



Town of Fairhaven Board of Health

Town Hall · 40 Center Street · Fairhaven, MA 02719

Telephone: (508) 979-4023 ext. 125 · Fax: (508) 979-4079

FAIRHAVEN TOWN CLERK
RCUD 2025 NOV 24 AM 8:47

October 8, 2025

PRESENT: Justine Frezza, Brian Meneses, Barbara Acksen, David Flaherty

1. Call to Order

- a. Chair Frezza called the Public Hearing to order at 5:00pm. Chair Frezza welcomed everyone.

2. Pledge of Allegiance

3. Welcome and Media Notification

- a. Chair Frezza read the media and recording notifications.

4. Continuation of Public Hearing to Discuss and Possibly Vote on a Remediation Plan for the Wind Turbines Managed by Fairhaven Wind, located off Arsene Street – Chair Frezza opened the Public Hearing. Agent Flaherty reviewed that Fairhaven Wind has not submitted any information regarding the wind turbine shut down times. The need for updated data has been discussed. An engineering firm, Weston and Sampson, has been obtained through a grant in the Land Use and Planning Department. Agent Flaherty has been speaking with Bruce Webb, the Land Use and Planning Director regarding the feasibility of having Weston and Sampson perform sound and flicker studies on the Wind Turbines. Chair Frezza read a letter the Board of Health will be submitting to the Select Board as a review of the health impact of the wind turbines (Attachment 1). **Motion:** Vice Chair Meneses motioned to send the wind turbine letter to the Select Board. Member Acksen seconded. The vote passed unanimously (3-0-0). Chair Frezza set ground rules for public comment and opened the floor for comment.

5. Public Comment –

John Methia of Shawmut St – thanked the Board of Health for sending a letter to the Select Board. It was noted that Fairhaven Wind was not in attendance. John Methia discussed the flicker of the turbines and requested the Board consider voting for a shutdown of the turbines during the flicker impact. There are already studies done regarding the flicker and the times that this occurs. Further discussion occurred regarding flicker from the turbines.

Carolyn Young of Eddy St – noted that one of her children has submitted impact forms and read a letter from one of her children. The letter and impact forms summarize the effects that are negatively impacting their family and request the turbines be shut down.

Zack Aubut of Mill Rd – reviewed that the impact of the turbines are really affecting sleep. The sound impacted them so that they have had to move their bedroom to a different area of the house. Zack Aubut noted that this has been ongoing for so long that not very hopeful that anything will change and notes the abutters have to stand together to get remediation from the turbines.

Mike Thomas of Teal Circle – noted that the turbines have had impact and the tree removal at the bottom of Hiller St has increased the impact of the turbines.

Chair Frezza – encouraged everyone to get involved as a Town Meeting Member or to run for a Board and have a voice.

Grant Menard of Weeden Rd – Grant Menard commented on the distress caused by the turbines, the sleep disturbance they cause and the lack of current mitigation. Grant Menard noted being ridiculed on social media, which has discouraged others from speaking up. Grant Menard encouraged the Board to read the recent information on line regarding how wind turbines affect those living near them.

Daniel DeNardis of Mark Dr – commented on Fairhaven Wind not in compliance in submitting the requested information from the Public Hearing on June 4, 2025 and asked the Board of Health what is the consequence. Chair Frezza noted it has been reported, but the contract is under the scope of the Select Board. Further discussion ensued regarding the contract and enforcement. It was noted that the letter the Board of Health is submitting to the Select Board addresses these concerns.

Curt Devlin of Elmview Ave – opened by thanking Agent Flaherty for speaking with the Plymouth Health Agent and providing the memo Fairhaven Wind presented at the last Public Hearing. Curt Devlin discussed the use of vegetation and fortified windows to block the sound of wind turbines and why they do not work. Curt Devlin reviewed his slide presentation (Attachment 2). Further discussion ensued regarding the infrared sound findings noted in the slide presentation.

Carolyn Young of Eddy St – reviewed on the slide presentation that the Pierce's Point house belonged to her during the 2013 study. Carolyn Young noted that the study was done during specific times to scale down the impact.

Ann Ponichtera DeNardis of Mark Dr – commented that Curt Devlin presented it all. The Board of Health has the ability to act. Ann Ponichtera DeNardis noted that the residents have attended Town Meeting and been trying for years to get the wind turbines mitigated, and encouraged the Board of Health to act now.

