

JONATHAN D. WITTEN, AICP, Esq.

Academic Background

Juris Doctor

Suffolk University Law School
Graduated Cum Laude

Master of Regional Planning

Cornell University
United States Department of Housing and Urban Development Fellowship (1979-1981)

Bachelor of Arts

Urban Affairs
Boston College
Graduated Magna Cum Laude

Professional Affiliation and Certification

Adjunct Professor
Boston College Law School

Lecturer, Core Faculty
Tufts University
Graduate Department of Urban and Environmental Policy

Coordinator, Dual Degree Program JD/MA, Tufts University and Boston College Law School

Member
American Institute of Certified Planners

Member
American Planning Association

Member
Massachusetts and District of Columbia Bars
United States First Circuit Court of Appeals
United States District Court for Massachusetts

INTRODUCTION

Jonathan Witten has thirty years of professional experience in the fields of municipal and land use law, land use planning, and natural resource protection. He has worked with numerous cities, towns and Native American Tribes throughout the United States and Canada and has developed hundreds of regulatory and non-regulatory strategies for controlling and guiding growth and development and management of cities, towns and regions. He has lectured nationally on appropriate strategies to mitigate the effects of land development on ground water, coastal and near-coastal waters, and natural resource systems for US EPA and numerous state agencies and non-profit organizations. He has taught training courses throughout Massachusetts on the Zoning Act, Subdivision Control Law and the Comprehensive Permit statute. He has authored manuals for the Commonwealth on variances, vested rights, nonconforming uses and structures and exemptions from zoning. He is the co-author of *Massachusetts Real Estate* (Lexis, 3rd Ed., 2012), a co-author of MCLE's *Environmental Science for Lawyers* and several other MCLE publications, the author of articles published by the Boston College Environmental Affairs Law Review (2001, 2003, 2005, 2008) and various articles published by the American Planning Association, including as a Reporter for *Planning & Environmental Law*. Mr. Witten has argued numerous cases in the Massachusetts Courts, including the Superior Court and Land Court, the Appeals Court, the Supreme Judicial Court, the US District Court and the US Court of Appeals, First Circuit.

REPRESENTATIVE PROJECTS

Town Counsel: Town of Stow, Massachusetts 2004- Present: Mr. Witten is town counsel for the Town of Stow.

Town Counsel: Town of Marion, Massachusetts 2004- Present: Mr. Witten is town counsel and labor counsel for the Town of Marion.

Special Town Counsel: Town of Middleborough, Massachusetts 2002- Present: Mr. Witten is special town counsel to Board of Appeals for legal matters relating to various comprehensive permit applications and has represented the Board and the Town before the Massachusetts Appeals Court and Supreme Judicial Court. He was special town counsel to the Town negotiations with the Wampanoag Tribe of Mashpee, Massachusetts.

Special City Solicitor: City of Amesbury, Massachusetts 2005- Present: Mr. Witten is special city solicitor to the City of Amesbury for legal matters relating to comprehensive permit applications.

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*Expert Witness
Massachusetts Superior
Court and Land Court and
Florida Circuit Court*

*Board of Advisors,
Boston College
Environmental Affairs Law
Review*

*Contributor and
Reporter, Planning &
Environmental Law,
American Planning
Association
Chicago, Illinois, 1997
to Present*

*Member, Board of
Selectmen, Town of
Duxbury, Massachusetts,
2007 to 2010*

Special City Solicitor: City of Gloucester, Massachusetts 2009-2011: Mr. Witten was special city solicitor to the City of Gloucester for a legal matter relating to an appeal to the Essex Superior Court and Appeals Court. Mr. Witten also worked with the City Planning Department drafting regulations designed to protect the City's historic waterfront from non-water dependant uses.

Special Town Counsel: Towns of Wareham and Bourne, Massachusetts 2003-present and Hanover, 2012-present: Mr. Witten is special town counsel to the Town of Wareham and Bourne Board of Appeals' for legal matters relating to comprehensive permit applications and currently acts as special town counsel to the Hanover Board of Appeals in a comprehensive permit matter.

Legal Counsel: Counsel to Neighborhood Associations and landowners in Acton, Amherst, Andover, Billerica, Cambridge, Concord, Chelmsford, Dighton, Easton, Falmouth, Foxboro, Holden, Hull, Kingston, Lexington, Lunenburg, Scituate, Sharon, Sudbury, Marshfield, Nantucket, Norton, Norwell, North Andover, Ipswich, Plymouth, Sandwich, Stoughton, Tisbury, West Boylston, and Westborough, Massachusetts 2001-Present: Mr. Witten is counsel to neighborhood associations and landowners relating to land use issues before respective local boards, the Housing Appeals Committee, Department of Environmental Protection, Trial Court, Appeals Court and the Massachusetts Supreme Judicial Court.

