction* of Large-Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems" (emphasis added). However, Section 18 (B), "Temporary Moratorium," states that the moratorium applies to "*the use of land or structures* for Large Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems" (emphasis added). Section 18 (B) does not limit the proposed moratorium to only the construction of large solar installations and BESS but instead states that the scope of the moratorium applies broadly to the "use of land or structures." Therefore, the proposed moratorium, as written, is susceptible to an interpretation that it is a moratorium not only on the new construction of large solar installations or BESS uses, but also, potentially, on the operation of existing uses.

commonwealth to encourage the use of solar energy." St. 1985, c. 637, §§ 7, 8. Id. § 2. Section 3's solar provision grants zoning protections to solar energy systems and the building of structures that facilitate the collection of solar energy as follows:

> No zoning . . . bylaw shall prohibit or unreasonably regulate the installation of solar energy systems or the building of structures that facilitate the collection of solar energy, except where necessary to protect the public health, safety or welfare.

In adopting Section 3, the Legislature determined that certain land uses are so important to the public good that the Legislature has found it necessary "to take away" some measure of municipalities' "power to limit the use of land" within their borders. Attorney General v. Dover, 327 Mass. 601, 604 (1950) (discussing predecessor to G.L. c. 40A, § 3); see Cnty. Comm'rs of Bristol v. Conservation Comm'n of Dartmouth, 380 Mass. 706, 713 (1980) (noting that Zoning Act as a whole, and G.L. c. 40A, § 3, specifically, aim to ensure that zoning "facilitate[s] the provision of public requirements"). To that end, the provisions of Section 3 "strike a balance between preventing local discrimination against" a set of enumerated land uses while "honoring legitimate municipal concerns that typically find expression in local zoning laws." Trustees of Tufts Coll. v. City of Medford, 415 Mass. 753, 757 (1993). Over the years, the Legislature has added to the list of protected uses, employing different language—and in some cases different methods—to limit municipal discretion to restrict those uses.

In codifying solar energy and related structures as a protected use under Section 3, the Legislature determined that "neighborhood hostility" or contrary local "preferences" should not dictate whether solar energy systems and related structures are constructed in sufficient quantity to meet the public need. See Newbury Junior Coll. v. Brookline, 19 Mass. App. Ct. 197, 205, 207-08 (1985) (discussing educational-use provision of Section 3); see also Petrucci v. Bd. of Appeals, 45 Mass. App. Ct. 818, 822 (1998) (explaining, in context of childcare provision, that Legislature's "manifest intent" when establishing Section 3 protected use is "to broaden … opportunities for establishing" that use). Indeed, the fundamental purpose of Section 3 is to "facilitate the provision of public requirements" that may be locally disfavored. Cty. Comm'rs of Bristol, 380 Mass. at 713.

The Supreme Judicial Court reaffirmed this principle in Tracer Lane II. In ruling that Section 3's protections required Waltham to allow an access road to be built in a residential district for linkage to a solar project in Lexington, the Court explicitly noted that "large-scale systems, not ancillary to any residential or commercial use, are key to promoting solar energy in the Commonwealth." Id. at 782 (citing Executive Office of Energy and Environmental Affairs, Massachusetts 2050 Decarbonization Roadmap, at 4, 59 n.43 (Dec. 2020) ("the amount of solar power needed by 2050 exceeds the full technical potential in the Commonwealth for rooftop solar, indicating that substantial deployment of ground-mounted solar is needed under any circumstance in order to achieve [n]et [z]ero [greenhouse gas emissions by 2050]")). The Court explained that whether a by-law facially violates Section 3's prohibition against unreasonable regulation of solar systems and related structures will turn in part on whether the by-law promotes rather than restricts this legislative goal. Id. at 781. While municipalities do have some "flexibility" to reasonably limit where certain forms of solar energy may be sited, the validity of any restriction ultimately entails "balanc[ing] the interest that the...bylaw advances" against "the impact on the protected [solar] use." Id. at 781-82.

