

# Kevin P. O'Flaherty

*Director*

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Kevin O'Flaherty is a trial lawyer with significant experience in land use matters and real estate litigation in general. He has also represented clients in commercial disputes, shareholder litigation, securities litigation, and bankruptcy proceedings, as well as fiduciary, trust and probate controversies.

He represents real estate developers, public agencies and entities, and commercial corporations, as well as educational, medical and cultural institutions. Kevin also represents individuals, including owners, investors, executives and managers.

Kevin is an experienced trial lawyer who has tried more than 25 cases to judgment. He has also defended the judgments he has won before state and federal appeals courts in Massachusetts and other jurisdictions.

Chambers USA recognizes Kevin as "very good to work with in litigation. He can be tough but can also use humor and humility to his advantage in court interactions." Kevin is a founding member of the firm's retail blog, the Retail Law Advisor.

## **Accolades**

- "America's Leading Business Lawyers," Chambers USA
- Massachusetts Super Lawyers, 2006 - 2016
- Martindale Hubbell Peer Review Rated AV Preeminent™
- Martindale Hubbell™ Top Rated Lawyer in "Land Use And Zoning," 2013

## **Affiliations**

- Board of Directors, Caritas Communities, Inc. (current)

## **Admissions**

- Massachusetts
- District of Columbia

## **Education**

- Saint Louis University (A.B., *summa cum laude*, 1976)
- Harvard Law School (J.D., *cum laude*, 1992)

## **Representative Matters**

### **Won Summary Judgment for Real Estate Investment Joint Venture**

Obtained a summary judgment in favor of a joint venture between a private real estate company and a group of investors in defense of permits to develop a large mixed-use property in Cambridge, MA.

### **Prevailed at State Housing Appeals Committee for Real Estate Development Firm**

Prevailed at the State Housing Appeals Committee for a real estate development firm, allowing the client to proceed with developing a large multifamily development.

### **Obtained Summary Judgement for Multifamily Housing Developer**

Representation of a developer of multifamily housing in Brookline, MA in a case where the town and certain abutters sought an injunction to stop the large project. We defeated the injunction and shortly afterward made a motion to dismiss the case which was allowed.

### **Trial Victory for National Multifamily Developer Overturning Town's Denial of Permits**

Representation of a national developer of multifamily housing who was denied a permit to construct a 250-unit multi-family development. After a 4-day administrative hearing at the State Housing Appeals Committee, the Committee overturned the denial and ordered that the municipality grant the permit.

### **Summary Judgment in Favor of Developer in Comprehensive Permit Case**

Obtained summary judgment upholding a comprehensive permit issued to developer of affordable housing project and successfully defended that judgment on appeal in *Standerwick, et al. v. Zoning Board of Appeals of Andover, et al.*, 447 Mass. 20 (2006), identified by Massachusetts Lawyers' Weekly as one of the ten most significant decisions made by the Supreme Judicial Court in 2006.

### **Real Estate Owners and Developers in Multitude of Appeals, Cases, Matters, and Agreements**

Representation of real estate owners and developers in an array of real estate related cases, including commercial landlord/tenant cases, residential subdivision appeals, wetland appeals, MEPA Appeals, Chapter 91 Appeals, Conservation Commission appeals, adverse possession cases,

matters involving easements and servitudes, and disputes related to real estate purchase and sale agreements.

**Boston Redevelopment Authority in Several Domain Matters Related to Boston Convention and Exhibition Center**

Representation of the Boston Redevelopment Authority in several eminent domain matters related to the Boston Convention and Exhibition Center, and obtained several jury verdicts favorable to the authority.

**Massachusetts Bay Transportation Authority in Commuter Rail Development**

Representation of the Massachusetts Bay Transportation Authority in eminent domain matters related to the MBTA's takings for a new commuter rail line.

**Representation of Caritas Communities on 47-unit Affordable Housing Development**

Representation of Caritas Communities and its joint venture partner South Boston Neighborhood Development Corporation in the development of a 47-unit affordable housing development in South Boston, which will provide much needed housing for seniors.

**Won Summary Judgment For Developer of the former Edward Sullivan Courthouse**

Obtained summary judgment and defended the judgment on appeal clearing the way for our client to proceed with a mixed-use redevelopment of the former Edward Sullivan Courthouse in East Cambridge.

## Blog Posts: Retail Law Advisor

This blog keeps you connected to timely developments and emerging issues in retail law and covers a wide range of topics related to the retail, restaurant and consumer industry. We invite you to learn more about Goulston & Storrs and our Retail, Restaurant & Consumer Group.

December 20, 2017

**Teavana and Whole Foods: Is the Pendulum Swinging in Favor of Protecting Mall Landlords Against Strategic Tenant Closures?**

As mall landlords continue to see substantial tenant vacancies, some landlords have begun to challenge solvent tenants who decide to go dark before the end of their lease. In two important recent cases — Simon Property Group, L.P. v...

## Publications

December 20, 2017

**Massachusetts Appeals Court Clarifies When Restrictive Covenants May Extend Beyond Thirty Years**

November 2, 2017

**Town of Chelmsford, et al. v. Newport Materials, LLC, et al**

November 2017

November 2, 2017

**Trustees of Cambridge Point Condominium Trust v. Cambridge Point, LLC**

November 2017

October 6, 2017

**Superior Court Upholds ZBA's Order that the Town of Falmouth Cease and Desist the Operation of Two Wind Turbines**

October 2, 2017

**Land Court Upholds Board of Zoning Appeal**

July 27, 2017

**Appeals Court Confirms That a Government Building Has the Status of a Pre-Existing Nonconforming Structure When Transferred to a Private Party**

June 29, 2017

**Massachusetts Courts Issue Key Decisions Concerning Zoning and Anti-SLAPP Law**

March 28, 2017

**Important Decision Regarding Pre-Existing Nonconforming Structures**

January 30, 2017

**New Land Court Rule 14 Seeks to Expedite Cases and Lower Costs**

November 8, 2016

**Recent Amendment to Massachusetts State Zoning Law Clarifies Status of Nonconforming Structures**

July 11, 2016

**"HAC's approval of 40B project upheld," Massachusetts Lawyers Weekly, July 11, 2016**

October 30, 2014

**Shopping for Milk, Bread and Signatures: Massachusetts Supreme Judicial Court Allows Solicitation of Political Nomination Signatures on Stand-alone Retailer's Private Property**

August 15, 2014

**"Barriers to the Bar for Minorities," Boston Business Journal**

August 4, 2014

**Does the Attorney-Client Privilege Protect Communications With A Company's Outside Consultants?**

March 6, 2014

**In Massachusetts, Ignorance May Be Bliss in Challenging a Neighbor's Building Permit**

February 24, 2014

**SJC Extends Flexible Approach to the Alteration of Easements**

## Pro Bono

Kevin serves on the Board of Directors for the Caritas Communities, Inc. Caritas Communities is the largest provider of low-income, single room occupancy permanent housing in Massachusetts.

A member of the board for over six years, Kevin has already completed a two-year term as the Board's President. He continues on the board, and in that capacity helps guide, direct and support the Caritas mission.

Kevin is also serving as the co-Chair of this year's annual Caritas dinner. Kevin is joined by other Goulston & Storrs attorneys in providing pro bono legal services to Caritas Communities.