

Real Estate Litigation

Goulston & Storrs has an unmatched reputation as a real estate powerhouse – being listed by Law 360 as one of the top 10 real estate practices in the country. That reputation applies equally when it comes to serving our clients' real estate litigation needs.

When real estate related disputes, difficulties, and litigation arise, clients turn to our real estate litigators for advice and advocacy. These clients know firsthand the value we provide given our experience, track record and our dedication to responsiveness.

Our lawyers are admitted to practice in the courts of Massachusetts, New York, and Washington, D.C., and in multiple federal and appellate courts and the United States Supreme Court. Our real estate litigators have handled almost every conceivable type of real estate matter (see side tab for "Our Experience").

Our litigation attorneys work seamlessly with lawyers in our real estate, bankruptcy, corporate, environmental, finance, and tax groups. As a result, we are able to develop novel and winning strategies, as well as win-win settlements of complex disputes.

Clients appreciate that we work as a team to provide practical, results-oriented counseling and representation within a lean staffing model that ensures partner-level attention to every matter and cost-effective service.

Our Service Difference

We understand that our clients' matters are of the utmost importance to them, and we endeavor to partner with our clients to help them achieve the best possible outcomes. We give individualized attention to every case and focus on responsiveness, lean staffing, efficiency, and results.

We pay particular attention to the economics of our clients' businesses. We understand that while some cases merit a no-holds-barred approach, others require a more precise and focused effort, and some fall in between. Our real estate litigators are keenly aware of the business context in which many litigation decisions must be made, and we make special efforts to understand our clients' objectives so that we can provide them with the best possible advice and representation. Because of our deep experience, we add value for our clients through our early case assessments, which can help identify opportunities for quick and creative resolutions.

We also understand that many of our clients will continue to be involved in the real estate industry and wish to preserve their reputations and relationships in the industry. For this reason, we look for creative win-win solutions whenever possible, conducting ourselves as formidable but reasonable adversaries with reputations for professionalism and the highest ethical standards.

When trial is necessary to achieve their objectives, we know how to win at trial and how to defend the judgments we win on appeal. We do not shy away from hard cases or novel issues. As a result, we have set legal precedents in a number of successful “cases of first impression” over the years.

Indeed, our knowledge and expertise are recognized by our peers and other real estate industry professionals, and our real estate litigators often serve as panelists and presenters at legal education seminars and real estate industry programs.

Finally, and crucially, we enjoy what we do. We look forward to helping our clients work through their disputes and position themselves for even greater success in the future. We know from experience that litigation, while not desirable, creates opportunities. We enjoy helping our clients capitalize on those opportunities.

Our Clients

Our litigators work with real estate owners, developers, investors, REITs, academic hospitals, universities, commercial brokerage and management firms, commercial tenants, investment funds, lenders, and title insurers.

We provide advice and advocacy concerning all manner of real estate disputes, including disputes involving retail, office, industrial, residential, and mixed use properties, both large and small in a variety of urban and suburban locations. Our clients also include non-profit developers and governmental agencies.

Our experience in real estate litigation matters cuts across industries. We have handled cases for medical and educational institutions, governmental agencies, and a wide array of private developers, managers and owners of commercial real estate devoted to an array of uses including retail, restaurants, hotels and hospitality, market-rate residential and affordable housing, office space, and mixed use developments.

Our Experience

We add value at all stages of disputes. At the outset, we provide pre-litigation counseling and case evaluation in order to help our clients when possible to resolve disputes without litigation.

When settlement cannot be reached, we advocate for our clients and conduct litigation before state and federal courts and regulatory and administrative bodies.

We also have extensive experience as advocates in arbitration and mediation proceedings. Our knowledge of the substantive law involved in real estate disputes, and our facility with the procedural intricacies of litigation is second to none.

These advantages allow us to achieve our clients' objectives effectively and efficiently, and to obtain for them the best possible outcomes in difficult circumstances.

Representative Matters

Iovino's JV Wins Bid Protest to Begin NYC Climate Change Project

Climate change is threatening all coastal cities, including prominent New York City. A collaboration between the city and the federal government introduced a one-of-a kind solution to protect Manhattan's East Side from coastal flooding: The East Side Coastal Resiliency (ESCR) Project. After an RFP process, two competitive bidders rose to the top. But when the city awarded the work to Iovino's joint venture, an Article 78 proceeding – more commonly known as a bid protest – was filed. Read how Goulston & Storrs used 'stacking' as a foundational legal strategy to clear the way for Iovino to start construction.

