

ARTICLE 24

REDUCE LEGAL EXPENSES

MOTION: To reduce the amount of money spent on town legal expenses by having the routine legal work done by in-house counsel by:

a. reducing the appropriation in line item 8120 from \$410,000 to \$110,000 and;

b. increasing the amount appropriated for the Town Manager Personal Services in line item 8220 by \$100,000.

LEXINGTON LEGAL EXPENDITURES

	<u>FY 17</u>	<u>FY 18</u>	<u>FY 19</u>	<u>3 YR AVERAGE</u>
		<u>Town</u>		
Labor counsel	36,228	59,015	58,575	
Town counsel	306,964	235,538	300,721	
CPA Legal	6,939	13,814	5,662	
Capital Projects	6,894	26,777	52,896	
Bond Counsel/Debt Issuance	81,900	53,300	83,300	
ATB/Assessor	30,719	45,072	48,447	
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TOTAL:	549,643	433,516	549,601	<u>510,920</u>
		<u>School</u>		
	144,439	101,602	55,887	100,643

Town Counsel continued from previous page

Muzzey High Condominium Trust v. Flanagan and Town of Lexington, District Court, Concord Division No. 1047CV0106. Action filed in March 2010 to recover unpaid common expenses. Resolved and dismissed in May 2010.

George v. Keljikian, et al., Middlesex Superior Court Civil Action No. 2010-4193. Complaint filed in October, 2010. Action by Town Zoning Administrator to enforce limitations under Zoning Bylaw on property use in residentially zoned district.

Actions Settled or Disposed of During 2010

Lexington v. Cogliano, Commissioner Highway Dep't, et al., Middlesex Superior Court Civil Action No. 2003-032281. Challenge under Massachusetts Environmental Policy Act (MEPA) concerning noise mitigation in State highway construction project. Parties agreed to dismissal, filed in January 2010.

Quinn Bros. of Essex, Inc. v. Jan Five d/b/a Alexandra Construction, et al. v. Town of Lexington, et al., Middlesex Superior Court Civil Action No. 04-2233B and other related cases. General contractor and subcontractors' claims against Town for recovery of payments alleged owed on Cary Memorial Library project and claim by Lexington against architect for the project. The Town reached settlements with general contractor and with architect. Stipulation of Dismissal filed in June, 2010 and case dismissed in July 2010.

Passmann v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2009-02191A. Appeal of Zoning Board decision to allow modification of comprehensive permit to Rising Tide Development at 536-540 Lowell Street. Summary judgment granted to Board and co-defendant developer in January 2010.

Town of Lexington v. Delbanco, Middlesex Probate Court No. 09-E0072-GC. Complaint for instructions by Lexington as Trustee of certain charitable donations. Final Judgment issued in August 2010 instructing Town on use of funds.

Egan v. Town of Lexington, Middlesex Superior Court Civil Action No. 2009-01733. Complaint and Jury Claim for incident on 5/6/06-fall on Tavern Lane. Matter settled and Stipulation of Dismissal filed in July 2010.

Ofria v. Town of Lexington and Lexington Police Dept., Middlesex Superior Court Civil Action No. 2009-4643. Complaint against Lexington Police Department to remove and expunge citation. The parties reached settlement and an Agreement for Judgment entered in August 2010.

Town of Lexington v. Khachatorian, Middlesex Superior Court Civil Action No. 2008-01725-J. Zoning enforce-

ment action by the Town. Judgment entered against defendants in May 2010, affirmed on appeal.

27. *Muzzey High Condominium Trust v. Flanagan and Town of Lexington*, District Court, Concord Division No. 1047CV0106. Action filed in March 2010 to recover unpaid common expenses. Resolved and dismissed in May 2010.

action with respect to wetlands affecting development of condominium project. Lower court dismissed all parties on all counts. Appeal of dismissal pending.

George v. Keljikian, et al., Middlesex Superior Court Civil Action No. 2010-4193. Complaint filed in October, 2010. Action by Town Zoning Administrator to enforce limitations under Zoning Bylaw on property use in residentially zoned district.

Casella v. Lexington Zoning Board of Appeals, Land Court No. 279910. Appeal of a decision by Zoning Board of Appeals regarding property on Stedman Road. Partial summary judgment for plaintiff; remaining count not prosecuted.

Trebino, Trustee v. Lexington Planning Board, et al., Land Court No. 266945. Appeal from a decision of the Planning Board disapproving a subdivision. The plaintiff has not prosecuted the appeal.

A minor, by his next friend and parent. Complaint filed 3/31/10 in United States District Court seeking damages filed by parents of child they claimed was denied free and appropriate public education. Counsel filed Motion to Dismiss, Court granted motion. Plaintiff has filed new complaint. Motion for summary judgment pending.

Actions Brought By or Against Town During 2011

Bloomfield, et al., v. Lexington Conservation Comm'n, Middlesex Superior Court Civil Action No. 2011-2202. Challenge to leash regulation in Willard's Woods. Discovery pending.

Colangelo, et al., v. Lexington Planning Board, Land Ct. No. 11-446682. Appeal from condition Imposed In special permit. Dispute settled and case voluntarily dismissed June, 2011.

Liberty Mutual Insurance Co. v. Town of Lexington, et al., Essex Superior Court Civil Action No. 2011-00514D. Property damage alleged from culvert blockage.

Snock v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-815B. Appeal from grant of special permit.

Behraki, Trustee of Limoni Trust, et al., v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-3616. Appeal from grant of special permit. Voluntarily dismissed by plaintiffs in December, 2011.

Wilko v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-361. Appeal from grant of special permit.

