

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

JEAN BATTY; EDWARD RUSSO; MATT)	
WOLF; PAUL P. BARNETT; CRAIG VACCA;)	
and COMMONWEALTH SECOND)	
AMENDMENT, INC.,)	CIVIL ACTION NO.
)	1:15-cv-10238-FDS
Plaintiffs,)	
)	
-against-)	
)	
KEN ALBERTELLI, in his official Capacity as)	
Chief of the Winchester Police Department; and)	
WILLIAM TAYLOR, in his Official Capacity as)	
Superintendent of the Lowell Police Department,)	
)	
Defendants.)	

**PLAINTIFFS’ OPPOSITION TO DEFENDANT
TAYLOR’S MOTION TO DISMISS**

Although Defendant introduced a new policy for issuing unrestricted LTC’s in February 2016, whether this policy revision will actually alleviate the injury Plaintiffs raised in the Complaint remains to be seen. Specifically, Defendant Taylor has issued an unrestricted LTC to Plaintiff Matt Wolf, and reports he has canceled the LTC of Plaintiff Paul Barnett (due to his move out of state), but Defendant has not yet responded to Plaintiff Craig Vacca’s request for an unrestricted LTC under the new policy. As such, Defendant’s motion is premature. Defendant’s mere announcement that it will voluntarily cease a contested practice in response to litigation does not render a cause of action moot. See ACLU of Mass. v. U.S. Conf. of Catholic Bishops, 705 F.3d 44, 54-55 (1st Cir. 2013); see also City News & Novelty, Inc. v. Waukesha, 531 U.S. 278, 284 n.1 (2001) (“a party should not be able to evade judicial review, or to defeat a

judgment, by temporarily altering questionable behavior”). Until Defendant has acted in response to Plaintiff Vacca’s request, Mr. Vacca’s injury remains real, and any alleged change of conduct on the part of Defendant remains hypothetical.

Plaintiffs will update this response after Defendant Taylor acts on Plaintiff Vacca’s request.

Dated: August 2, 2016

Respectfully submitted,
THE PLAINTIFFS,
By their attorneys,



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CERTIFICATE OF SERVICE

I hereby certify that this document filed through the CM/ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on 2 August 2016.

/s/ David D. Jensen
David D. Jensen, Esq.