By statute, BESS qualify as "solar energy systems" and "structures that facilitate the collection of solar energy" and are protected by G.L. c. 40A, § 3. General Laws Chapter 164, Section 1, defines "energy storage system" as "a commercially available technology that is capable of absorbing energy, storing it for a period of time and thereafter dispatching the energy." See also NextSun Energy LLC v. Fernandes, No. 19 MISC 000230 (RBF), 2023 WL 3317259, at *14 (Mass. Land Ct. May 9, 2023), amended, No. 19 MISC 000230 (RBF), 2023 WL 4156740 (Mass. Land Ct. June 23, 2023), judgment entered, No. 19 MISC 000230 (RBF), 2023 WL 4145901 (Mass. Land Ct. June 23, 2023) (finding that battery energy storage system is entitled to Section 3 solar protections); see also Duxbury Energy Storage, LLC. vs. Town of Duxbury Zoning Board of Appeals, Land Court Misc Case No. 23 Misc 000643 (June 23, 2025 (Reznick, J.), 2025 WL 1743026, * 16 (2025) (Court concluded that "applying the Bylaw's definition of structures and the usual and accepted meanings of facilitate and collection" the proposed stand alone "ESF Project involves the building of structures that facilitate the collection of solar energy" and therefore the BESS project is protected by G.L. c. 40A, § 3 and cannot be prohibited or unreasonably regulated except where necessary to protect the public health, safety or welfare.)

Applying this analysis to Blandford's proposed moratorium, we determine that Article 1's moratorium on the use of land or structures for large solar installations and all types of BESS violates G.L. c. 40A, § 3. The bylaw amendments propose to completely prohibit "the use of land or structures" for large solar installations and all types of BESS in all districts until May 31, 2026 (or until the Town adopts zoning amendments, whichever is earlier), without any actual evidence of a public health, safety or welfare concern sufficient to justify the impact on these protected uses. By the Town's own statements in Section 18 (A), this moratorium would impact up to three large solar installations completed or under construction, two more in the permitting process, and at least three more that are pursuing permitting in the Town.

Article 1 states that the moratorium is needed due to an "unexpectedly high demand...for permits...and the potential availability of large areas of open space in the Town" such that the Town anticipates permitting applications for these uses will "continue unabated" because the Town is "attractive to commercial energy developers seeking special permits or other local approvals." Section 18 (A). The Town asserts that this high demand has raised "unanticipated legal, planning, and economic issues" that create "an urgent need to regulate the use."[4] The Town further asserts that its current standards are "outdated" and that the Town wants to avoid "unintended consequences of unchecked or poorly regulated" large solar installations or BESS "while the Town undertakes a deliberate and comprehensive planning process." Id. For these reasons, the Town states that during the moratorium period, it will "undertake a planning process to study, review, analyze and address what revisions to the Zoning By-laws...are needed or desirable to allow for and regulate" these uses. Sections 18 (A) and (B).

[4] The Town's zoning by-laws reflect that the Town already comprehensively regulates large solar installations and BESS, including requiring a special permit for these uses in addition to other siting and development standards. See Town's Zoning By-laws, Section VIII, "Ground Mounted Solar Photovoltaic Installations," and Section XVI, "Battery Energy Storage Systems,"
at https://townofblandford.gov/documents-main/zoning-by-laws-august-2024/

We appreciate the reasons given in Section 18 (A) that the Town needs time to revise its zoning regulations as a result of an "unexpected high demand" that has raised "unanticipated legal, planning, and economic issue[s]." We further recognize that the text of Article 1 also asserts concerns related to the increased demand for permits for these uses in the Town, and general concerns related to the Town's "land use goals, environmental protections, rural character, infrastructure limitations [and] public safety" impacts from these uses, to justify the proposed moratorium. However, the record reflects only that the Town is generally concerned with the impacts of an "unexpectedly high demand" for large solar installations and BESS in the Town because the Town is "attractive to commercial energy developers seeking permits," but the Town does not articulate specific evidence of an important municipal interest, grounded in protecting the public health, safety, or welfare, necessary to justify the moratorium's prohibition. See Tracer Lane II Realty, 489 Mass. at 781. Given the strong statutory protections for solar installations and related structures including BESS, in G.L. c. 40A, § 3, and the Tracer Lane II Court's recognition that "large-scale systems…are key to promoting solar energy in the Commonwealth," Tracer Lane II, 489 Mass at 782, it is unlikely that putting a stop (even a temporary one) to large solar installations and BESS of all types, while the Town decides how to further regulate these uses, would be sanctioned as a legitimate public health, safety, or welfare concern to justify the moratorium where specific evidence of those concerns is absent.[5]

