

<b>CIVIL ACTION COVER SHEET</b>	DOCKET NUMBER	<b>Trial Court of Massachusetts</b> <b>The Superior Court</b>
<b>PLAINTIFF(S):</b> Humane Farming Association; Edwin T. Landale; Mary C. Landale <b>ADDRESS:</b> 36 Woodland Avenue San Rafael, CA 94901		<b>COUNTY</b> Suffolk
<b>DEFENDANT(S):</b> Maura Healey, in her official capacity as Attorney General of the Commonwealth of Massachusetts		
<b>ATTORNEY:</b> Jed Nosal <b>ADDRESS:</b> Brown Rudnick LLP One Financial Center, 18th Floor Boston, MA 02111 <b>BBO:</b> 634287	<b>ADDRESS:</b> One Ashburton Place, 20th Floor Boston, MA 02108	

CODE NO.	TYPE OF ACTION AND TRACK DESIGNATION (see reverse side)	TRACK	HAS A JURY CLAIM BEEN MADE?
AE1	Mandamus, G.L. c. 249, § 5	A	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO

**\*If "Other" please describe:**

<b>Is there a claim under G.L. c. 93A?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	<b>Is this a class action under Mass. R. Civ. P. 23?</b> <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
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**STATEMENT OF DAMAGES PURSUANT TO G.L. c. 212, § 3A**

The following is a full, itemized and detailed statement of the facts on which the undersigned plaintiff or plaintiff's counsel relies to determine money damages. For this form, disregard double or treble damage claims; indicate single damages only.

**TORT CLAIMS**  
(attach additional sheets as necessary)

A. Documented medical expenses to date:

1. Total hospital expenses .....	\$ .....
2. Total doctor expenses .....	\$ .....
3. Total chiropractic expenses .....	\$ .....
4. Total physical therapy expenses .....	\$ .....
5. Total other expenses (describe below) .....	\$ .....
<b>Subtotal (A):</b>	\$ .....

B. Documented lost wages and compensation to date .....

C. Documented property damages to date .....

D. Reasonably anticipated future medical and hospital expenses .....

E. Reasonably anticipated lost wages .....

F. Other documented items of damages (describe below) .....

**TOTAL (A-F):** \$ .....

G. Briefly describe plaintiff's injury, including the nature and extent of injury:

**CONTRACT CLAIMS**  
(attach additional sheets as necessary)

☐ This action includes a claim involving collection of a debt incurred pursuant to a revolving credit agreement. Mass. R. Civ. P. 8.1(a).  
 Provide a detailed description of claim(s):

**TOTAL:** \$ .....

**Signature of Attorney/ Unrepresented Plaintiff:**

**Date:** Jan 12, 2021

**RELATED ACTIONS:** Please provide the case number, case name, and county of any related actions pending in the Superior Court.

**CERTIFICATION PURSUANT TO SJC RULE 1:18**

I hereby certify that I have complied with requirements of Rule 5 of the Supreme Judicial Court Uniform Rules on Dispute Resolution (SJC Rule 1:18) requiring that I provide my clients with information about court-connected dispute resolution services and discuss with them the advantages and disadvantages of the various methods of dispute resolution.

**Signature of Attorney of Record:**

**Date:** Jan 12, 2021

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, s.s.

SUPERIOR COURT DEPARTMENT  
OF THE TRIAL COURT

Civil Action No. \_\_\_\_\_

\_\_\_\_\_  
THE HUMANE FARMING  
ASSOCIATION, EDWIN T. LANDALE,  
and MARY C. LANDALE,

PLAINTIFFS,

v.

MAURA HEALEY, in her official capacity  
as Attorney General of the Commonwealth  
of Massachusetts,

DEFENDANT.  
\_\_\_\_\_

**COMPLAINT FOR WRIT OF MANDAMUS**

Plaintiffs The Humane Farming Association, Edwin T. Landale, and Mary C. Landale (collectively, the “Plaintiffs”), bring this action against Defendant Maura Healey, in her official capacity as Attorney General of the Commonwealth of Massachusetts (the “Attorney General” or “Defendant”), pursuant to G.L. c. 249, § 5, seeking a writ of mandamus regarding the implementation of the Prevention of Farm Animal Cruelty Act, Chapter 333 of the Acts of 2016 (“Chapter 333” or the “Act”). Put simply, the Attorney General owed a clear and unequivocal duty to the public to promulgate regulations to implement Chapter 333 by January 1, 2020. The Attorney General failed to do so. The Attorney General has expressly stated that her office will not promulgate the required regulations. Plaintiffs have a legal right to compel the Attorney

General's performance of her duties as required by law and require the issuance of a writ of mandamus in order to do so.

