

Alicia A. McNeil  
City Solicitor



Zaheer A. Samee  
Assistant City Solicitor

Christopher Mooney  
Assistant City Solicitor

Prasanna Rajasekaran  
Assistant City Solicitor

Mark E. Rumley  
Special Counsel

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SENT VIA EMAIL: [info@opencommonwealth.org](mailto:info@opencommonwealth.org)

March 24, 2026

Bruce Friedman  
8 Marvin Street  
Malden, MA 02148

**Re:** Open Meeting Law Complaint dated March 4, 2026

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Dear Mr. Friedman,

On March 4, 2026, you filed an Open Meeting Law complaint with the Malden City Council. Your complaint alleges that City Council “refuses to release executive session meeting minutes without redactions where they posses[s] no legal justification to continue to withhold and/or redact them.” Exhibit 1, Open Meeting Law Complaint. Specifically, you request release of “[a]ll records from the preparation of, the execution of, and deliberations and discussions in open and executive sessions . . . without redactions for the requested dates; February 3, 10, and 17, 2026.” Id.

We first note that, as of March 12, 2026, the February 3rd, 10th, and 17th Executive Session minutes have been released. Your complaint is therefore moot

**Tufts v. City of Malden**

We nevertheless consider the merits of your complaint. The February 3<sup>rd</sup> Executive Session discussed the current status of settlement negotiations in the Tufts v. City of Malden litigation, in considering whether to release past Executive Session minutes about this case. The February 17<sup>th</sup> Executive Session was about whether to release minutes from the February 3<sup>rd</sup> Executive Session and again discussed the status of the Tufts case. As of March 4<sup>th</sup>, the Tufts settlement was still pending, so release of these Executive Session minutes discussing the status of the case “may [have] defeate[ed] the lawful purposes of the executive session[s],” G. L. c. 30A, § 22(f), which was to protect the City’s litigating position. See G. L. c. 30A, § 21(a)(3).

In past responses to your Open Meeting Law complaints, we explained in detail why release of minutes pertaining to the Tufts matter pending final settlement may have jeopardized the City’s litigating position. See Exhibit 2, Response to February 5<sup>th</sup> Complaint; Exhibit 3, Response to February 19<sup>th</sup> Complaint. With

regard to the Tufts matter, we therefore find no Open Meeting Law violation with regard to the non-release of the February 3<sup>rd</sup> and 17<sup>th</sup> minutes.

**Benevolent Botanicals LLC, et al v. City of Malden**

The City filed a notice of appeal in the Benevolent Botanicals case on February 13<sup>th</sup>. The City withdrew its notice of appeal on March 2<sup>nd</sup>. On March 3<sup>rd</sup> you emailed the City Clerk demanding the minutes you requested be released. In response to your email, the City Clerk emailed on March 4<sup>th</sup> reminding you that minutes would be released in accordance with the post-judgement actions in each respective court.

On March 4<sup>th</sup> you filed this present complaint. See Exhibit 1 at \*6. Having not received any correspondence from the Land Court regarding the withdrawal of the notice of appeal, the City Solicitor contacted the Land Court and was informed that the Court had accepted the City's withdrawal of its notice of appeal and that it would not enter a formal notice on the docket of such acceptance. Upon learning this, the City Solicitor notified the City Clerk that all Executive Session minutes pertaining to the Benevolent matter should be released, including the February 10<sup>th</sup> minutes. Within 24 hours of the City Solicitor authorizing release of the minutes, the City Clerk sent the minutes to you on Thursday, March 12<sup>th</sup>.

For this reason, we find that the minutes were released as soon as the City Solicitor and City Clerk understood that litigation was complete and were able to prepare the minutes for release. As such, we find no violation of the Open Meeting Law.

/s/Prasanna Rajasekaran

**Prasanna Rajasekaran**  
**Assistant City Solicitor**  
215 Pleasant Street, Suite 420  
Malden, MA 02148  
prajasekaran@cityofmalden.org  
Phone: 781-397-7106

cc: Attorney General's Office ([openmeeting@state.ma.us](mailto:openmeeting@state.ma.us))  
Honorable Malden City Council  
Alicia A. McNeil, City Solicitor

# EXHIBIT 1



The Commonwealth of Massachusetts  
Office of the Attorney General  
One Ashburton Place  
Boston, Massachusetts 02108

## OPEN MEETING LAW COMPLAINT FORM

### Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

#### Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
  - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
  - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
  - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

#### Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

#### Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20<sup>th</sup> Floor, Boston, MA 02108. Emails may be sent to: [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).



## OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General  
One Ashburton Place  
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

### Your Contact Information:

First Name: \_\_\_\_\_ Last Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Ext. \_\_\_\_\_

Email: \_\_\_\_\_

Organization or Media Affiliation (if any): \_\_\_\_\_

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual       Organization       Media

### Public Body that is the subject of this complaint:

City/Town       County       Regional/District       State

Name of Public Body (including city/  
town, county or region, if applicable): \_\_\_\_\_

Specific person(s), if any, you allege  
committed the violation: \_\_\_\_\_

Date of alleged violation: \_\_\_\_\_

## Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

## Review, sign, and submit your complaint

### **I. Disclosure of Your Complaint.**

**Public Record.** Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

**Publication to Website.** As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

### **II. Consulting With a Private Attorney.**

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

### **III. Submit Your Complaint to the Public Body.**

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to [openmeeting@state.ma.us](mailto:openmeeting@state.ma.us).

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

**Signed:** \_\_\_\_\_

**Date:** \_\_\_\_\_

*For Use By Public Body  
Date Received by Public Body:*

*For Use By AGO  
Date Received by AGO:*

**Subject:** RE: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Date:** Wednesday, March 4, 2026 at 2:55:25 PM Pacific Standard Time  
**From:** Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>  
**To:** Commonwealth Transparency <info@opencommonwealth.org>  
**CC:** Amanda Linehan <alinehan@CITYOFMALDEN.ORG>, Alicia McNeil <amcneil@CITYOFMALDEN.ORG>  
**Attachments:** February 17.pdf, February 10.pdf

Bruce,

I have informed you that the minutes from February 10 and 17, 2026 executive sessions were approved for release in accordance with the completion of the post-judgement actions on each of the respective court cases which were discussed during those sessions. And they will be.

The link I provided is not broken.

I just tried it again myself and it is functioning just fine. If you need instruction on how to look up meeting minutes in the Legistar system, I am happy to offer guidance. In the meantime, I have attached PDF's of the regular session minutes to save you the trouble of retrieving them yourself.

Carol Ann

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**From:** Commonwealth Transparency <[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>  
**Sent:** Tuesday, March 3, 2026 8:55 PM  
**To:** Carol Ann Desiderio <[cdesiderio@CITYOFMALDEN.ORG](mailto:cdesiderio@CITYOFMALDEN.ORG)>  
**Cc:** Amanda Linehan <[alinehan@CITYOFMALDEN.ORG](mailto:alinehan@CITYOFMALDEN.ORG)>; Alicia McNeil <[amcneil@CITYOFMALDEN.ORG](mailto:amcneil@CITYOFMALDEN.ORG)>  
**Subject:** Re: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Importance:** High

The minutes have not been provided as reported.

The minutes were not released, as declared buy the chair.

The link you provided below is broken and does not function.

The OML law requires that you provide the records to the requestor, and again you have failed to do so.

Regards,

Bruce Friedman

- OpenCommonwealth.org

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**From:** Carol Ann Desiderio <[cdesiderio@CITYOFMALDEN.ORG](mailto:cdesiderio@CITYOFMALDEN.ORG)>  
**Date:** Saturday, February 28, 2026 at 2:00 PM  
**To:** Commonwealth Transparency <[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>  
**Cc:** Amanda Linehan <[alinehan@CITYOFMALDEN.ORG](mailto:alinehan@CITYOFMALDEN.ORG)>  
**Subject:** RE: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A

Bruce,

Please accept this email as response to your request for executive session minutes from February 10 and 17, 2026.

Communication: On February 19, 2026 a request was made by Bruce Friedman for the regular and executive session meeting minutes from the Malden City Council for the dates of February 10 and 17, 2026. Regular session minutes may be found in the Agenda Center of the City's website. In accordance with M.G. L. c. 30A, s. 22 (g) the public body's chair has conducted a review of the Executive Session minutes and has made the determination that those minutes from February 10 and 17 shall be released in accordance with the completion of post-judgment actions on each of the respective court cases which were discussed during these sessions.

Once the post-judgement actions are completed, the released minutes will be available at the following link:

<https://cityofmalden.legistar.com/Legislation.aspx>.

