

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT DEPARTMENT

THE COMMITTEE FOR  
MASSACHUSETTS VOTER  
IDENTIFICATION BALLOT QUESTION,

kg

Plaintiff,

v.

Civil Action No.: \_\_\_\_\_

COMMONWEALTH OF  
MASSACHUSETTS DEPARTMENT OF  
TRANSPORTATION,

**COMPLAINT**

Defendant.

**INTRODUCTION**

1. Plaintiff The Committee for Massachusetts Voter Identification Ballot Question (“Committee”) brings this action against the Commonwealth of Massachusetts Department of Transportation to compel compliance with the Massachusetts Public Records Law, G.L. c. 66, §§ 1 *et seq.*

**PARTIES**

2. Plaintiff is a political committee registered with the Massachusetts Office of Campaign and Political Finance (CPF ID 95517) and with its principal place of business located at 167 Washington Street, Norwell, MA 02061-1797. Its purpose is to promote the integrity of elections by supporting a Voter ID ballot question in the Commonwealth of Massachusetts. It is comprised of grass roots activists who, among other activities, research and analyze public records to determine whether voter rolls are current, accurate, and comply with federal and state law.

3. On information and belief, Defendant Commonwealth of Massachusetts Department of Transportation (“MassDOT”) is a Massachusetts agency with its principal place of business located at 10 Park Plaza, Suite 4160, Boston, MA 02116-3979.

### **JURISDICTION AND VENUE**

4. This Court has jurisdiction over this action pursuant to G.L. c. 66, §§ 10A(c) and (d), which authorize a person who submits an initial request for public records to bring an action in the Superior Court “to enforce the requirements” of the Public Records Law and to obtain legal and equitable remedies, including injunctive relief, an award of attorneys’ fees and costs, and punitive damages where it has been demonstrated that a defendant agency or municipality did not act in good faith.

5. This Court has jurisdiction over Plaintiff’s request for a declaratory judgment because the question of its right of access to the requested documents constitutes an actual case or controversy subject to G.L. c. 231A, § 1, the statutory procedure for declaratory judgments.

6. G.L. c. 66, § 10A(c) provides that any suit to enforce the Public Records Law against an agency shall be brought in Suffolk County Superior Court.

### **FACTS**

7. On June 6, 2024 Jeff Cohen, acting in his capacity as President of Plaintiff Committee, submitted a Public Records Request to Defendant via the MassDOT online portal. A true and accurate copy of the Public Records Request appears below:

*Dear Mass DOT,*

*This is a request pursuant to the Massachusetts Public Records Law (Mass. General Laws ch. 66, sec. 10). The Committee for Massachusetts Voter Identification Ballot Question (CPF ID 95517; "Committee") hereby requests copies of the following:*

- 1. Documents describing the entire process and/or procedure of getting information from a person's ("Applicant's") application for (i) a new or renewed Massachusetts Driver's License, or (ii) a Massachusetts Learner's Permit, for the purpose of registering the Applicant to vote in Massachusetts or updating the Applicant's existing Massachusetts voter registration.*
- 2. Documents describing the entire process and/or procedure that verify that an Applicant (as that term is defined in Request No. 1 above) is a Qualified Person. A "Qualified Person" is a person who satisfies all of the following criteria:*
  - A U.S. citizen, and*
  - A Massachusetts resident, and*
  - At least 16 years old, and*
  - Not under guardianship that prohibits registering to vote, and*
  - Not temporarily or permanently disqualified by law from voting, and*
  - Not currently incarcerated for a felony conviction.*
- 3. Documents describing the entire process and/or procedure that ensure that only Applicants (as that term is defined in Request No. 1 above) who are Qualified Persons (as that phrase is defined in Request No. 2 above) are allowed to register to vote.*
- 4. Documents describing the entire process and/or procedure ensuring that a person under age 18 who is pre-registered to vote by applying for (i) a new or renewed Massachusetts Driver's License, or (ii) a Massachusetts Learner's Permit, is prevented from voting in Massachusetts and Federal elections until they reach age 18.*
- 5. Communications, including emails, and those in other written and electronic formats, relating to, referring to, or regarding (i) the processes and procedures that are referred to in Request Nos. 1-4 above, and (ii) the implementation of those processes and procedures.*

*Jeff Cohen*

*President of the Committee for Massachusetts Voter Identification Ballot Question*

8. Defendant acknowledged its receipt of the Public Records Request on June 6, 2024. For tracking purposes, Defendant assigned the reference number P001043-060624 to the Public Record Request. A true and accurate copy of the acknowledgement appears below:

 On 6/6/2024 2:57:23 PM, MassDOT Records Center wrote:

Dear Mr. Cohen,

Your public records request (see below) has been automatically entered, and assigned our Reference Number **P001043-060624** for tracking purposes. Please note that your request is deemed received on the first business day after it has been entered in accordance with the Massachusetts Public Records Law; this is an automated response and does not mean it has been viewed by our department if received outside of non-business hours.