### **PARTIES**

1. Plaintiff The Humane Farming Association ("HFA") is a California nonprofit corporation with a principal place of business at 36 Woodland Avenue, San Rafael, California 94901. HFA is a national, non-profit, animal protection and consumer advocacy organization – registered since 1985 as a tax-exempt charity under §501(c)(3) of the Internal Revenue Code -- that works to advance the welfare of farm animals and protect public health. HFA's programs focus on protecting farm animals from cruelty, protecting the public from the risks of consuming adulterated and unwholesome animal products produced in slaughterhouses, restricting the misuse of antibiotics, hormones, and other chemicals used on industrial farms, and protecting the environment from the impacts of industrialized animal farming. HFA currently has approximately 270,000 members in the United States, with roughly 11,000 in Massachusetts.

2. Plaintiff Edwin T. Landale ("Mr. Landale") is an adult resident of Massachusetts with an address of 15 Lyons Ct., Watertown, Massachusetts 02472. Mr. Landale is a member of HFA.

3. Plaintiff Mary C. Landale ("Ms. Landale" and together with Mr. Landale, the "Landales") is an adult resident of Massachusetts with an address of 15 Lyons Ct., Watertown, Massachusetts 02472. Ms. Landale is a member of HFA.

4. Defendant Maura Healey is the Attorney General of the Commonwealth of Massachusetts, with a business address at One Ashburton Place, 20<sup>th</sup> Floor, Boston, Massachusetts 02108, and is sued in her official capacity.

## **JURISDICTION AND VENUE**

5. The Court has subject-matter jurisdiction over this case pursuant to Mass. Gen. Laws c. 249, § 5.

6. The Court has personal jurisdiction over the Attorney General pursuant to Mass. Gen. Laws c. 223A, § 2.

7. Venue is proper in this County pursuant to Mass. Gen. Laws c. 223, § 1 because one or more of the parties resides or has his or her usual place of business in this County.

## **FACTS**

8. Chapter 333 is the broadest statute regulating farm animal confinement in the country. The Act was approved by an overwhelming majority (77.6%) of Massachusetts residents when introduced as a ballot measure in 2016. It had majority support in all but three of Massachusetts' 351 towns and won the largest majority of any animal protection ballot measure in U.S. history.

9. Plaintiffs are among those citizens who supported Chapter 333. HFA works to advance the welfare of farm animals and protect public health. HFA's programs focus on protecting farm animals from cruelty, protecting the public from the risks of consuming adulterated and unwholesome animal products produced in slaughterhouses, restricting the misuse of antibiotics, hormones, and other chemicals used on industrial farms, and protecting the environment from the impacts of industrialized animal farming.

10. The Landales are members of the HFA due to their deep concern for the welfare of animals. They also believe as residents of Massachusetts for twenty years that when Massachusetts voters approve a ballot measure, that measure should have the force of law, and should constitute

a legal mandate that is respected by all branches of government - executive, legislative, and judicial.

11. Chapter 333 prohibits any farm owner or operator from knowingly confining any breeding pig, calf raised for veal, or egg-laying hen in a way that prevents the animal from lying down, standing up, fully extending its limbs, or turning around freely. The Act also prohibits any business owner or operator in Massachusetts from selling whole eggs intended for human consumption or any uncooked cut of veal or pork if the business owner or operator knows or should know that the hen, veal calf, or breeding pig that produced these products was confined in a manner prohibited by Chapter 333.

12. The Act also has very specific regulatory requirements designed to ensure the timely implementation of the law. Section 10 of Chapter 333 states that “[t]he Attorney General shall promulgate rules and regulations for the implementation of this Act on or before January 1, 2020.” (emphasis added).

13. While several sections of the law do not become effective until January 1, 2022, the requirement for the Attorney General to issue regulations by January 1, 2020 became effective upon the effective date of the Act. *See* Chapter 333, Section 11.

14. The regulatory framework of Chapter 333 requires that regulations be in place two years in advance of the effective date of the substantive requirements of the law to ensure that there is regulatory certainty regarding the obligations under Chapter 333 for owners and operators of farms in Massachusetts and any business owner or operator in Massachusetts involved in the sale of certain products including whole eggs and uncooked cuts of veal or pork produced in a manner prohibited by the law.