The Board of Health and Agent Flaherty discussed what steps will need to be done next to mitigate the turbines.

Grant Menard of Weeden Rd – requested that the Board of Health enforce testing on the wind turbines be done before the contract is negotiated with the Select Board. Discussion ensued regarding the contract and the building of new turbines and the health impact.

Curt Devlin of Elmview Ave – summarized that the testing of the wind turbines and what instruments are available to perform the testing. Discussion ensued regarding testing of the wind turbines.

John Methia of Shawmut St – reviewed a case of bright spotlights in yards not being allowed because it interferes with neighbors sleeping. John Methia noted that flicker is there and does not change. John Methia encouraged the Board of Health to consider

mitigating the flicker effect as a start. Member Acksen asked to explain how the flicker affects the abutters. John Methia explained the flicker lasts about an hour in the morning and an hour in the evening and certain times of year. John Methia urged the Board of Health to act on the flicker.

Member Acksen noted that this has been ongoing for 13 years and something needs to be done. Further discussion ensued by the Board of Health on what should be done and when.

Rick Trapilo of Leeward Way – commented that Fairhaven Wind is here to make money and the concern is not for health. Rick Trapilo noted that the Fairhaven Board of Health is dedicated to promoting Public Health and, after listening to the abutters' impact, at a minimum should stop the flicker.

The Board of Health further discussed the possibility of a motion and what would be needed to move forward with a motion.

John Methia of Shawmut St – requested mitigation be put forward tonight based on the flicker study. Further discussion ensued regarding the feasibility study on flicker.

Chair Frezza closed public comment. The Board of Health reviewed the plan is to have all of the information and studies in order before making a motion to mitigate any impact.

6. Next Meeting Date – October 22, 2025 at 5:00pm

7. Public Hearing Adjourned – Motion: Vice Chair Meneses motioned to close the Public Hearing to discuss and possibly vote on remediation plan for the wind turbines managed by Fairhaven Wind, located off Arsene Street. Member Acksen seconded. The vote passed unanimously (3-0-0).



Town of Fairhaven Board of Health

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Justine Frezza, Chair
Brian Meneses, Vice-Chair
Barbara Ackson, Clerk
David D. Flaherty Jr, RS , Health Agent

September 29, 2025

Fairhaven Selectboard
40 Center Street
Fairhaven, MA 02719
c/o Charles K. Murphy, Sr., Selectboard Chair

RE: FAIRHAVEN WIND TURBINES

Dear Mr. Murphy

The Fairhaven Health Department and Board of Health (BOH) understands that the Town of Fairhaven's Selectboard (SB) is in negotiations with Fairhaven Wind LLC regarding the contract renewal for wind turbine operation. This office and Board has received many complaints about the Wind Turbines off Arsene Street Fairhaven since their construction. These complaints have increased over the past few years. While many temporal and atmospheric factors have made these complaints come from different areas of the abutting neighborhoods, they seem to have the same thread: excessive noise and flicker. They state that these adverse conditions are affecting their health and wellness. The BOH has conducted an ongoing Public Hearing and several Public Meetings to listen to the stakeholders, Town Counsel and Fairhaven Wind in an attempt to find some resolution to these conditions. The BOH's opinion is as follows:

- 1) The stakeholders/neighbors seem to have legitimate health concerns on the affect that the Wind Turbines have on them during operation.
- 2) The remediation plan as proposed by Fairhaven Wind and accepted by the SB in 2013 to alleviate these affects does not seem to have been adhered to.
- 3) Fairhaven Wind has not supplied the BOH with information regarding Wind Turbine cessation due to environmental conditions as required.
- 4) Any legal enforcement by the BOH under MGL Chapter 111 "Nuisance" would require an updated Wind Turbine Study by a third party as MA DEP has discontinued that service.
- 5) This study would be necessary as any legal adjudication would need data similar to the testing done by DEP previously to come to a conclusion for or against. Recently,

Fairhaven's Planning Department has obtained an Energy Consultant (Weston & Sampson) who may be able to perform these tests if needed.

Please allow this letter to memorialize the BOH's opinion to assist the SB in moving forward in negotiations with Fairhaven Wind. We assert that Public Health and wellbeing of the stakeholders and the Town should be an important factor in any decisions made by the SB. We understand that the SB does not enforce Public Health regulations and codes but we felt that an informed decision by the SB would be in the best interest of all parties.

