

Commonwealth of Massachusetts

Suffolk, S.S.

Superior Court Civil No. SUCV2010-0802-H

Sanjoy Mahajan, Victor Brogna, Stephanie Hogue, David Kubiak, Mary McGee, Anne M. Pistorio, Thomas Schiavoni, Pasqua Scibelli, Robert Skole, and Patricia Thiboutot,
Plaintiffs

v.

Massachusetts Department of Environmental Protection
and
Boston Redevelopment Authority,
Defendants

Plaintiffs' Motion to Amend Complaint

Plaintiffs move, pursuant to rule M.R.Civ.P. 15(a), for leave of the court to amend their complaint. Rule 15(a) states that "leave shall be freely given when justice so requires." In support of their motion, the plaintiffs submit the following reasons:

1. Since the proceedings began in 2008, two plaintiffs have moved, one (Brogna) within Boston and one (Mahajan) from Boston to Cambridge. Affidavit of Victor Brogna (Attachment B of plaintiffs' Amended Complaint), paragraphs 3–4; Affidavit of Sanjoy Mahajan (Attachment C of plaintiffs' Amended Complaint), paragraphs 2–3. The amended complaint contains the updated addresses.
2. The Supreme Judicial Court, in *Mahajan v. DEP*, 464 Mass. 604 (2013), ruled that DEP's Chapter 91 licenses are not an Article 97 disposition. Thus, plaintiffs have eliminated the corresponding claims from the amended complaint.
3. After oral argument concluded in the Supreme Judicial Court, two documents relevant to the protected status of Long Wharf were discovered by plaintiff Mahajan in state and federal archives. Affidavit of Sanjoy Mahajan, paragraphs 4–7. The two documents are:

- a. The federal map showing the area of Long Wharf protected as “public outdoor recreation in perpetuity” under Section 6(f) of the federal Land and Water Conservation Fund Act of 1965. 6f Boundary Map, dated March 27, 1980 (Attachment D of Plaintiffs’ Amended Complaint). This area includes the entire seaward end of Long Wharf, including the shade pavilion and entire project site. Transmittal email from NPS (Attachment E of Plaintiffs’ Amended Complaint).
- b. The agreement executed September 13, 1984 between the DEM and BRA in which the BRA covenanted to record an easement “on behalf of the Commonwealth, placing a restriction for public open space use on the title of the Authority to the Wharf site ...” BRA–DEM agreement (Attachment F of Plaintiffs’ Amended Complaint), paragraph Q at p. 11.

Plaintiffs submit herewith a proposed amended complaint and memorandum in support, and request a hearing on their motion.

Respectfully submitted,

Plaintiffs, *Pro Se*

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