

MASSACHUSETTS SUPREME JUDICIAL COURT

Banevicius v. Barnstable

Banevicius · No. SJC-13845 · Decided May 20, 2026

SUMMARY

The Massachusetts Supreme Judicial Court affirmed summary judgment for the Town of Barnstable and Bog Partners LLC in a dispute concerning the sale and proposed conversion of a cranberry bog subject to G. L. c. 61A. The court held that abutting landowners and a nonprofit lacked standing to seek declaratory relief because their alleged injuries fell outside the statute's zone of interests. It also held that mandamus relief was improper because the town had already notified the landowner that the sale notice was deficient.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
WRITING FOR THE COURT	Gaziano, J.; Budd, C.J.; Wendlandt, J.; Georges, J.; Dewar, J.; Wolohojian, J.
JURISDICTION	Massachusetts Supreme Judicial Court
DECIDED	May 20, 2026
DOCKET	SJC-13845
DISPOSITION	affirmed
PROCEDURAL POSTURE	The plaintiffs appealed from separate Superior Court judgments allowing the defendants' motions for summary judgment. The Supreme Judicial Court transferred the appeal from the Appeals Court on its own initiative.
STANDARD OF REVIEW	Summary judgment decisions are reviewed de novo. Viewing the evidence in the light most favorable to the nonmoving party, summary judgment is proper where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law.
PRECEDENTIAL VALUE	published
PARTIES	Helen Banevicius, trustee, and others v. Town of Barnstable, Bog Partners LLC

TOPICS

real estate

standing

declaratory judgment

summary judgment

statutory interpretation

PRACTICE AREAS

real estate

municipal law

civil procedure

remedies

statutory interpretation

QUESTIONS PRESENTED

1. Whether the plaintiffs had standing under G. L. c. 231A to seek a declaratory judgment challenging the sale of land subject to G. L. c. 61A based on alleged noncompliance with the statute's notice requirements.
2. Whether relief in the nature of mandamus under G. L. c. 249, § 5, could compel the Town to require the landowner to provide additional notice after the Town had already notified the landowner that the notice was deficient.

HOLDINGS

1. The abutting landowners and preservation nonprofit lacked standing to seek a declaratory judgment challenging the alleged violation of G. L. c. 61A's notice requirements. Section 61A protects municipal interests in preserving agricultural and horticultural land and does not confer rights on abutters or other private parties, nor does it provide an express private right of action.
2. Mandamus relief was improper because the Town had already notified the landowner that the notice was insufficient and requested compliance. Any additional steps to compel further notice were discretionary rather than ministerial, and mandamus cannot be used to require public officials who have acted to act again in a new and different manner.

KEY QUOTATIONS

"The municipal notice required for sale of such land ultimately serves this same purpose; specifically, it allows the "city or town" an opportunity to exercise its first refusal option, G. L. c. 61A, § 14, twelfth par., which in turn is meant to help "preserve and protect the agricultural [or horticultural] use of land," Scott, supra." (14)

"This case presents one of the same concerns we expressed in Enos: a holding that the plaintiffs have standing here could turn G. L. c. 231A into a "roving entitlement" for abutters to bring suit, allowing any sale of land under G. L. c. 61A to be "unnecessarily delayed by lawsuits brought by landowners near the project seeking redress for injuries not within [G. L. c. 61A's] ambit." (16-17)

"Mandamus is not an appropriate remedy to obtain a review of the decision of public officers who have acted and to command them to act in a new and different manner" (21)

FACTUAL BACKGROUND

The Jenkins Nominee Trust owned approximately twenty-one acres in Barnstable known as Jenkins Bog, which had been farmed as a cranberry bog and received horticultural tax treatment under G. L. c. 61A. In March 2021, the trustee sent notice of an intended sale and conversion to the town manager and town attorney, but did not

send notice to several other municipal entities and the State forester as required by § 14. The property was sold to Bog Partners LLC, and neighboring landowners and a nonprofit formed to preserve the bog sued, alleging that the sale was invalid and seeking declaratory and mandamus relief. The Town later notified the trustee's counsel that the notice was deficient and requested proper notice, but no additional notice was provided.

PROCEDURAL HISTORY

The plaintiffs filed a Superior Court action seeking declaratory relief invalidating the sale of a cranberry bog and relief in the nature of mandamus compelling the Town to require compliance with the notice provisions of G. L. c. 61A, § 14. The Superior Court allowed the Town's and Bog Partners LLC's separate motions for summary judgment on standing grounds. The Supreme Judicial Court affirmed, concluding that the plaintiffs lacked standing to seek declaratory relief and that mandamus was unavailable because the Town had already notified the landowner of the deficient notice and any further action was discretionary.

DISPOSITION

affirmed

CASES CITED

- Sudbury v. Scott, 439 Mass. 288, 293-296, 299-301 (2003)
- 81 Spooner Rd., LLC v. Zoning Board of Appeals of Brookline, 461 Mass. 692, 699 (2012)
- Metcalf v. BSC Group, Inc., 492 Mass. 676, 681 (2023)
- Enos v. Secretary of Environmental Affairs, 432 Mass. 132, 135-136, 141-142 (2000)
- Sudbury v. Massachusetts Bay Transportation Authority, 485 Mass. 774, 779 (2020)
- Sullivan v. Chief Justice for Administration and Management of the Trial Court, 448 Mass. 15, 21-22 (2006)
- Ten Persons of the Commonwealth v. Fellsway Development LLC, 460 Mass. 366, 381 (2011)
- Boston v. Rockland Trust Co., 391 Mass. 48, 56-57 (1984)
- Service Employees International Union, Local 509 v. Department of Mental Health, 469 Mass. 323, 335-338 (2014)
- Massachusetts State Automobile Dealers Association v. Tesla Motors MA, Inc., 469 Mass. 675, 684 n.14 (2014)
- Standerwick v. Zoning Board of Appeals of Andover, 447 Mass. 20, 28-32 (2006)
- Reilly v. Hopedale, 102 Mass. App. Ct. 367, 369-379 (2023)
- Revere v. Massachusetts Gaming Commission, 476 Mass. 591, 608 (2017)
- Animal Legal Defense Fund, Inc. v. Fisheries & Wildlife Board, 416 Mass. 635, 638 n.4 (1993)
- Stone v. Zoning Board of Appeals of Northborough, 496 Mass. 366, 374 (2025)
- Marshlian v. Zoning Board of Appeals of Newburyport, 421 Mass. 719, 721 (1996)
- Watros v. Greater Lynn Mental Health & Retardation Association, 421 Mass. 106, 111 (1995)
- Bombardieri v. Registrar of Motor Vehicles, 426 Mass. 371, 377 n.11 (1998)

- Ardon v. Committee for Public Counsel Services, 464 Mass. 1001, 1001 (2012), cert. denied, 571 U.S. 872 (2013)
- Anzalone v. Administrative Office of the Trial Court, 457 Mass. 647, 655 (2010)
- Boxford v. Massachusetts Highway Department, 458 Mass. 596, 606 (2010)
- Boston Medical Center Corp. v. Secretary of the Executive Office of Health & Human Services, 463 Mass. 447, 470 (2012)
- Rines v. Justices of the Superior Court, 330 Mass. 368, 373 (1953)
- Sterilite Corp. v. Continental Casualty Co., 397 Mass. 837, 839 n.3 (1986)
- Morton Street LLC v. Sheriff of Suffolk County, 453 Mass. 485, 490 (2009)

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