15. However, despite having almost four years to promulgate the required regulations, the Attorney General has not issued any regulations.

16. Indeed, despite the clear mandate, on December 30, 2019, just two days before the Attorney General was legally required to promulgate regulations regarding the implementation of Chapter 333, the Attorney General's office declared that it would not be fulfilling its clear statutory mandate. In a letter to the Massachusetts legislature, the Attorney General's office wrote: "*[W]e will not be filing regulations by January 1, 2020*, and formally request that the Committee shift the primary responsibility of promulgating regulations to the Massachusetts Department of Agriculture [sic] Resources (MDAR)." See Exhibit A (emphasis added).

17. The Attorney General attempted to shift her legal responsibility to promulgate regulations under Chapter 333 to another agency, but the Attorney General does not have the authority to unilaterally do so. No legislation has been passed to relieve the Attorney General of her legal obligations under Chapter 333 or to require that the Massachusetts Department of Agricultural Resources issue regulations instead; the duty continues to lie with the Attorney General.

18. The Attorney General's statutory deadline of January 1, 2020 has come and gone and, based on the Attorney General's attempts to shift her responsibility elsewhere, she refuses to even belatedly comply with her legal obligations under Chapter 333.

19. In recent years, HFA has played an active role in the public and legislative debate over the Attorney General's failure to promulgate regulations to implement Chapter 333.

20. In light of the Attorney General's continued failure to promulgate the required regulations and her declared intent to violate the plain mandate of Chapter 333, on October 14, 2020, HFA, on behalf of its members, including the Landales, demanded – in writing – that the

Attorney General comply with her legal obligation under Chapter 333 and promulgate rules and regulations for implementation of the Act. *See Exhibit B.*

21. To date, however, the Attorney General has still not met this clear legal mandate.

**COUNT ONE — WRIT OF MANDAMUS (G.L. c. 249, § 5)**

22. Plaintiffs repeat, reallege, and incorporate by reference each of the foregoing allegations as if fully set forth herein.

23. Pursuant to Section 10 of Chapter 333, the Attorney General owes a mandatory, clear, and unequivocal statutory duty to the public to promulgate rules and regulations for the implementation of the Act.

24. The Attorney General has failed and continues to fail to carry out this public duty by refusing to promulgate rules and regulations for the implementation of Chapter 333.

25. There is no other available remedy to protect the rights of the public, including Plaintiffs, or to compel appropriate action by the Attorney General to execute her duties and responsibilities under Chapter 333 and promulgate rules and regulations for the implementation of the Act.

26. Plaintiffs, and citizens of Massachusetts generally, have an interest in the faithful execution of the unequivocal duties placed upon the Attorney General under the laws of the Commonwealth, in particular laws approved by an overwhelming majority of the electorate via ballot measure, such as Chapter 333.

27. Moreover, without issuance of a writ of mandamus to the Attorney General, the public, including the Plaintiffs, will continue to be irreparably harmed by the absence of regulatory certainty regarding Chapter 333. As a result of this uncertainty, farm animals – laying hens, veal

calves, and breeding pigs – will be forced to endure inhumane conditions that the overwhelming majority of Massachusetts voters have declared they wish to be condemned as illegal.

28. Without issuance of a writ of mandamus to the Attorney General, there will be a failure of justice because the public will be left with no regulatory certainty as to the implementation of Chapter 333, diminishing the ability for the Act to be enforced and complied with and undermining the mandate of the Massachusetts electorate to ensure sufficient safeguards against the inhumane confinement of farm animals.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs respectfully request that the Court:

A. Enter judgment in favor of Plaintiffs and against the Attorney General in her official capacity;

B. Declare that the Attorney General has failed to perform her mandatory duty of promulgating regulations regarding the implementation of the Prevention of Farm Animal Cruelty Act, Chapter 333 of the Acts of 2016;

C. Issue a writ of mandamus to the Attorney General requiring her to perform her mandatory duty of promulgating rules and regulations for the implementation of the Prevention of Farm Animal Cruelty Act, Chapter 333 of the Acts of 2016 by no later than March 30, 2021; and

D. Grant Plaintiffs such other and further relief as the Court deems just and proper.

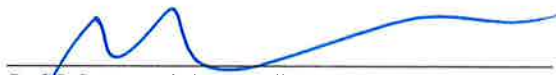


Dated: January 12, 2021

Respectfully submitted,

**PLAINTIFFS HUMANE FARMING  
ASSOCIATION, EDWIN T. LANDALE AND  
MARY C. LANDALE**

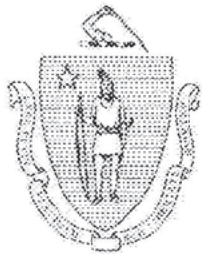
By their attorneys,



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# EXHIBIT A



MAURA HEALEY  
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF THE ATTORNEY GENERAL

