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## **Lawsuit may impact downtown Boston municipal harbor plan - by Susan Bernstein**

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The day after the Boston Planning and Development Agency (the former BRA) voted to approve the Boston Municipal Harbor Plan (the plan) for the Downtown Waterfront District, and proceed to seek review by the state's secretary of energy and environmental affairs, the Conservation Law Foundation (CLF), a private advocacy group, urged the secretary to place a hold on reviewing the plan. The request by CLF began with a law suit it filed in Suffolk Superior Court blocking the redevelopment of a parcel in the Seaport District (under a separate section of the Municipal Harbor Plan), stating that the state had overstepped its authority by approving a proposed 22-story development on the edge of Boston Harbor. Citing the project "restricts access to the water and sets a dangerous precedent," CLF requested that the state suspend review of the plan until the suit in the Seaport District is decided. The major objections CLF has raised involve the assumption that the developer has thwarted the requirements of the Massachusetts Public Waterways Act (MGL c. 91) by essentially walling off the public's access to the water by tall buildings and converting what should be public rights to private use and control.

The downtown plan covers approximately 42.1 acres, including the area east of Atlantic Ave. and the Rose Kennedy Greenway, to the west of the Inner Harbor and Fort Point Channel, south of Christopher Columbus Park, and north of the Evelyn Moakley Bridge. The properties that will be affected by the new plan include the New England Aquarium, the Aquarium Garage, Hook Lobster, and the Boston Marriott at Long Wharf. MGL c. 91 imposes certain requirements on landowners located along the water with regard to height, open space, and public access.

As the city of Boston and the Commonwealth of Massachusetts promote programs aimed at studying and developing policies to address climate change issues, these waterfront approvals go hand-in-hand.

This effort to make Boston "greener" coincides with the 10th anniversary of Article 37 of the Boston Zoning Code, which was the first in the country to require private building owners of new projects containing more than 50,000 s/f to demonstrate their sustainability strategies by using the most appropriate LEED rating system.

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