Legal Counsel: First Amendment and ERISA Complaint, US District Court, Massachusetts 2012-present. Mr. Witten is legal counsel to Plaintiffs in an appeal of ERISA benefit denial by a Fortune 100 corporation implicating First Amendment religious practice and Federal law violations.

Citizens Planner Training Collaborative, 1996 - 2009: Mr. Witten has provided training courses in the Zoning Act and the Subdivision Control Law throughout the Commonwealth for the CPTC program. He has provided detailed training courses for landowners and cities and towns on the Zoning Act, the Subdivision Control Law and the Comprehensive Permit process (G.L. c.40B).

American Water Works Association, January - April, 1999: Mr. Witten was a lead instructor for a national workshop series targeted toward water suppliers and purveyors. Lecture focus was on minimizing tort liability and the use of management techniques to preserve drinking water quality.

Manchester-by-the-Sea, Massachusetts, August 1988 - Present: Mr. Witten has drafted numerous resource management bylaws,

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subdivision regulations and housing development programs for the Town over the past twenty years and has advised the Planning Board and other regulatory boards on a variety of land use matters.

U.S. Environmental Protection Agency, Office of Ground-Water Protection and Office of Oceans, Wetlands and Watersheds, September 1989 - 2002: Mr. Witten was an instructor in 97 workshops in 42 States, U.S. Territories, and Native American reservations, as well as co-author of accompanying course manuals, focusing on water resource protection at the local governmental level.

Kitchner, Ontario, Canada, January - June, 1997: Mr. Witten provided peer review of the Regional Municipality of Waterloo's Groundwater Protection Strategy and proposed land-use restrictions policy.

Sumas, Washington/Abottsford, British Columbia, January - December, 1996: Mr. Witten developed a detailed wellhead/groundwater protection program for the City of Sumas that respects the ongoing agricultural activities in British Columbia, while safeguarding Sumas' limited groundwater supply.

Commonwealth of the Northern Mariana Islands, August, 1995: Under contract by U.S. EPA Region 9, Mr. Witten was an instructor in a three-day workshop on water resources management for the Island of Saipan in the Commonwealth of Northern Mariana Islands. The training focused on the principles of hydrology, sources of contamination, and the development of water resource management strategies.

State of Rhode Island Department of Environmental Management, 1997: Under contract with DEM and the Rhode Island Chapter of the American Planning Association, Mr. Witten prepared a three day training program and co-authored the publication, "Nonpoint Source Pollution: A Handbook for Local Governments", American Planning Association, PAS Report 476.

PROFESSIONAL EXPERIENCE

Huggins and Witten, LLC, (formerly Daley and Witten, LLC), 2000 to present

Partner

Provides full range of municipal legal services, including counsel in labor, health care and and land use and real property services to municipal and non-profit entities. Represents municipal and private parties in adjudicatory, Trial and Appellate Court proceedings and related matters in state and federal courts.

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Horsley & Witten, Inc., 1988 to 2002

President

Provided consultation in the subject areas of ground and surface water management, land planning, housing development, development of regulatory and non-regulatory resource protection strategies, and natural resource protection. Clients include governmental agencies, private corporations and nonprofit organizations.

Cape Cod Commission, April to September, 1998; June-September 2006

Staff Counsel, Part-time

Staff legal counsel to the Cape Cod Commission, a regional regulatory authority for Cape Cod's fifteen towns. Drafted legal opinions and offered legal advice to the public and elected Commissioners. Manager and co-author of the Model Bylaw Project.

Boston College Law School, 1998 to Present

Adjunct Professor

Teaches Land Use Law and American Indian Law to second- and third-year law students. Member, Board of Advisors, Boston College Environmental Affairs Law Review. Coordinator, Joint Degree Program (JD/MA) between the Boston College Law School and Tufts University.

Tufts University, 1987 to present

Core Faculty, Graduate Department of Urban and Environmental Policy, member core faculty

Teaches graduate courses in land use planning, local government law, local government finance and natural resources policy. Graduate student thesis advisor (chairman and reader) to 3- 5 committees per academic year. Coordinator, Joint Degree Program (JD/MA) between Tufts University and the Boston College Law School.

IEP, Inc. (Fugro-McClellan East), 1985 to 1988

Senior Associate, Director, Municipal Planning Division

Developed a full service municipal planning program of twelve professional planners providing consultation services in growth management, land planning and housing development.

Town of Falmouth, Massachusetts, 1982 to 1985

Planning Director

Planning Director for a rapidly growing coastal community on Cape Cod, Massachusetts. Responsible for grant proposals, development reviews, staff reports, and inter-board coordination. Authored hundreds of zoning bylaws and subdivision regulations including numerous growth control and natural resource protection measures.