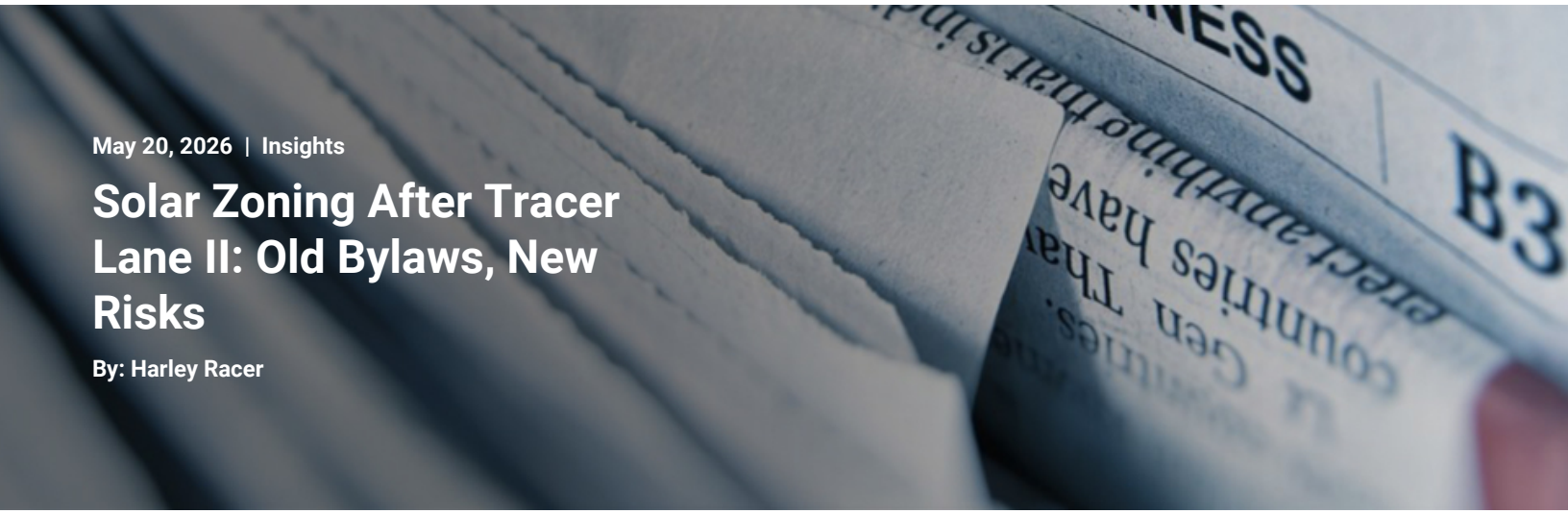


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Solar Zoning After Tracer Lane II: Old Bylaws, New Risks

By: Harley Racer

Massachusetts municipalities have long had authority to regulate land use through zoning. But when it comes to solar, that authority is meaningfully limited by G.L. c. 40A, § 3. Over the last several years, the Supreme Judicial Court, the Appeals Court, and the Attorney General have steadily clarified what those limits mean in practice. The result is a clear trend. Municipalities cannot use zoning tools to effectively block solar development unless they can point to a real, evidence-based public health, safety, or welfare concern. Older bylaws that do not meet that standard are increasingly difficult to defend.



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Tracer Lane II: The SJC Draws the Line

The starting point is *Tracer Lane II Realty, LLC v. City of Waltham*. There, the SJC interpreted, for the first time in depth, the solar protections in G.L. c. 40A, § 3. The statute provides that municipalities may not "prohibit or unreasonably regulate" solar energy systems or structures that facilitate them, except where necessary to protect public health, safety, or welfare.

The dispute in *Tracer Lane II* arose over an access road for a large-scale solar project. Waltham attempted to bar the road because it would cross a residential district. The SJC rejected that approach, holding that the access road was part of the protected solar use.

More importantly, the Court articulated a broader principle. A municipality may impose reasonable siting and dimensional controls, but it cannot adopt zoning that effectively prevents solar development without sufficient justification. In *Tracer Lane II*, Waltham's zoning allowed large-scale solar in only "one to two percent" of the city's land area. That level of restriction, without a demonstrated public health, safety, or welfare basis, "restricts rather than promotes" the Legislature's goal of advancing solar energy and is therefore invalid.

Kearsarge: The Appeals Court Extends the Analysis

The Appeals Court has since applied *Tracer Lane II* in *Kearsarge Walpole LLC v. Zoning*

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Board of Appeals of Walpole. While the factual setting differed, the analytical framework did not. The Appeals Court treated *Tracer Lane II* as establishing a balancing test. Municipalities may regulate solar, but any regulation must be measured against its impact on the protected use and justified by a legitimate and demonstrable public interest.

Kearsarge reinforces two points from *Tracer Lane II*. First, solar facilities, including large-scale ground-mounted systems, are core protected uses under § 3. Second, the burden remains on the municipality to justify any restriction that materially limits those uses. Restrictions that are broad, categorical, or unsupported by evidence will not stand.

The 2026 Attorney General Decision: Moratoria Are No Exception

A recent Attorney General decision rejected a temporary moratorium on solar construction zoning amendment in the Town of Blandford, revealing the continued implications of *Tracer Lane II*. *Attorney General Decision, Case No. 12153 (Blandford)*.

Blandford adopted a temporary moratorium on large-scale solar and battery energy storage systems, arguing that it needed time to study impacts and update its zoning. The Attorney General rejected the bylaw and disapproved it in full.

The decision relies heavily on *Tracer Lane II*. It emphasizes that a bylaw is invalid if it "restricts rather than promotes the legislative goal of promoting solar energy." The Town's stated concerns about increased development pressure, outdated bylaws, and the need for further study were not enough. Without concrete evidence of a public health, safety, or welfare risk, even a temporary prohibition violates § 3.

It concludes that a complete moratorium on the "use of land or structures" for solar operates as a prohibition, regardless of its temporary nature. Absent a documented and specific municipal interest, that prohibition is impermissible.

Footnote 1: A Quiet but Important Shift

Footnote 1 of the Attorney General's decision deserves particular attention. It notes that a similar solar moratorium adopted by Blandford in 2019 had been approved by the Attorney General. That approval, however, predated *Tracer Lane II*. Since the SJC's decision, the Attorney General has consistently disapproved solar moratoria.

This is more than a historical aside. It signals a clear doctrinal shift. Local regulations that may once have been considered acceptable are now subject to a stricter standard grounded in *Tracer Lane II*. The Attorney General is expressly acknowledging that earlier approvals do not reflect current law.

Practical Implications

For municipalities, zoning bylaws adopted before 2022, particularly those that limit solar to narrow districts, impose broad categorical exclusions, or rely on generalized planning concerns, may no longer be enforceable. If a bylaw is not justified with specific, evidence-

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based public health, safety, or welfare concerns, it is at risk.

Municipal counsel and relevant boards should review existing solar bylaws with *Tracer Lane II* in mind. Where older provisions fall short, amendments are advisable to avoid litigation or Attorney General disapproval.

For solar developers, the same shift creates opportunity. Bylaws that remain "on the books" but effectively prohibit or unreasonably restrict solar may be legally vulnerable. *Tracer Lane II*, as applied by *Kearsarge* and the Blandford decision, provides a clear framework to challenge such provisions. Developers evaluating sites should look beyond the text of local bylaws and consider whether those bylaws can withstand scrutiny under § 3 as now interpreted.

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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 Racer.

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