Thank you,  
Carol Ann

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**From:** Commonwealth Transparency <[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>  
**Sent:** Thursday, February 19, 2026 6:27 PM  
**To:** Carol Ann Desiderio <[cdesiderio@CITYOFMALDEN.ORG](mailto:cdesiderio@CITYOFMALDEN.ORG)>; Amanda Linehan <[alinehan@CITYOFMALDEN.ORG](mailto:alinehan@CITYOFMALDEN.ORG)>  
**Subject:** Re: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Importance:** High

Greetings:

Under the Massachusetts Open Meeting Law (M.G.L. c. 30A, § 22), and under the Massachusetts Public Records Law (M.G.L. c. 66 §§ 10 -10A) OpenCommonwealth.org is hereby formally requesting ANY **teams/zoom or other audio and visual recordings of the meeting(s) and the draft and final minutes of the meeting(s), any notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the sessions,** for the following meetings and dates:

Date	Public Body/Meeting	Meeting Minutes Requested
February 10, 2026	City of Malden City Council Meeting	Regular and Executive Sessions
February 17, 2026	City of Malden City Council Meeting	Regular and Executive Sessions

For committee and executive sessions; All meeting notices, video of, transcripts from, and meeting minutes from the meetings themselves and all documents and other exhibits, photographs, recordings or maps, and votes taken by and/or used by the body any other part of the official record of the session(s). For any redactions, please cite the specific ongoing reason for continued redactions. For unsigned minutes, please state the reason for the minutes being unsigned and unattested to.

OpenCommonwealth reminds the Committee that under M.G.L. c. 30A, § 22 the public body must provide a response within 10 calendar days.

OpenCommonwealth reminds the committee of the attached determinations of the Division of Open Government and the Supervisor of Public Records regarding redactions and is specifically seeking the responsive records which comply with these determinations.

This request seeks all documents regardless of form, whether draft or approved/final, as specifically seeks all draft, and approved minutes.

Please provide all of the documents electronically, directly to the following email address: [info@opencommonwealth.org](mailto:info@opencommonwealth.org)

This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and further the public understanding of the operation and activities of the City of Malden.

Kindest Regards,

OpenCommonwealth.org

OpenCommonwealth.org is a free and open public media organization. We serve the greater Massachusetts community with the goal to provide and empower citizen oversight of governmental operations and activities, help citizens understand how, why and where taxpayer dollars are expended, and to investigate, gather and report the facts in the online publications found on the webpages and social media accounts of OpenCommonwealth.org. OpenCommonwealth.org is a free service, is staffed only by volunteers, and all costs and expenses are borne by its creators. No person has ever paid OpenCommonwealth.org any monies, or any in-kind contributions for its reporting, or access to any of its files. It is the structural intent of OpenCommonwealth.org to maintain and persist as an absolutely free service to the entire public. Since its inception, OpenCommonwealth.org has been viewed by over 130,000 visitors between the website and social media, and has had over 20,000 external visitors view and/or download

records from our free and publicly available records repository. Currently OpenCommonwealth.org has over a 1.5 Terabytes of publicly available content published. This communication, along with any attachments, is covered by federal and state law governing electronic communications and may contain confidential and legally privileged information. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, use or copying of this message is strictly prohibited. If you have received this in error, please reply immediately to the sender and delete this message. Thank you. Circular 230 Disclosure: To ensure compliance with requirements imposed by the IRS, we inform you that any U.S. tax advice contained in this communication (including any attachments) is not intended or written to be used, and cannot be used, for the purpose of (i) avoiding penalties under the Internal Revenue Code, or (ii) promoting, marketing or recommending to another party any matters addressed herein.

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**Subject:** RE: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Date:** Thursday, February 19, 2026 at 9:58:57 AM Pacific Standard Time  
**From:** Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>  
**To:** Commonwealth Transparency <info@opencommonwealth.org>, Amanda Linehan <alinehan@CITYOFMALDEN.ORG>  
**CC:** Alicia McNeil <amcneil@CITYOFMALDEN.ORG>

Bruce,

Please accept this email as response to your request for executive session minutes from February 3, 2026.

Communication: During the meeting of February 17, 2026, the Council voted by a 10-1 roll call vote to enter into Executive Session with legal counsel for the City, in accordance with Exemption Seven Massachusetts General Laws Chapter 30A Section 21(a)(7), to comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements, in order to act on the periodic review of those executive session minutes listed herein to determine if release of records is appropriate at this time.

February 3, 2026, 77-26

A motion was made by Councillor Sica, seconded by Councillor O'Malley, to release the February 3, 2026 Executive Session minutes whole and unredacted upon the court's acceptance of the proposed settlement agreement between Tufts Construction and the City of Malden. The motion passed by a unanimous roll call vote.

Once the agreement is accepted, the released minutes will be available at the following link: <https://cityofmalden.legistar.com/Legislation.aspx> using the legislation tab to search the above noted paper number.