9. On June 24, 2024 Mr. Cohen inquired into the status of the Public Record Request. He did not receive a response from Defendant. A true and accurate copy of the June 24 inquiry appears below:

On 6/24/2024 8:47:47 PM, Jeffrey Cohen wrote:

Dear Mass DOT,

This public records request was submitted on June 6, 2024 and, according to Massachusetts Public Records Law, it was due back on or before June 21, 2024. As of June 24, 2024, there has been no response. Please provide the public records that have been lawfully requested.

Jeff Cohen  
President of the Committee for Massachusetts Voter Identification Ballot Question

10. On June 27, 2024 Mr. Cohen again inquired into the status of the Public Record Request. He did not receive a response from Defendant. A true and accurate copy of the June 27 inquiry appears below.

On 6/27/2024 5:06:41 PM, Jeffrey Cohen wrote:

Dear MassDOT,

This lawful public records request was submitted on 6/6/24 and was due back on or before 6/21/24. To date, there has been no response from you and you are in violation of Massachusetts Public Records law. Please immediately provide the requested public records.

Thank you,  
Jeff Cohen  
President of the Committee for Massachusetts Voter Identification Ballot Question

11. To date, Defendant has not responded to Plaintiff's Public Records Request.

12. As of today, September 5, 2024, Defendant has had ninety-one (91) days to respond to Plaintiff's Public Records Request and still has provided no documents responsive to that Request.

## COUNT I

### **(Violation of Public Records Law, G.L. c. 66, § 10)**

13. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-12.

14. Plaintiff “may initiate a civil action to enforce the requirements of this chapter” in the Superior Court, which has “available all remedies at law or in equity” to remedy a violation. G.L. c. 66, § 10A(c).

15. Under the Public Records Law, G.L. c. 66, § 10(a), public entities of the Commonwealth and its political subdivisions must “at reasonable times and without unreasonable delay permit inspection or furnish a copy of any public record.” Defendant is subject to the Public Records Law.

16. On June 6, 2024 Plaintiff submitted the Public Records Request to Defendant.

17. Defendant has not produced any of the requested public records.

18. No exemption to the Public Records Law permits Defendant to refuse to provide access to and copies of any of the requested records. Defendant’s failure to do so violates the Public Records Law.

19. Defendant’s failure to comply with the Public Records Law raises a question whether it has acted in “good faith” and renders its subject to exemplary damages under G.L. c. 66, § 10A(d)(4), as well as other statutory remedies.

## COUNT II

### **(Declaratory Judgment, G.L. c. 231A, § 1)**

20. Plaintiff realleges and incorporates by reference the allegations set forth in paragraphs 1-19.

21. A genuine case or controversy has arisen between Plaintiff and Defendant as to whether the items sought in the Public Records Request are public records available for inspection and copying.

22. Plaintiff requests that the Court declare that the requested documents are public records for purposes of the Public Records Law and that Defendant has violated Plaintiff's right of access under the Public Records Law to the records requested.

**PRAYER FOR RELIEF**

WHEREFORE, the Plaintiff respectfully requests that this Court:

(1) Enter judgment for Plaintiff and against Defendant on Count I for violation of G.L. c. 66, § 10A, finding that Defendant failed to comply with the Public Records Law as to the Public Records Request;

(2) Order Defendant to conduct searches immediately for all records responsive to the Public Records Request and demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;

(3) Enter judgment for Plaintiff and against Defendant on Count II for a declaratory judgment, and declare that the records sought by the Public Records Request must be disclosed under G.L. c. 66, § 10A;

(4) Order Defendant to produce within ten (10) days all responsive records to the Public Records Request;

(5) Award Plaintiff reasonable attorneys' fees and costs pursuant to G.L. c. 66, § 10A(d)(2);

(6) Assess whether Defendant acted in "good faith" or is subject to exemplary damages under the Public Records Law; and

(7) Award such other relief as this Court may deem just and proper.

Dated: September 5, 2024

Respectfully submitted,

/s/ Brian M. Gaff

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Voter Identification Ballot Question.*