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# Expanding the Reach of Ten-Taxpayer Actions to Protect Against Environmental Harms: *Currence v. Makepeace* and What It Means

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Massachusetts law has long provided a statutory tool for citizens to challenge imminent environmental harm through a so-called “ten-taxpayer” suit under G. L. c. 214, §7A. However, the limits have not always been clear. The Massachusetts Appeals Court’s published decision, *Currence & others v. A.D. Makepeace Co*, issued on September 19, 2025 is a significant development in ten-taxpayer jurisprudence. *Currence* gives an expansive reading to when and how §7A can be deployed, particularly in ten-taxpayer suits which challenge as potential environmental harms actions that exceed the scope of local permitting bylaws. *Currence* clarifies the application of §7A suits by establishing a broad view of a bylaw’s purpose in protecting the environment; addressing the statute of limitations for §7A suits; and leaving open the scope of declaratory relief ten-taxpayer plaintiffs may seek.

## 1. Bylaw Purpose: Broadly Construed to Protect the Environment

A central issue in *Currence* was whether the Town of Carver’s Earth Removal Bylaw had as its “major purpose ... to prevent or minimize damage to the environment,” as required under §7A when taxpayer plaintiffs seek an injunction or declaratory relief. The trial judge had dismissed the §7A count in part because he concluded that the bylaw was largely about “ensuring safe earth removal” and that land is “left in a safe condition” after removal. In the trial court’s view, the major purpose of the Earth Removal Bylaw is public safety rather than environmental protection.

The Appeals Court disagreed and vacated the dismissal on these grounds. The Appeals Court looked at the Earth Removal Bylaw’s stated purpose and its provisions to hold that it is fundamentally about protecting natural resources, i.e. earth and soil, and through that, implicated other environmental values. *Currence* says that while public safety is indeed *among* the bylaw’s concerns, it is not the major purpose to the exclusion of environmental



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protection. Because the bylaw's requirements regulate earth removal to prevent environmental harms, the "major purpose" prong of §7A is met.

This is important in land use law, because many bylaws are justified in terms of health, safety, welfare; but *Currence* signals that courts will not look just at the safety component, but also at whether the bylaw regulates environmental impacts and its restoration and conservation requirements. Even a bylaw that has multiple stated purposes including safety, if its regulatory regime is steeped in environmental protection, it could satisfy the "major purpose" test under §7A.

## 2. Statute of Limitations under c. 214, §7A

Another key question was how long do ten-taxpayer plaintiffs have to bring suit after giving the requisite 21-day notice under §7A?

Here, the developer defendant argued that the §7A claims were time-barred, arguing that because the claims relate to permits, the certiorari 60-day deadline should govern. The trial judge dismissed some claims on that basis.

The Appeals Court rejected a blanket 60-day limit as a matter of law in §7A cases, at least where the alleged violations are ongoing and where the town regulatory body have failed to act after notice.

Indeed, the Appeals Court held that a delay of less than six months after the 21-day notice period "likely would not be unreasonable" in such circumstances. In *Currence*, the delay was 128 days after the 21-day notice period. The court held this was not unreasonable as a matter of law, vacating the dismissal on statute of limitations grounds.

However, when the § 7A claim is against the actual issuance of the permit itself, the 60-day deadline likely remains.

This underscores a practical point for plaintiffs and their counsel to document ongoing activity, give clear notice, and be prepared to argue that delay beyond a typical short window is justified by the continuing harm and lack of response by the enforcing authority.

## 3. Scope of Declaratory Relief in a Ten-Taxpayer Suit

A third feature of *Currence* is how the court alludes to declaratory relief in §7A and separately under G. L. c. 231A.

The Appeals Court affirmed the dismissal of the plaintiffs' c. 231A count seeking declaratory judgment as not stating an independent basis for that relief. But importantly, *Currence* noted that some of the declaratory relief they seek *may* be available under §7A itself. The court did not express a view on whether each particular declaration the plaintiffs sought would be available if pled under §7A but open the door for declaratory relief if it is tied to §7A's framework: the damage or threat the environment and the violation of a statute or bylaw whose major purpose is environmental protection.

Thus, ten-taxpayer plaintiffs under §7A may be able to seek declaratory relief, including declarations about whether permits are valid or expired and whether operations exceed permit scope, so long as those declarations are tightly tied to the §7A claim.

*Currence v. Makepeace* represents a win for more robust citizen enforcement of environmental bylaws under §7A. By giving an expansive reading to the “major purpose” requirement, rejecting overly cramped limitation periods in ongoing harm cases, and confirming that declaratory relief may be situated within §7A, the Appeals Court has sharpened the tools available for environmental protection via local regulation.

Please contact [Harley C. Racer](#) at Rich May, P.C. with any relevant issues or questions.

*Disclaimer: This summary is provided for educational and informational purposes only and is not legal advice. Any specific questions about these topics should be directed to attorney [Harley C. Racer](#).*

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