Thank you,  
Carol Ann

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**From:** Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>  
**Sent:** Wednesday, February 11, 2026 5:38 PM  
**To:** Commonwealth Transparency <info@opencommonwealth.org>; Amanda Linehan <alinehan@CITYOFMALDEN.ORG>  
**Cc:** Alicia McNeil <amcneil@CITYOFMALDEN.ORG>; Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>  
**Subject:** RE: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A

Good evening,

Please accept this email as acknowledgement and response to your request for minutes from the executive session of February 3, 2026.

The ES minutes have not been released for public review.

Under the provisions of MGL c. 30A s. 22(g)(2) the Council will have to meet to perform a review of these records to fulfill your request. The date of that review is February 17.

The draft minutes from the regular council session of February 3 are not yet complete and will be posted for council review on the agenda of February 24, after which time, they will be posted on [www.cityofmalden.org/agendacenter](http://www.cityofmalden.org/agendacenter).

Thank you,  
Carol Ann

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**From:** Commonwealth Transparency <info@opencommonwealth.org>  
**Sent:** Monday, February 9, 2026 10:26 AM  
**To:** Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>; Amanda Linehan <alinehan@CITYOFMALDEN.ORG>  
**Subject:** Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Importance:** High

Greetings:

Under the Massachusetts Open Meeting Law (M.G.L. c. 30A, § 22), and under the Massachusetts Public Records Law (M.G.L. c. 66 §§ 10 -10A) OpenCommonwealth.org is hereby formally requesting ANY ***teams/zoom or other audio and visual recordings of the meeting(s) and the draft and final minutes of the meeting(s), any notes, recordings or other materials used in the preparation of such minutes and all documents and exhibits used at the sessions,*** for the following meetings and dates:

Date	Public Body/Meeting	Meeting Minutes Requested
February 3, 2026	City of Malden City Council Meeting	Regular and Executive Sessions

For committee and executive sessions; All meeting notices, video of, transcripts from, and meeting minutes from the meetings themselves and all documents and other exhibits, photographs, recordings or maps, and votes taken by and/or used by the body any other part of the official record of the session(s). For any redactions, please cite the specific ongoing reason for continued redactions. For unsigned minutes, please state the reason for the minutes being unsigned and unattested to.

OpenCommonwealth reminds the Committee that under M.G.L. c. 30A, § 22 the public body must provide a response within 10 calendar days.

OpenCommonwealth reminds the committee of the attached determinations of the Division of Open Government and the Supervisor of Public Records regarding redactions and is specifically seeking the responsive records which comply with these determinations.

This request seeks all documents regardless of form, whether draft or approved/final, as specifically seeks all draft, and approved minutes.

Please provide all of the documents electronically, directly to the following email address: [info@opencommonwealth.org](mailto:info@opencommonwealth.org)

This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and further the public understanding of the operation and activities of the City of Malden.

Kindest Regards,

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**Subject:** RE: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Date:** Saturday, February 28, 2026 at 2:00:30 PM Pacific Standard Time  
**From:** Carol Ann Desiderio <cdesiderio@CITYOFMALDEN.ORG>  
**To:** Commonwealth Transparency <info@opencommonwealth.org>  
**CC:** Amanda Linehan <alinehan@CITYOFMALDEN.ORG>

Bruce,

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Communication: On February 19, 2026 a request was made by Bruce Friedman for the regular and executive session meeting minutes from the Malden City Council for the dates of February 10 and 17, 2026. Regular session minutes may be found in the Agenda Center of the City's website. In accordance with M.G. L. c. 30A, s. 22 (g) the public body's chair has conducted a review of the Executive Session minutes and has made the determination that those minutes from February 10 and 17 shall be released in accordance with the completion of post-judgment actions on each of the respective court cases which were discussed during these sessions.

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<https://cityofmalden.legistar.com/Legislation.aspx>.

Thank you,  
Carol Ann

---

**From:** Commonwealth Transparency <[info@opencommonwealth.org](mailto:info@opencommonwealth.org)>  
**Sent:** Thursday, February 19, 2026 6:27 PM  
**To:** Carol Ann Desiderio <[cdesiderio@CITYOFMALDEN.ORG](mailto:cdesiderio@CITYOFMALDEN.ORG)>; Amanda Linehan <[alinehan@CITYOFMALDEN.ORG](mailto:alinehan@CITYOFMALDEN.ORG)>  
**Subject:** Re: Open Meeting Records Request per M.G.L. c. 30A, § 22 and M.G.L. c. 66 §§ 10 -10A  
**Importance:** High

Greetings:

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For committee and executive sessions; All meeting notices, video of, transcripts from, and meeting minutes from the meetings themselves and all documents and other exhibits, photographs, recordings or maps, and votes taken by and/or used by the body any other part of the official record of the session(s). For any redactions, please cite the specific ongoing reason for continued redactions. For unsigned minutes, please state the reason for the minutes being unsigned and unattested to.