Just as the Tracer Lane II court found Waltham's "outright ban of large-scale solar energy systems in all but one to two percent of [Waltham's] land area…is impermissible under [G.L. c. 40A, § 3, ¶ 9]," id. at 782, so too is the Town's proposed complete ban on the use of land or structures for all large solar installations and all types of BESS, which would appear to include the permitting, construction, and seemingly the operation, of these uses everywhere in the Town – even for a limited time – because the record reflects no evidence of public health, safety or welfare concerns sufficient to justify the ban. See also Kearsarge Walpole, LLC v. Lee, Land Court Misc. Case No. 21 Misc 000449 (Oct. 4, 2022) (Smith, J.), 2022 WL 4938498 at *6 ("[A]bsent a finding of a significant detriment to the interests of public health, safety or welfare, the town cannot prohibit a large-scale ground-mounted solar facility in a Rural Residential zone."). Further, as the Land Court determined in Summit Farm Solar v. Planning Board for Town of New Braintree, Land Court Misc. Case No. 18 Misc 000367 (Feb. 18, 2022) (Speicher, J.), 2022 WL 522438, "the better, and correct view of the limits of local regulation of solar energy facilities allowed by G.L. c. 40A, § 3, is that such local regulation may not extend to prohibition except under the most extraordinary circumstances." Id. at * 10 (rejecting visual impact of solar array as a legitimate public health, safety, or welfare concern).

[5] The Attorney General has similarly disapproved a temporary moratorium in connection with other G.L. c. 40A, § 3 uses. See decision to the Town of Wareham issued on May 28, 2025 in Case # 11711 disapproving a proposed moratorium on the permitting of G.L. c. 40A, § 3 Protected Use Accessory Dwelling Units. In addition, the Attorney General has previously disapproved proposed moratoriums that would otherwise frustrate a state law. See decisions to the Towns of Ashland issued on May 30, 2023 in Case # 10810 and Millbury issued on November 15, 2023 in Case # 10973 proposing a temporary moratorium on multi-family uses despite both Town's status as an MBTA community under G.L. c. 40A, § 3A that requires the Town to allow at least one district of reasonable size where multifamily housing is permitted as of right.

For this reason, we conclude that Article 1 violates G.L. c. 40A, § 3, and we therefore disapprove it.

IV. Article 1 Imposes an Unlawful Moratorium on Large Solar Installations and all Types of BESS

In general, a town has the authority to "impose reasonable time limitations on development, at least where those restrictions are temporary and adopted to provide controlled development while the municipality engages in comprehensive planning studies." Sturges v. Chilmark, 380 Mass. 246, 252-253 (1980). At least in the context of land uses *not* protected by G.L. c. 40, § 3, and in the appropriate circumstances, a town's expressed need for time to undertake a planning process can qualify as a legitimate zoning purpose for a temporary moratorium. W.R. Grace, 56 Mass. App. Ct. at 569 (City's temporary moratorium on building permits in two districts was within City's authority to zone for public purposes). But the Supreme Judicial Court's decision on a land use moratorium, Zuckerman v. Hadley, 442 Mass. 511, 520-21 (2004), made clear that a municipality's authority to adopt a moratorium is limited: "Except when used to give communities breathing room for periods reasonably necessary for the purposes of growth planning generally, or resource problem solving specifically, as determined by the specific circumstances of each case, such [moratorium] zoning ordinances do not serve a permissible public purpose, and are therefore unconstitutional." Id., at 520-21 (citing Sturges, 380 Mass. at 257).[6]

In the solar and BESS context, the Tracer Lane II decision further clarifies the record evidence necessary to uphold any prohibitions or restriction on solar uses and BESS uses (including, presumably, a temporary prohibition as proposed here): "In the absence of a reasonable basis grounded in public health, safety, or welfare, such a prohibition [or restriction] is impermissible under [G.L. c. 40A, § 3]." Id. at 782.

As discussed above in Section III, the Town Meeting record filed with this Office reflects no reasonable need for the moratorium that is grounded in evidence of specific public health, safety, or welfare interests. Instead, the information contained in Article 1 indicates that the temporary moratorium of these protected uses is needed to give the Town time to consider updated zoning regulations because the Town is currently "experiencing [an] unexpectedly high demand" and because the Town is "attractive to commercial energy developers" such that the Town anticipates increased interest in permitting. See Section 18 (A). While courts in other contexts have upheld temporary moratoriums on non-protected land uses based on the municipality's need for "study, reflection and decision on a subject matter of [some] complexity [,]" W.R. Grace, 56 Mass. App. Ct. at 569, Tracer Lane II makes clear that any regulation that "restricts rather than promotes the legislative goal of promoting solar energy" must have "a reasonable basis grounded in public health, safety, or welfare." Tracer Lane II, 489 Mass at 782.