17. Lerman v. Lexington Planning Board, et al., Land Court No. 2011-445339. Appeal from denial of subdivision plan.

18. John H. Sellars v. Town of Lexington, et al., Middlesex Superior Court Civil Action No. 2011-01424. Complaint against Town for alleged sewage discharge on property. Two of three counts dismissed. Remaining count proceeds.

All Actions Settled or Disposed of During 2011

19. Trano v. Lexington Zoning Board of Appeals, Middlesex Superior Court Civil Action No. 2008-01725-J. Appeal from Zoning Board's confirmation of Building Inspector's decision. Summary judgment awarded to Town.

20. Ham v. Town of Lexington, Middlesex Superior Court Civil Action No. 2009-03403. Complaint concerning Town sidewalk construction. Town prevailed against request for preliminary injunction. Settlement reached and case dismissed in December 2011.

21. Lexington Historical Society v. Lexington Historic Districts Comm'n, Middlesex Superior Court Civil Action No. 2008-2188. Appeal of Historic Districts Commission's denial of a Certificate of Appropriateness. Settlement reached and case dismissed in January, 2011.

22. Colangelo, et al., v. Lexington Planning Board, Land Ct. No. 11-446682. Appeal from condition imposed in special permit. Dispute settled and case voluntarily dismissed June, 2011.

23. Behraki, Trustee of Limoni Trust, et al., v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-3616. Appeal from grant of special permit. Voluntarily dismissed by plaintiffs in December, 2011.

24. Kasparian v. Lexington Planning Board, et al., Land Court No. 369211. Appeal by abutter of a special permit for condominium project. Dismissed for lack of standing in July, 2009. Appeal of dismissal affirmed.

25. Safety Insurance Co. v. Town of Lexington, Suffolk Superior Court Civil Action No. 11-4419F. Claim for damages on account of tree falling. Complaint filed December, 2011.

All Actions Brought By or Against Town During FY 2012

- 10) Mancini v. Lexington Zoning Board of Appeals, Middlesex Superior Court Civil Action No. 2012-00427. Appeal from grant of special permit. Discovery pending.
- 11) Bloomfield, et al., v. Lexington Conservation Commission, Middlesex Superior Court Civil Action No. 2011-02202. Challenge to dog leash regulation in Willard's Woods. Court upheld regulations on summary judgment but has enjoined assessment of fine until fine amount is revised in Commission regulations and Town bylaw to comply with applicable law.
- 12) Liberty Mutual Insurance Co. v. Town of Lexington, et al., Essex Superior Court Civil Action No. 2011-00514D. Property damage alleged from culvert blockage. Partial dismissal of Town of Lexington in March 2012.
- 13) Susnock v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-03815B. Appeal from grant of special permit. Complaint voluntarily withdrawn in October 2012.
- 14) Behraki, Trustee of Limoni Trust, et al., v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-3616. Appeal from grant of special permit. Complaint voluntarily dismissed by plaintiffs in December 2011.
- 15) Walko v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-02661. Appeal from grant of special permit. Discovery pending.
- 16) Lerman v. Lexington Planning Board, et al., Land Court No. 2011-445339. Appeal from denial of subdivision plan. Case dismissed by stipulation of the parties in October 2012.
- 17) John H. Sellars v. Town of Lexington, et al., Middlesex Superior Court Civil Action No. 2011-01424. Complaint against Town for alleged sewage discharge on property. Two of three counts against Town dismissed. Discovery on remaining count proceeds.
- 18) Chen, Trustees, v. Town of Lexington, Land Court 12-MISC-46157. Complaint filed in March 2012 concerning disputed boundary at Town right-of-way. Summary judgment decision pending.
- 19) Smith, et al. v. Town of Lexington, et al., Middlesex Superior Court Civil Action No. 2012-01515. Complaint re: abatement denial. Complaint and response filed. Discovery proceeding.
- 20) Conroy v. Lexington Conservation Commission. Middlesex Superior Court Civil Action No. 2012-00960. Appeal of denial of Order of Conditions. Record on appeal filed by Conservation Commission.

- 21) Costa v. Corr, et al., Middlesex Superior Court Civil Action No. 2012-02265. Employment discrimination complaint filed in December 2011. Discovery pending.
- 22) Lexington Firefighters Union Local 1491 IAFF v. Joint Labor Manag, Suffolk Superior Court Civil Action No. 2012-01547. Claims arising under collective bargaining. Completion of contract negotiations likely to result in settlement and dismissal of all claims.
- 23) Safety Insurance Co. v. Town of Lexington, Suffolk Superior Court Civil Action No. 11-4419F. Claim filed December 2011 for damages allegedly caused by falling tree.

All Actions Settled or Disposed of During FY 2012

- 24) Trano v. Lexington Zoning Board of Appeals, Middlesex Superior Court Civil Action No. 2008-01725-J. Appeal from Zoning Board's confirmation of Building Inspector's decision. Summary judgment awarded to Town.
- 25) Ham v. Town of Lexington, Middlesex Superior Court Civil Action No. 2009-03403. Complaint concerning Town sidewalk construction. Town prevailed against request for preliminary injunction. Settlement reached and case dismissed in December 2011.
- 26) Behraki, Trustee of Limoni Trust, et al., v. Lexington Zoning Board of Appeals, et al., Middlesex Superior Court Civil Action No. 2011-3616. Appeal from grant of special permit. Voluntarily dismissed by plaintiffs in December 2011.
- 27) Kasparian v. Lexington Planning Board, et al., Land Court No. 369211. Appeal by abutter of a special permit for condominium project. Dismissed for lack of standing in July, 2009. Appeal of dismissal affirmed In March 2012.