ONE ASHBURTON PLACE  
BOSTON, MASSACHUSETTS 02108

(617) 727-2200  
[www.mass.gov/ago](http://www.mass.gov/ago)

December 30, 2019

The Honorable Anne M. Gobi  
Senate Chair, Joint Committee on Environment, Natural Resources and Agriculture  
State House, Room 513  
Boston, MA 02133

The Honorable Smitty Pignatelli  
House Chair, Joint Committee on Environment, Natural Resources and Agriculture  
State House, Room 473F  
Boston, MA 02133

**Re: Chapter 333 of the Acts of 2016 and H. 4146**

Dear Chairwoman Gobi and Chairman Pignatelli:

On behalf of Attorney General Maura Healey, thank you for the opportunity to testify at the Committee's November 12<sup>th</sup> Public Hearing. I wanted to take this opportunity to follow up on AG Healey's remarks regarding Chapter 333 of the Acts of 2016, *An Act to prevent cruelty to farm animals*, and H. 4146, *An Act to Upgrade Hen Welfare and Establish Uniform Cage-free Standards*, filed by Representative Dan Cahill.

As you know, Chapter 333 of the Acts of 2016, prohibits any confinement of breeding pigs, calves raised for veal, and egg-laying hens that prevents them from lying down, standing up, fully extending their limbs, or turning around freely, and would prohibit the sale of products derived from such confinement.<sup>1</sup> This law, which takes effect in 2022,<sup>2</sup> was Ballot Question 3 in the 2016 state election,<sup>3</sup> and passed with over 77% of the vote.<sup>4</sup> Specific to the Attorney General's Office, this law gives us exclusive enforcement authority.<sup>5</sup> The law also requires our office to "promulgate rules and regulations for the implementation of this Act on or before January 1, 2020."<sup>6</sup>

<sup>1</sup> 2016 Mass. Acts. Chapter 333.

<sup>2</sup> *Id.* at § 11.

<sup>3</sup> William Francis Galvin, Mass. Sec'y. of State Elections Div., *Massachusetts Information for Voters 2016 Ballot Questions* (2016); [https://www.sec.state.ma.us/ele/elepdf/IFV\\_2016.pdf](https://www.sec.state.ma.us/ele/elepdf/IFV_2016.pdf).

<sup>4</sup> <https://www.wbur.org/politicker/2016/11/08/question-three-animal-confinement-results>.

<sup>5</sup> 2016 Mass. Acts. Chapter 333 at § 6.

<sup>6</sup> *Id.* at § 10.

Senator Anne M. Gobi  
Senator Smitty Pignatelli  
December 30, 2019

Over the last several months, our office has had numerous meetings and conversations with animal welfare groups and industry representatives – namely egg producers, food producers and area grocers – that will be required to comply with the law's various provisions. We have also sought guidance from our colleagues in California, who have implemented a similar law,<sup>7</sup> and we are undertaking certain modifications to our internal case assignment process in advance of the Massachusetts law going into effect.

While we welcome the new enforcement mandate, it has become abundantly clear that we, as the Chief Law Enforcement Office, are not the best suited government office to lead the regulatory effort. Furthermore, there is pending legislation that seeks to harmonize our confinement law with that of California. Therefore, we will not be filing regulations by January 1, 2020, and formally request that the Committee shift the primary responsibility of promulgating regulations to the Massachusetts Department of Agriculture Resources (MDAR).

In California--a state that passed an initial confinement ban in 2008,<sup>8</sup> and revised cage sizes in 2018,<sup>9</sup>--the legislature entrusted the California Department of Food and Agriculture (CDFA) and the California Department of Public Health (DPH) with the responsibility of promulgating rules and regulations.<sup>10</sup> According to California's Legislative Analyst's Office, CDFA and CDPH staff, who are experienced in agricultural and food compliance issues, will have to check that farmers in California and other states that sell to California use animal housing that meets the measure's requirements.<sup>11</sup> CDFA also will need to ensure that products sold in California comply with the law's requirements. Similar compliance checks will likely need to take place here in Massachusetts. This important role is better suited to MDAR, whose mission is to help keep our state food supply safe and secure and to work to keep our state agriculture economically and environmentally sound, than with the Attorney General's Office.<sup>12</sup>

