

# The City as Litigator:

*History, Opportunities,  
Limits, and Implications*

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# The City as Litigator: Historical Roots



# The City as Litigator: Modern Trends

- ▶ Mortgage Redlining
- ▶ Firearms Litigation
- ▶ Climate Change
- ▶ Reverse Redlining



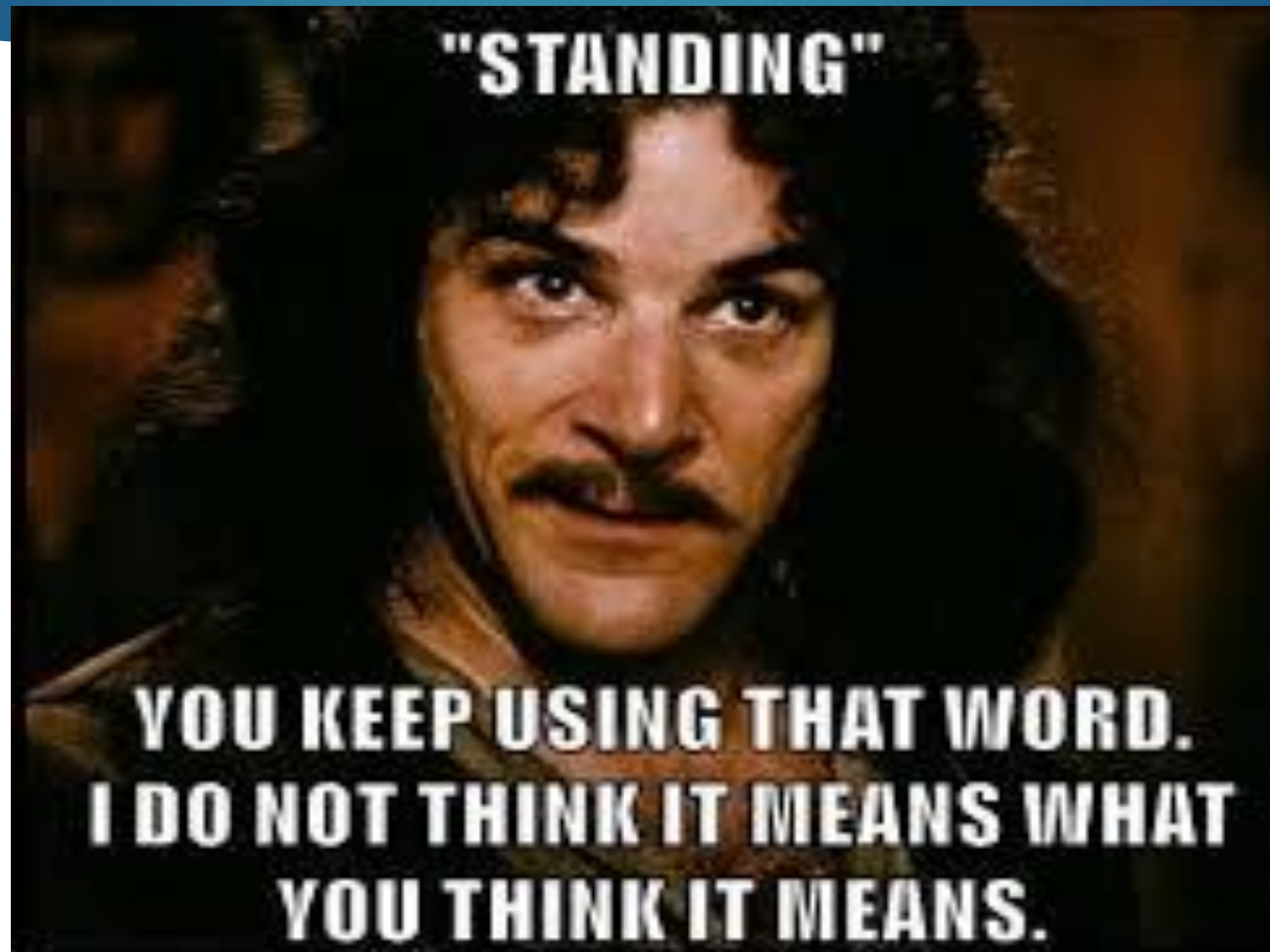
## *Gladstone Realtors v. Village of Bellwood*, 441 U.S. 91 (1979)

- ▶ A significant reduction in property values directly injures a municipality by diminishing its tax base, thus threatening its ability to bear the costs of local government and to provide services. Other harms flowing from the realities of a racially segregated community are not unlikely. As we have said before, “[t]here can be no question about the importance” to a community of “promoting stable, racially integrated housing.” [citing *Linmark Associates*, 431 U.S. 85 (1977)]. If, as alleged, petitioners’ sales practices actually have begun to rob Bellwood of its racial balance and stability, the village has standing to challenge the legality of that conduct.
- ▶ *Id.* at 110-111.