Respectfully Yours,



Justine Frezza, Chair



Brian Meneses, Vice Chair



Barbara Ackson, Clerk

DDF/boh

Attachment 2

Fairhaven Board of Health About the Evidence

“I’m for truth, no matter who tells it. I’m for justice, no matter who it is for or against. I’m a human being, first and foremost, and as such I’m for whoever and whatever benefits humanity as a whole.”

— Malcolm X

**Curt Devlin
10/8/2025**

Walls and Windows Won't Stop Infrasound

- Fortified windows, glazing, tiling, stone, white noise, stone, or vegetation won't abate the infrasound nuisance because long sound waves easily pass through narrow obstructions.
- Fortified windows simply imprison residents in their own home. They can no longer open a window and enjoy a cool summer breeze.
- Long waves also travel much further without weakening. That's why, for example, Bourne residents experience this nuisance from Plymouth turbines.

Medium	...
Air (20 °C/68 °F)	▼
Speed of sound (v)	...
343	m/s ▼
Frequency (f)	...
.75	Hz ▼
Wavelength (λ)	...
1,500.4	ft ▼

We're in the **infrasound** frequency range.

Did you know we cannot hear most of the sounds emitted by elephants? 🐘 Although we can hear their trumpet, they use **infrasound waves** to communicate and keep in contact over distances up to 10 km.

Attachment 2

“...unfortunately all the data up to up so far has been within DEP parameters of acceptance.” –Dave Flaherty, Fairhaven Health Agent.

- This statement is demonstrably false and there is an abundance of evidence to prove it.
- Best of all, Fairhaven Wind has supplied much of this evidence in two key documents:
 - **FAIRHAVEN WIND's AMENDED MITIGATION PLAN December 12, 2013**
 - **Fairhaven Wind Memorandum** submitted June 4th, 2025 by Mr. Shah (obtained via M.G.L. Ch. 66 public records request)

