PREFACE TO THE 2026 SUPPLEMENT

This 2026 Supplement to the Massachusetts Conveyancers' Handbook with Forms, 4th Edition, contains updates drawn from 2025 and 2026 cases decided by the Massachusetts Supreme Judicial Court, the Massachusetts Appeals Court, the Massachusetts Superior Court, and the Massachusetts Land Court. The remaining updates come from state legislation enacted in 2025.[1]

Recent developments in this release include:

1) In Town of Concord v. Rasmussen, 496 Mass. 450, 264 N.E.3d 747 (2025), the Massachusetts Supreme Judicial Court held that discontinuance under M.G.L. c. 82, § 32A, the statute by which a public way can be discontinued and converted to a private way, does not extinguish the public's right of access to the way, but does terminate the local government's obligation to maintain the way.
2) In Stone v. Zoning Board of Appeals of Northborough, 496 Mass. 366, 263 N.E.3d 818 (2025), the Massachusetts Supreme Judicial Court clarified that when determining whether a plaintiff has standing under M.G.L. c. 40A, § 17, courts may only consider the then-proposed use of the property at issue and not any use to which the property may be put in the future to determine whether the plaintiff meets the aggrievement requirement for standing.
3) In BAK Realty, LLC v. City of Fitchburg, 495 Mass. 587, 253 N.E.3d 1231 (2025), the Massachusetts Supreme Judicial Court held that the provision of M.G.L. c. 40A, § 3A, which prohibits zoning by-laws from discriminating against a disabled person (including by prohibiting congregate living for disabled persons), does not prohibit zoning by-laws which prohibit congregate living generally and which are evenly applied to disabled and non-disabled persons.
4) 830 C.M.R. 62B.2.4, issued by the Massachusetts Department of Revenue, requires the filing of a Transferor's Certification form for every real estate transaction where the gross sales price is at least $1,000,000 and where closing occurs on or after November 1, 2025. For non-exempt transactions, non-resident sellers must pay a transfer tax on such closings that will be withheld from the proceeds of the sale.

[1] All research conducted between March 1, 2025, and March 1, 2026.

5) 760 C.M.R. 74.01 et seq., issued by the Massachusetts Executive Office of Housing and Livable Communities and implementing a provision of the Affordable Homes Act of 2024, prohibits sellers or sellers' agents from requiring buyers to waive their right to a home inspection on most residential real estate closings from October 15, 2025 onwards.