[6] We have approved such temporary moratoria on a variety of land uses only where the record reflects that the proposed moratorium is for a limited period necessary for a town to conduct a legitimate planning process, as required by Sturges. However, there are no appellate level decisions analyzing whether the Sturges/Zuckerman test is the appropriate one to determine a municipality's power to adopt a temporary moratorium on solar uses and related structures such as BESS that enjoy the protections of G.L. c. 40A, § 3.

The general stated need to put a hold on new, proposed, or anticipated projects simply to study potential impacts or to consider zoning regulations -- absent any evidence of an actual project impact prompting the need for study -- does not by itself qualify as "a reasonable basis grounded in public health, safety, or welfare." Tracer Lane II, 489 Mass. at 782. For these reasons, we disapprove Article 1.

V. Additional Information About the Recent Legislative Changes Regarding Solar Installations and Battery Energy Storage Systems

Although we disapprove Article 1, the Town has stated its intention to amend its zoning by-laws to further address large solar installations and BESS. For this reason, we offer brief information for the Town's consideration regarding the recent legislative and regulatory changes as a result of Chapter 239 of the Acts of 2024, "An Act Promoting A Clean Energy Grid, Advancing Equity and Protecting Ratepayers" ("the Act").[7] Among other provisions, the Act establishes permitting requirements for "small clean energy generation facilities" and "large clean energy infrastructure facilities." We incorporate by reference our more extensive comments regarding the Act in our recent decisions regarding solar and BESS uses. See e.g. decision to the Town of Medway issued on February 10, 2026 in Case # 12085.[8]

We also highlight to the Town that as part of this new legislation, DOER has drafted Regulations (that became final on February 27, 2026); Guidance (that is still pending in draft form); and model by-laws.[9] Under the Regulations, 225 CMR 29.05, "Concurrency and Transition Periods," a Town may accept (but is not required to accept) a consolidated local permit application during the time period July 1, 2026 through September 30, 2026; however, beginning on October 1, 2026, a Town must accept a consolidated local permit application. In addition, we note that DOER is offering technical assistance to municipalities. See 229 CMR 29.11, "Technical Assistance," (DOER "shall be available to assist Local Governments and Applicants apply 225 CMR 29.00, applicable sections of M.G.L. c. 25A, and Department Guidelines."). The Town may wish to consult with Town Counsel and the DOER with any questions about these legislative and regulatory changes regarding solar installations and BESS should it undertake any amendments to its zoning by-laws regarding these uses.

[7] The Act can be found here: https://malegislature.gov/Laws/SessionLaws/Acts/2024/Chapter239

[8] This decision, as well as other recent decisions related to solar or BESS, can be found on the Municipal Law Unit's website at www.mass.gov/ago/munilaw (decision lookup link) using the topic menu for "battery storage systems" and "solar."

[9] The final Regulations and draft Guidelines are available at: https://www.mass.gov/info-details/clean-energy-siting-permitting-regulations; and the model by-laws are available at: https://www.mass.gov/doc/doer-draft-solar-model-bylaw/download (solar) and https://www.mass.gov/doc/doer-draft-battery-energy-storage-systems-bess-model-bylaw/download (BESS).

VI. Conclusion

In the circumstances presented here, we conclude that the proposed moratorium on the use of land or structures for large solar installations and all types of BESS, violates G.L. c. 40A, § 3's prohibition against unreasonable regulation of solar and related uses because the proposed moratorium lacks any specific articulated public health, safety, or welfare justification sufficient to justify the prohibition. See Tracer Lane II, 489 Mass. at 781-82.

For these reasons, we disapprove and delete the Section 18, "Temporary Moratorium on the Construction of Large-Scale Ground Mounted Solar Photovoltaic Installations and Battery Energy Storage Systems," adopted under Article 1. We encourage the Town to consult with Town Counsel with any questions.

Note: Pursuant to G.L. c. 40, § 32, neither general nor zoning by-laws take effect unless the Town has first satisfied the posting/publishing requirements of that statute.

Very truly yours,

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cc: Town Counsels Jonathan D. Eichman and Mark R. Reich