Additionally, we believe it is important to provide food producers, grocers and consumers with as much consistency as possible when it comes to food production and animal welfare. Understanding that California has adopted variations on our cage size restrictions and applies specific size restrictions to animals other than egg laying hens, we strongly encourage the Committee to standardize our law with what California farmers and producers are already following. It is our understanding that there is consensus between the animal welfare groups and the food producers on this key issue, and H. 4146 contains much of the language necessary to standardize our law with California's. We, too, support harmonizing the two state's laws, preventing a patchwork of varying statutes that address farm animal welfare, but ask that H. 4146 also be amended to include language that would shift the regulatory authority to MDAR.

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<sup>7</sup> Debra Bowen, Cal. Sec'y. of State Elections Div., *Voter Information Guide* (2008); <http://vigarchive.sos.ca.gov/2008/general/title-sum/prop2-title-sum.htm>.

<sup>8</sup> *Id.*

<sup>9</sup> Cal. Legislative Analyst's Office, Proposition 12 (2018); <https://lao.ca.gov/BallotAnalysis/Proposition?number=12&year=2018>.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

<sup>12</sup> <https://www.mass.gov/orgs/massachusetts-department-of-agricultural-resources>.



Senator Anne M. Gobi  
Senator Smitty Pignatelli  
December 30, 2019

We are working with animal welfare groups to finalize this language and will share a draft shortly.

Our office would be happy to provide you any additional information you may need and to answer any questions you or members of the Committee might have on this topic. Please feel free to reach out to our Chief of Policy and Government Relations, Alicia Rebello-Pradas, at [alicia.rebello-pradas@mass.gov](mailto:alicia.rebello-pradas@mass.gov) or at (617) 963-2057.

Very Truly Yours,

A handwritten signature in black ink, appearing to read 'M. B. Strother', with a long horizontal flourish extending to the right.

Mary B. Strother  
First Assistant Attorney General

# EXHIBIT B

October 14, 2020

***Sent Via Electronic Mail and Overnight Mail***

The Honorable Maura Healey  
Massachusetts Attorney General  
One Ashburton Place, 20<sup>th</sup> Floor  
Boston, MA 02108

***Re: Promulgation of Regulations Pursuant to Chapter 333 of the Acts of 2016, An Act to Prevent Cruelty to Farm Animals***

Dear Attorney General Healey:

On behalf of the Humane Farming Association (“HFA”), including its Massachusetts members, I write to request that the Office of the Attorney General (“OAG”) immediately begin the process of promulgating regulations to implement Chapter 333 of the Acts of 2016, An Act to Prevent Cruelty to Farm Animals (“Chapter 333”), as required by the law and enacted by the People. As further set forth below, Chapter 333 was overwhelmingly approved by voters in 2016 and sets forth an explicit obligation for the Attorney General to promulgate regulations to implement the Act by January 1, 2020. Despite the clear duty to have regulations in place over nine months ago, to date, no regulations have been issued. Continuing failure to meet this clear legal mandate will leave no other option for HFA and its members but to seek relief from the courts.

***Humane Farming Association***

HFA is the nation's largest farm animal protection organization with over 270,000 members, including 11,000 in Massachusetts. Founded in 1985, HFA is leading the campaign against factory farming and slaughterhouse abuses and has garnered worldwide recognition and respect for its landmark anti-cruelty campaigns including, most notably, its successful National Veal Boycott. HFA also operates the world's largest farm animal refuge, Suwanza Ranch in California, with over 5000 acres of land utilized for care of rescued victims of animal cruelty.

HFA's goals are to protect farm animals from cruelty, to protect the public from the dangerous misuse of antibiotics, hormones, and other chemicals used on factory farms, and to protect the environment from the impacts of industrialized animal factories. HFA's comprehensive programs include: anti-cruelty investigations and exposés, national media and ad campaigns, direct hands-on emergency care, and refuge for abused farm animals.



HFA is a leading organization on combatting imprisonment of animals in cages and has initiated campaigns exposing farm animal abuses. HFA is also responsible for the introduction of the first state and national legislation regulating animal confinement standards. HFA and its Massachusetts members supported Question 3 in 2016, as did over 77% of Massachusetts voters.

