

NOTIFY

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COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, ss.

SUPERIOR COURT
NO. 2484CV03009-C

SHANNON O'BRIEN

v.

DEBORAH GOLDBERG¹

**MEMORANDUM OF DECISION AND ORDER REGARDING MAY 29, 2025 HEARING
ON DEFENDANT'S AND INTERVENING PARTIES' MOTIONS TO IMPOUND THE
ADMINISTRATIVE RECORD**

The Court has scheduled a hearing on May 29, 2025 to address the pending motions of the Defendant-Treasurer and certain intervening parties to impound the Administrative Record.² Pursuant to Uniform Rule on Impoundment Procedure 7(d), the Court finds good cause and hereby orders that the hearing scheduled for May 29, 2025 shall be **CLOSED TO THE PUBLIC** and, consistent with the Court's treatment of the Administrative Record and related papers at issue, the recording of this hearing shall be **PROVISIONALLY IMPOUNDED** pending a ruling on these motions or other order of the Court. As reasons therefor, the Court finds as follows:

The scheduled hearing will likely require the parties and the Court to address the substantive material that is the subject of the pending motions. In these circumstances, the

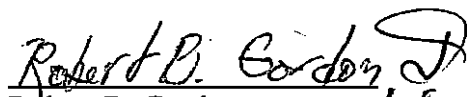
¹ Treasurer and Receiver General of the Commonwealth of Massachusetts, in her official capacity.

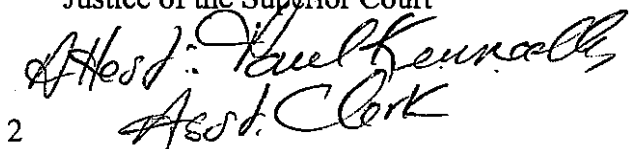
² The Defendant-Treasurer filed Volume I of the Administrative Record in a redacted form, while Volumes II through V are the subject of the Defendant's and intervening parties' motions to impound.

confidentiality of such material would not be preserved if the hearing were open to the public. See Unif. R. Impoundment Proc. 7(d) and Committee notes. This would defeat the very purpose of the pending motions, and irreparably compromise the moving parties' ability to obtain meaningful appellate relief from an adverse ruling by the Court. These concerns outweigh the general presumption of publicity, see generally Republican Co. v. Appeals Court, 442 Mass. 218, 222-23 (2004), and, more specifically, the public's inchoate interest in real-time access to the hearing. While the Court acknowledges the significant community interest in the merits of Plaintiff's claims against the Defendant, that interest clearly does not extend with equal force to the discrete arguments presented for and against impoundment of the Administrative Record. Moreover, closure of the motion hearing and *provisional* impoundment of the FTR recording thereof risk no significant prejudice to the public. To the extent the Court determines that the subject matter of this hearing warrants impoundment of the recording, the public will suffer no prejudice whatsoever. Conversely, should the Court determine that the public is entitled to access the substance of this hearing, the only prejudice inuring to it will be the modest delay in awaiting such a ruling (and possibly the outcome of any appeal therefrom). Applying the balancing test prescribed by Rule 7(b), therefore, see New England Internet Café, LLC v. Clerk of the Superior Court for Criminal Bus. in Suffolk Cnty., 462 Mass. 76, 83 (2012), the Court finds good cause for extending its governing order of provisional impoundment to the parties' forthcoming motion hearing on May 29, 2025. This hearing shall be closed to the public, and the FTR audio-recording thereof impounded pending further order of the Court.

SO ORDERED.

Date: May 20, 2025


Robert B. Gordon
Justice of the Superior Court


Asst. Clerk