REIT Enforcement of Urban Renewal Agreement

Successfully represented shopping center REIT in action against municipality to enforce municipality's obligations under urban renewal agreement, and defended against municipality's claim for breach of related financial agreement.

Adjudicatory Proceedings Before the Massachusetts Department of Environmental Protection

Representation of office, residential, marine, power and hospitality sector projects in adjudicatory proceedings before the Massachusetts Department of Environmental Protection.

Boston Redevelopment Authority in Multiple Eminent Domain Trials

Successful representation of the Boston Redevelopment Authority in multiple eminent domain trials resulting from the BRA's acquisition by eminent domain of the site of the Boston Convention and Exhibition Center.

City Council of Medford, v. Equity One (Northeast Portfolio) Inc.

Won dismissal of a challenge to our clients permits for a 450-unit residential development. *City Council of Medford, v. Equity One (Northeast Portfolio) Inc.*, Land Court Miscellaneous Case No. 16-000364.

Financial Agreement Executed in Conjunction With Major Redevelopment of Municipal Landfill

Representation of two national retail REITs in a dispute with a New Jersey municipality regarding compliance with and validity of redevelopment agreement and compliance with financial agreement executed in conjunction with major redevelopment of municipal landfill.

Gund, et al. v. LMP GP Holdings, LLC, et al.

Won summary judgment upholding permits for mixed-use residential, office and retail development of the 22-story former Edward Sullivan Courthouse in Cambridge and upheld judgment on appeal.

Gund, et al. v. LMP GP Holdings, LLC, et al., Land Court Miscellaneous Case No. 2014-488218 and *Gund, et al. v. LMP GP Holdings, LLC, et al.*, Appeals Court No. 2015-P-1339.

Hanover R.S. Limited Partnership v. Town of Andover, et al.

Prevailed at trial before the State's Housing Appeals Committee which required town to grant our client approval of its 250-unit affordable housing development and successfully defended that decision on appeal. *Hanover R.S. Limited Partnership v. Town of Andover, et al.*, Massachusetts Housing Appeals Committee, Docket No. 2012-04; *Eisai, Inc., et al. v. Hanover R.S. Limited Partnership*, Suffolk Superior Court C.A. No. 2014-0081; and *Eisai, Inc. et al. v. Hanover R.S. Limited Partnership*, Massachusetts Appeals Court No. 2015-P0680.

MBTA and Eminent Domain

Successful representation of the Massachusetts Bay Transportation Authority in several eminent domain trials arising out of multiple eminent domain matters.

Porter et al., v. Brighton Gardner Properties, LLC, et al.

Prevailed on summary judgment upholding our clients' permits for a mixed-use multi-family residential and retail development in Allston, MA. *Porter et al., v. Brighton Gardner Properties, LLC, et al.*, Suffolk Superior Court, C.A., 2017-2123-H.

Private Cost Recovery Actions Under CERCLA and State Environmental Statutes

Representation of numerous current and former owners and operators in private cost recovery actions under CERCLA and state environmental statutes seeking reimbursement for costs incurred in remediating hazardous materials.

Proceedings Seeking Review of Wetlands Approval

Representation of retail developer in court challenges to special permits and site plan approval, litigation challenging a rezoning of the site, and administrative proceedings seeking review of wetlands approval, all of which were dismissed with no changes to the project after extensive discovery into sources of funding of the project's opposition.

Pu, et al. v. Residences of South Brookline, LLC

Won summary judgment upholding our clients' comprehensive permit for a 161-unit affordable housing development. *Pu, et al. v. Residences of South Brookline, LLC*, Land Court Miscellaneous case No. 2015-000072.

Randon, et al. v. Trustees of Eel River Trust, et al.

Prevailed in multi-day trial in defending our clients' easement rights. *Randon, et al. v. Trustees of Eel River Trust, et al.* Land Court Miscellaneous Case 2016-000436.

Summary Judgment Upholding Comprehensive Permit Issued to Developer of Affordable Housing Project

In a case of first impression, obtained summary judgment upholding 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.

Wetland Appeals, MEPA Appeals, Chapter 91 Appeals and Conservation Commission Appeals

Representation of real estate owners and developers in an array of cases involving wetland appeals, MEPA Appeals, Chapter 91 Appeals and Conservation Commission appeals.

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.

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.