

## **Navigating Article 32 Groundwater Conservancy Overlay District Boston, MA**

**Surprise!** Would it leave you scratching your head if just before you are ready to start your interior building renovation in Boston your permit is denied? "They" tell you to go outside and collect your roof storm water runoff and inject it into the ground? No exceptions, even if all of your work is inside. No exceptions, even if you do not own any land outside your four walls. No exceptions, period.

This is what happens to many projects in Boston before we are asked to assist and well after project schedules, budgets and commitments are made. This is because Boston's Zoning "Article 32" requires projects with a renovation value of more than 50% of the assessed structure value and located in the "Groundwater Protection Overlay District" to obtain a Special Permit from Boston Zoning Board of appeals (ZBA).

[http://www.cityofboston.gov/Images\\_Documents/Article32\\_tcm3-2725.pdf](http://www.cityofboston.gov/Images_Documents/Article32_tcm3-2725.pdf)

Their reasoning is simple ... to keep the old wooden structural piles beneath many of Boston's buildings submerged in water, because when wood piles dry out, they rot over time. A stormwater recharge system can be more complicated and costly, if not addressed early on. Article 32 requires that one-inch of rainfall from all roofs and pavement be recharged into the ground, regardless of where runoff currently flows or regardless that you are not making any outside changes. The requirements are straightforward, but often missed in the early planning by owners, developers and architects. One must look into the location of your project in relation to the Groundwater Protection Overlay District.

[http://www.bostonredevelopmentauthority.org/pdf/ZoningCode/Maps/groundwater\\_overlay\\_zoning.pdf](http://www.bostonredevelopmentauthority.org/pdf/ZoningCode/Maps/groundwater_overlay_zoning.pdf)

A typical Boston project gets reviewed by the Boston Water and Sewer Commission (BWSC) and is presented before ZBA for a special permit. If you are in Boston's Overlay District, the Boston Groundwater Trust with primary focus on groundwater recharge provides comments on your application during a public hearing. A simple question is asked of them: Has the applicant provided groundwater recharge... regardless. Regardless of cost, regardless of soils and regardless of land area or ownership issues. Obtaining relief or a variance is near impossible, often stated with pride from the Groundwater Trust. To our knowledge, only one variance has been granted in the hundreds of cases involving this article.

In difficult cases, DeVellis Zrein has resorted to unconventional methods to recharge ground water. Unique underground injection wells, above and below ground holding tanks, false basement floors and infiltration systems on neighboring property have been necessary to address Article 32.

To stay on dry ground, an owner needs to be aware of this requirement early and cannot afford to hear about it for the first time while standing in front of Boston's approval table.