### *Chapter 333's Regulatory Requirements*

Chapter 333 prohibits any farm owner or operator from knowingly confining any breeding pig, calf raised for veal, or egg-laying hen in a way that prevents the animal from lying down, standing up, fully extending its limbs, or turning around freely. In the case of egg-laying hens, fully extending the animal's limbs means fully spreading both wings without touching the side of an enclosure or other egg-laying hens and having access to at least 1.5 square feet of usable floor space per hen. *See* Acts of 2016, c. 333 § 5(j). The Act also prohibits any business owner or operator in Massachusetts from selling whole eggs intended for human consumption or any uncooked cut of veal or pork if the business owner or operator knows or should know that the hen, veal calf, or breeding pig, that produced these products was confined in a manner prohibited by the proposed law. Violations of the law carry up to a \$1000 fine per violation and provide the Attorney General with enforcement and regulatory authority.

The Act also has very specific and deliberate regulatory requirements designed to ensure the timely implementation of the law. Section 10 of Chapter 333 states that “[t]he Attorney General shall promulgate rules and regulations for the implementation of this Act on or before January 1, 2020.” While several sections of the law do not become effective until January 1, 2022, the requirement for the Attorney General to issue regulations by January 1, 2020 became effective upon the effective date of the Act. *See* Section 11 of Chapter 333. Despite having almost four years to promulgate the required regulations, none has been promulgated and the AGO is, accordingly, now in clear violation of the Act.

The regulatory framework of Chapter 333 requires that regulations will be in place 2 years in advance of the effective date of the substantive requirements of the law to ensure that there is regulatory certainty regarding the obligations under Chapter 333 for owners and operators of farms in Massachusetts and any business owner or operator in Massachusetts involved in the sale of certain products including whole eggs and uncooked cut of veal or pork produced in a manner prohibited by the law. This deliberate regulatory scheme and the lead time needed to ensure compliance are now in jeopardy and are likely to impact the AGO's ability to enforce the provisions of Chapter 333 upon its effective date.

### *The Attorney General's Duty to Act*

The Attorney General has a clear cut duty to act under Chapter 333. In relevant part, Chapter 333 states that “[t]he Attorney General **shall** promulgate rules and regulations for the implementation of this Act on or before January 1, 2020.” (emphasis added). As such, there is no discretion to ignore this statutory duty as directed by the Legislature. *See ABCD, Inc. v. Comm'r of Pub. Welfare*, 378 Mass. 327, 335 (1979) (noting that “the circumstances in which





the Executive Department may decline to implement legislation are strictly limited by constitutional principles”); *Opinion of the Justices to the Senate*, 375 Mass. 827, 833-34 (1978) (“[I]t is for the Legislature, and not the executive branch, to determine finally which social objectives or programs are worthy of pursuit.”). The Attorney General cannot unilaterally decide that the law is too difficult to implement, or that it should be implemented in another way. Since its passage, however, the AGO appears to have put all its efforts into amending the law rather than implementing it. *See* December 30, 2019 letter to the Chairs of the Joint Committee on Environment, Natural Resources and Agriculture from First Assistant Attorney General Mary B. Strother. Concerns regarding the appropriate agency to lead the regulatory effort and the need to harmonize the law with California are not grounds to ignore a statutory mandate – especially one approved through initiative petition. Moreover, nothing prevents the AGO from consulting with the Department of Agricultural Resources in formulating the initial regulations, or the Department from participating in this process.

Absent the AGO initiating a rule making within the next thirty days as required by the Act, HFA and its members will have no choice but to seek judicial intervention through mandamus. A complaint in the nature of mandamus may seek to compel a public official to perform a “clear cut duty” that the law requires to be performed. *See Ardon v. Committee for Pub. Counsel Servs.*, 464 Mass. 1001, 1001 (2012); *Tax Equity All. for Mass. v. Commissioner of Rev.*, 423 Mass. 708, 714 (1996). Where legislation clearly sets forth the duty of the Attorney General, who has no discretion to decline to perform this unequivocal duty as directed, mandamus is appropriate to compel such performance by the Attorney General. *See Tax Equity All. For Mass.*, 423 Mass. at 714 (“Under the public right doctrine, any member of the public may seek relief in the nature of mandamus to compel the performance of a duty required by law.”).

While time is running out to effectively implement Chapter 333, we hope that you and your staff will promptly develop the necessary regulations, including seeking the input and participation of stakeholders.

Thank you for your attention to this matter. We are happy to meet and confer regarding HFA’s concerns prior to taking steps to enforce the provisions of Chapter 333.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Jed M. Nosal', with a stylized, flowing script.

Jed M. Nosal

Jessica Lu