# Contemporary Role of City as Institutional Player

- ▶ Tight Budgets
- ▶ State Resistance
- ▶ National Gridlock and Opposition

# Significant Barrier: Standing Doctrine



# Most Essential Components

- ▶ Injury in Fact
- ▶ Caused By/Traceable to the Defendant
- ▶ Subject to Redress by Court Intervention



# Standing: Modern Trends I

- ▶ Restrictive: Private Harms in Very Public Litigation





# Standing: Modern Trends II

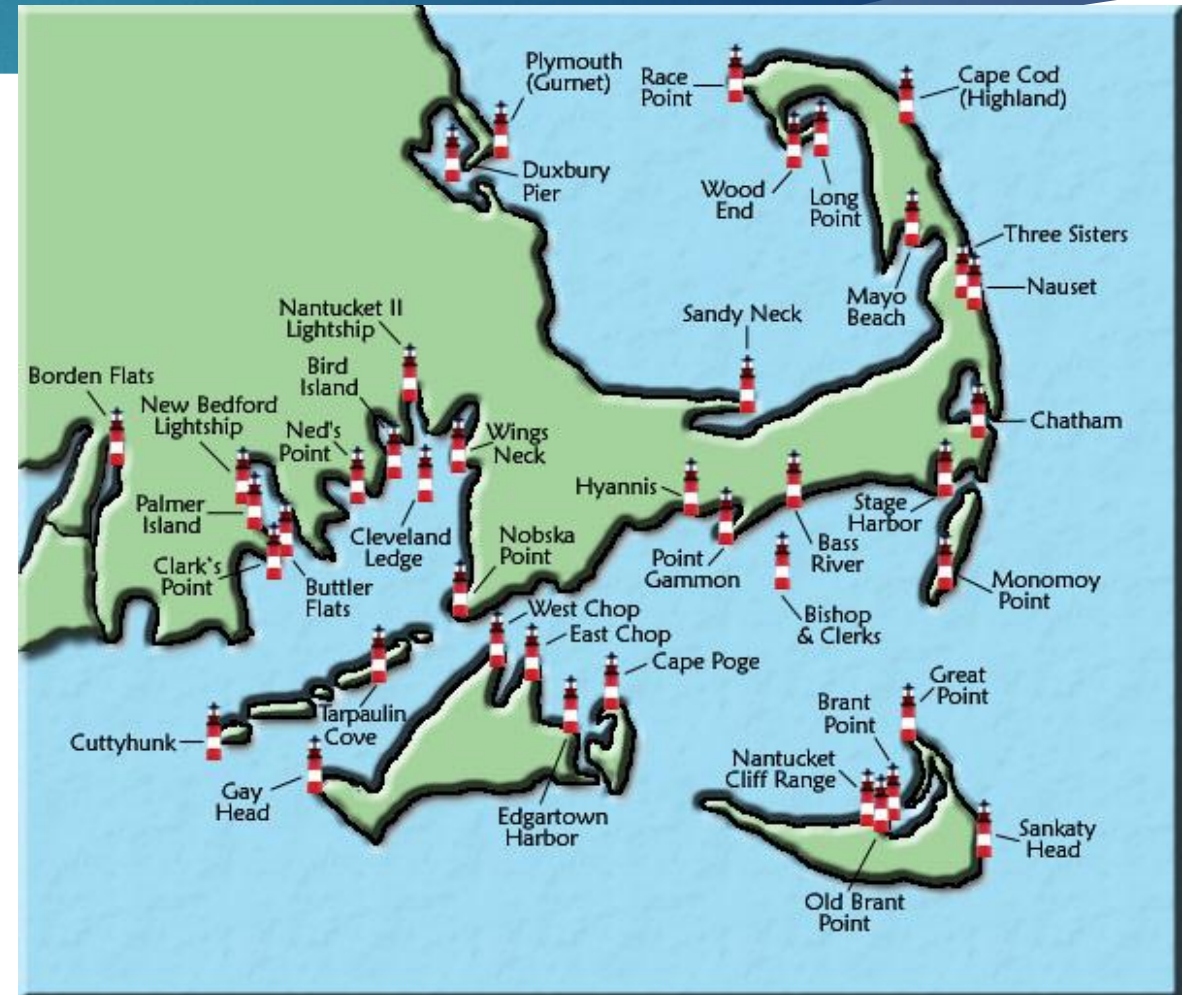
## ► Loosening the Grip: Massachusetts v. EPA



# Massachusetts's Stake in the Case

## Private Harms in a Public Context

- ▶ “Because the Commonwealth ‘owns a substantial portion of the state’s coastal property,’ ...it has alleged a particularized injury in its capacity as a landowner.”
- ▶ As a result, it has met “the most demanding standards of the adversarial process.”



# Massachusetts and Its Implications

- ▶ “Private Harms” in Public Places



# States Are Getting the Message

- ▶ Climate Change
- ▶ Affordable Care Act
- ▶ Immigration

# Where Cities Can Go

- ▶ Mortgage Redlining?
- ▶ Climate Change?
- ▶ Anti-Abandonment?

# Standing of Municipalities: Blight as a Case Study

- ▶ Injury in Fact
- ▶ Causation
- ▶ Redressability





# City as Litigator: Implications and Opportunities