FROM: FW Mitigation Plan

EXHIBIT A -- Compilation of MassDEP Data -- Sorted by Neighborhood

Date	Location	Background										Impact				Equal Comparisons				MASS DEP COMPARISONS	
		L90	Lmax	Lmax - L90	dBA Range	Leq (Note 1)	Wind Speed	Wind Direction	Percent Voided	L90	Lmax	Lmax - L90	Leq (Note 1)	Wind Speed	Wind Direction	Percent Voided	L90 Comps	Lmax Comps	Leq Comps	Lmax - L90 (dBA) (note 2)	Leq-L90 (dBA) (note 3)
9-Aug-12	Little Bay Road	46.2	47.0	0.8	1.3	46.4	3.4	SW	0%	46.5	47.4	0.9	46.9	3.3	SW	0%	0.3	0.5	0.5	1.2	0.7
26-Sep-12	Little Bay Road	46.0	48.5	2.5	3.3	47.0	7.9	SW	8%	49.9	52.3	2.4	50.7	9.5	SW	20%	3.9	3.8	3.7	6.3	4.7
10-Oct-12	Little Bay Road	38.8	42.1	3.3	5.4	40.0	5.4	NE	11%	42.2	44.8	2.6	43.4	5.0	NE	27%	3.4	2.8	3.3	6.0	4.6
9-Nov-12	Little Bay Road	40.3	45.6	5.3	6.7	41.9	7.8	NNW	13%	47.6	51.0	3.2	49.0	8.9	NNW	39%	7.3	5.4	7.1	10.7	8.7
2-Apr-13	Little Bay Road	32.9	37.4	4.5	7.7	34.6	5.6	NW	0%	42.7	45.8	3.1	43.9	6.2	NW	14%	9.8	8.5	9.3	12.9	11.0
12-Apr-13	Little Bay Road	29.9	34.8	4.9	6.2	31.8	3.4	ENE	4%	38.5	40.9	2.4	39.5	3.4	ENE	11%	8.6	6.2	7.6	11.0	9.6
9-Aug-12	Mill Road	38.9	40.9	2.0	2.7	39.5	3.2	SSW	20%	40.5	42.4	1.9	41.1	3.3	SSW	17%	1.6	1.5	1.6	3.5	2.2
26-Sep-12	Mill Road	45.4	49.8	4.4	6.2	47.5	6.5	SW	21%	45.4	48.0	2.6	46.4	7.3	SW	38%	0.0	-1.8	-1.1	2.6	1.0
10-Oct-12	Mill Road	31.1	33.6	2.5	3.8	31.7	3.2	NE	12%	34.7	36.6	1.9	35.5	3.3	NE	3%	3.6	2.9	3.8	5.5	4.4
12-Apr-13	Mill Road	33.8	35.5	1.7	3.1	34.4	4.0	NE	16%	35.3	37.6	2.3	36.0	4.4	NE	19%	1.5	2.1	1.6	3.8	2.2
3-Jun-13	Mill Road	37.1	50.2	13.1	13.9	41.0	5.3	SSW	0%	40.7	43.5	2.8	43.5	6.1	SSW	27%	3.6	-6.7	2.5	6.4	6.4
9-Aug-12	Peirce's Point	44.1	45.0	0.9	1.5	44.5	3.3	South	16%	45.0	46.2	1.2	45.3	3.5	South	14%	0.9	1.2	0.8	2.1	1.2
26-Sep-12	Peirce's Point	44.8	50.6	5.8	8.5	46.9	9.7	SSW	18%	49.1	53.3	4.2	50.8	10.7	SSW	41%	4.3	2.8	3.8	8.5	6.0
15-Oct-12	Peirce's Point	42.1	46.1	4.0	9.5	43.4	8.9	SW	19%	49.6	51.5	1.9	50.5	7.4	SW	37%	7.5	5.4	7.1	9.4	8.4
9-Nov-12	Peirce's Point	40.3	45.6	5.3	6.7	41.9	7.8	NW	13%	44.9	49.9	5.0	47.1	7.8	NW	31%	4.6	4.3	5.2	9.6	6.8
20-Mar-13	Peirce's Point	34.4	39.7	5.3	6.5	36.1	4.7	WNW	6%	41.9	45.8	3.9	43.5	4.7	WNW	20%	7.5	6.2	7.5	11.4	9.1
3-Jun-13	Peirce's Point	37.1	47.1	10.0	11.5	39.5	6.9	SSW	0%	44.2	47.3	3.1	46.2	7.3	SSW	39%	7.1	0.2	6.7	10.2	9.1
26-Sep-12	Shawmut	42.9	48.1	5.2	6.4	44.7	nd*	nd*	18%	46.2	49.1	2.9	47.2	nd*	nd*	28%	3.3	1.0	2.5	6.2	4.3
3-Jun-13	Shawmut	36.6	48.9	12.3	14.1	40.9	5.5	SSW	0%	42.5	45.2	2.7	43.7	7.3	SSW	33%	5.9	-3.7	2.8	8.6	7.1
9-Aug-12	Shawmut Deck	43.8	46.0	2.2	3.5	44.3	3.4	SSW	0%	45.3	46.8	1.5	45.8	3.4	SSW	7%	1.5	0.8	1.5	3.0	2.0
31-Aug-12	Shawmut Deck	47.8	48.9	1.1	1.6	48.2	6.7	WSW	10%	46.7	48.3	1.6	47.3	4.6	WSW	3%	-1.1	-0.6	-0.9	0.5	-0.5
31-Aug-12	Shawmut Ground	47.6	49.6	2.0	3.0	48.4	6.5	WSW	33%	46.4	48.5	2.1	47.7	7.2	WSW	24%	-1.2	-1.1	-0.7	0.9	0.1
26-Sep-12	Teal Circle	44.4	45.8	1.4	2.7	44.8	6.3	WSW	7%	45.0	46.1	1.1	45.4	6.0	WSW	9%	0.6	0.2	0.6	1.7	1.0
26-Sep-12	Teal Circle	43.3	46.0	2.7	3.6	44.1	7.2	SW	21%	46.2	49.2	3.0	47.4	8.7	SW	21%	2.9	3.2	3.3	5.9	4.1
10-Oct-12	Teal Circle	33.9	36.6	2.7	4.0	34.9	4.5	NE	16%	38.7	42.4	3.7	39.9	3.7	NE	3%	4.8	5.8	5.0	8.5	6.0
9-Nov-12	Teal Circle	38.1	44.5	6.4	7.7	40.5	7.8	NW	8%	41.9	45.8	3.9	43.8	7.7	NW	29%	3.8	1.4	3.3	7.7	5.7
2-Apr-13	Teal Circle	34.9	41.6	6.7	10.3	37.3	5.6	WNW	26%	38.0	44.7	6.7	41.3	6.7	WNW	9%	3.1	3.1	4.0	9.8	6.4
12-Apr-13	Teal Circle	27.7	33.0	5.3	7.8	29.8	3.2	NE	3%	37.2	39.2	2.0	38.0	3.4	NE	31%	9.5	6.3	8.2	11.5	10.3

No exceedances were observed by MassDEP in Mill Street or Shawmut Neighborhoods.

FW Memo: “Mr. Curt Devlin made a presentation to the Select Board and BoH on April 28, 2025, featuring selectively chosen data from Fairhaven’s noise testing and from unrelated external sources which have no relevance to the Fairhaven wind turbines.”

FAIRHAVEN WIND’S AMENDED MITIGATION PLAN

December 12, 2013

This Amended Mitigation Plan¹ (“Mitigation Plan”) is being submitted by Fairhaven Wind LLC (“Fairhaven Wind”) to the Fairhaven Board of Selectmen (“Selectmen”) and the Fairhaven Board of Health (“BoH”) as a follow-up to our settlement discussions² during the summer of 2013³, the Amended Order for Abatement of Nuisance issued by the BoH on July 30, 2013 (the “Amended Order”)⁴, and comments received from the Selectmen, the BoH and MassDEP on the

Profuse Initial Complaints

FW Memo: “...two 1,500 kW turbines were installed and interconnected to Eversource (formerly NStar), receiving authorization to operate on May 1 and May 3 of 2012.”

FW Memo: “Fairhaven Wind reviewed the 139 complaints submitted by the BoH and produced a detailed 15- page report on June 25, 2012.”

- This means that 139 complaints were received in just the first 54 days of operation— or, about 2.6 complaints per day on average.

Shadow Flicker

FW Memo (page 2 footnote) “Mr. Devlin repeats an inaccurate claim previously reported in the press—that there were 130 complaints in the first month of operation. In fact, as of the June 5th meeting, the total number of complaints was just under 100, with only 83 specifically related to sound **or shadow flicker**. An additional 40 complaints were submitted and reviewed by the time of the June 25th report to the Board of Health

- This data affirms the rate of complaints in admitted in the previous statement
- It also confirms that some of the complaints were for shadow flicker
- “Shadow flicker” or related terms do not even appear in the 2013 Mitigation Plan, even though FW admits it knew about this problem.
- Even though it is the easiest complaint to mitigate!

Unassailable Evidence: Mitigation Failed

FW Memo: “Fairhaven Wind continued to **log and analyze** complaints forwarded by the BoH until November 2016, which marked the last such communication.”

Witness: Dr. Acksen, a member of the Board of Health now and then, witnessed hundreds of complaints and began analyzing them using various methods commonly used in public health (Ex: Likert scale).

Witnesses: Residents have come to BoH meetings to complain publicly and in person about the turbines.

FW Memo: The Nocebo Analysis

Attachment 2

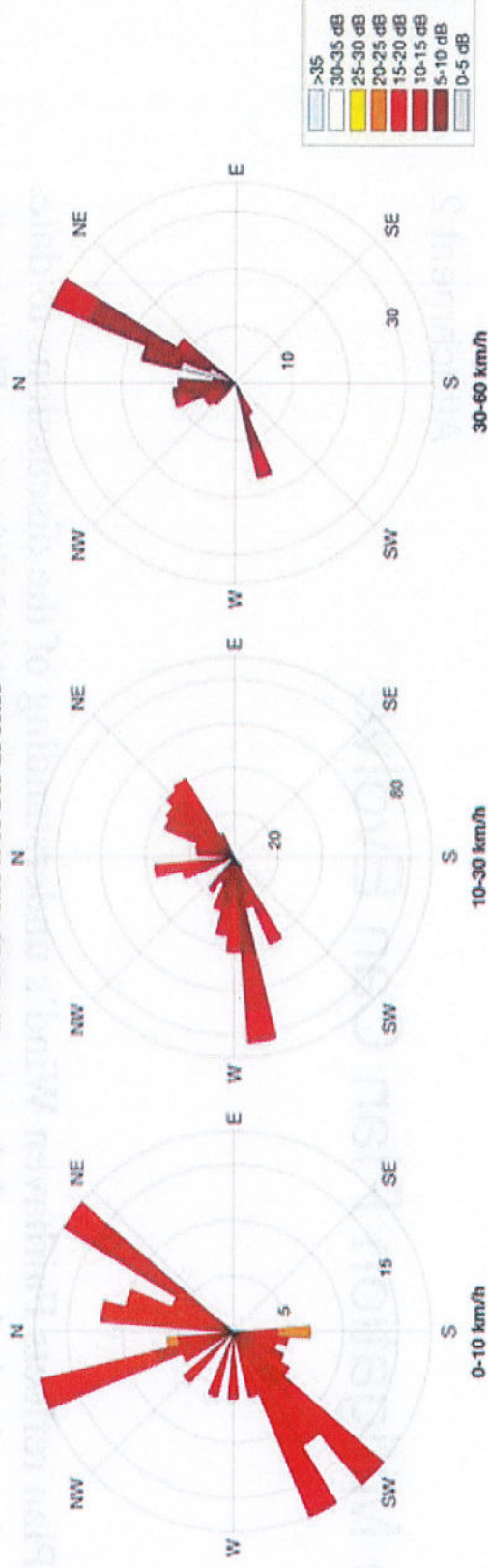
This report included the following findings:

“Almost 65% of the complaints to the BoH are from residents whom Fairhaven Wind believes are plaintiffs who have sued the Town of Fairhaven and people who had pub opposed the turbines before they were constructed.”

Real Factors

- Wind Speed
- Wind Direction
- Distance
- Time-of Day

Blade-Pass (1 Hz) Harmonic Prominence Wind Rose - Home 2 - Blue
29-Nov-20 15:00 to 06-Dec-20 06:50



From: The Mitigation Plan Can Evolve

This Mitigation Plan reflects Fairhaven Wind's understanding of the discussions to date. Notwithstanding the submission and the potential approval of this Mitigation Plan by the Selectmen and the BoH, as well as its acceptance by MassDEP, Fairhaven Wind believes that any Mitigation Plan is not static but can evolve as more information and new technology become available. As such, Fairhaven Wind reserves its rights to submit proposed modifications to this Mitigation Plan over time for consideration by the relevant parties.

Falmouth is Highly Relevant

Attachment 2

FUNFAR v. TOWN OF FALMOUTH

Appeals Court of Massachusetts.

Jane FUNFAR & others 1 v. TOWN OF FALMOUTH & another.2

17-P-1048

Decided: April 27, 2018

By the Court (Wolohojian, Milkey & Wendlandt, JJ.3)

MEMORANDUM AND ORDER PURSUANT TO RULE 1:28

The plaintiffs brought this case pursuant to G. L. c. 40A, § 17, challenging a decision of the Falmouth zoning board of appeals (ZBA), and seeking an order temporarily ceasing the operation of a wind turbine known as “Wind 2.” Summary judgment entered in the defendants’ favor, in part under the doctrine of laches. In a separate case, Falmouth v. Falmouth Zoning Bd. of Appeals, No. 1472CV00003 (Barnstable County), a different judge of the Superior Court affirmed the ZBA’s decision that Wind 2 (and its sister turbine, Wind 1) constitute a nuisance, and permanently ordered that the turbines cease operation. That decision was not appealed and has become final. As a result, the relief sought by the plaintiffs in this case has already been obtained. We accordingly vacate the judgment in this case, and order the entry of a new judgment dismissing this case as moot. See Aquacultural Research Corp. v. Austin, 88 Mass. App. Ct. 631, 636 (2015).

Why Falmouth is Very Relevant

- The Court upheld the ZBA's finding that the turbines constituted a nuisance, and ordered the Town to cease operating the turbines.
- The Court found, based on multiple studies that were presented as evidence, that the noise created by the turbines exceeded the allowable ambient noise levels under the Town Bylaw.
- The Court further found that the ZBA could apply the Town Bylaw regarding noise as adopted in 2013, even though the turbines were already operating at the time the Bylaw was adopted.
- Moreover, the Court held that the turbines constituted a nuisance regardless of whether they violated the noise Bylaw.
- The Court held that the noise generated by the turbines negatively affected the health and well-being of the Funnars, by, among other things, causing Mr. Funnar stress, anxiety, insomnia, and nausea.
- The Court also noted that other residents had registered similar complaints, lending further support to its order to shut down the turbines.

The Massachusetts Tort Claims Act (G.L. c. 258)

- Provides a framework for legal actions against public entities, including local boards of health. This act limits the liability of public employers for negligent acts or omissions by their employees while performing their duties.
- Caps damages at \$100,000 for claims against governmental entities.
- Discretionary Function Exemption: If a board makes a decision based on discretion, it may not be held liable for resulting harm.