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This request and all responsive documents are for express purposes of gathering information to promote citizen oversight and

further the public understanding of the operation and activities of the City of Malden.

Kindest Regards,

OpenCommonwealth.org

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Commonwealth of Massachusetts

MIDDLESEX, SS.

MASSACHUSETTS LAND COURT  
DOCKET NO.: 22MISC000076

Benevolent Botanicals LLC and  
926 Eastern Avenue, LLC,  
Plaintiffs

v.

City of Malden, et al.  
Defendant.

Withdrawal of  
Notice of Appeal

The Defendant, City of Malden, et al, hereby gives notice that it withdraws its notice of appeal filed on February 13, 2026, from the decision and judgment of this Court entered in the above-referenced matter on January 29, 2026.

Respectfully submitted

CITY OF MALDEN, et al  
By its Attorney,

*Alicia A. McNeil*

\_\_\_\_\_  
Alicia McNeil, BBO #632134  
City Solicitor  
City of Malden  
215 Pleasant St., Suite 420  
Malden, MA 02148  
Tel: 781-397-7106

Dated: March 1, 2026

## CERTIFICATE OF SERVICE

I, Alicia McNeil, attorney for the City of Malden, certify that on March 1, 2026, I served the within Notice to counsel of record by emailing it to: Adam G. Gutbezahl [agg@riw.com](mailto:agg@riw.com), Michael D. Rosen, [mdr@riw.com](mailto:mdr@riw.com), and Bradley L. Croft, [brc@riw.com](mailto:brc@riw.com)

*Alicia A. McNeil*

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Alicia McNeil

RECEIVED  
C

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss

Superior Court  
2181CV01248

_____	)
Tufts Construction Inc.,	)
Plaintiff,	)
	)
v.	)
	)
City of Malden and Yem Lip,	)
Defendants.	)
_____	)

**JOINT MOTION TO EXTEND NISI PERIOD**

The parties hereby move this Honorable Court to extend the Nisi Period in the above action by 11 days, from February 19, 2026 to March 2, 2026. In support, the parties state that on January 20, 2026 this Court issued a Nisi Order that, in relevant part, stated that the Court may, in its discretion, enlarge the Nisi period. Said Order also stated that “[f]ailing the timely filing of an Agreement for Judgment or Stipulation of Dismissal, the parties are free to enforce their settlement agreement either in this Court by way of motion during the nisi period, or in a separately filed action for breach of contract.”

The parties state that they have been in the process of preparing a Settlement Agreement along with additional required documents but require additional time to determine whether a motion may be required to address matters relative to the resolution of this action.

Plaintiff,  
Tufts Construction, Inc.  
By counsel,

Defendant,  
City of Malden and Yem Lip,  
By counsel,

India L. Minchoff  
India L. Minchoff (652456)  
Law Offices of Russo & Minchoff  
210 Union Wharf  
Boston, MA 02109  
617/740-7340  
india@russominchofflaw.com

Jeffrey T. Blake  
Jeffrey T. Blake (655773)  
KP Law, P.C.  
101 Arch Street  
Boston, MA 02110  
617/556-0007  
jblake@k-plaw.com

2026 February 19  
After review, motion allowed  
Attest: *[Signature]*  
(Dineault)

NH

# EXHIBIT 2

Alicia A. McNeil  
City Solicitor



Zaheer A. Samee  
Assistant City Solicitor

Christopher Mooney  
Assistant City Solicitor

Prasanna Rajasekaran  
Assistant City Solicitor

Mark E. Rumley  
Special Counsel

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SENT VIA EMAIL: [info@opencommonwealth.org](mailto:info@opencommonwealth.org)

February 24, 2026

Bruce Friedman  
8 Marvin Street  
Malden, MA 02148

**Re:** Open Meeting Law Complaint from February 5, 2026

---

Dear Mr. Friedman,

On February 5, 2026, you filed an Open Meeting Law complaint with the Malden City Council. Your complaint alleges that City Council “refuses to release executive session meeting minutes without redactions where they posses[s] no legal justification to continue to withhold and/or redact them.” Exhibit 1, Open Meeting Law Complaint. Specifically, you request release of “[a]ll records from the preparation of, the execution of, and deliberations and discussions in open and executive sessions . . . for the requested dates, September 30, 2025 and January 20, 2026.” Id.

Upon investigating your complaint, we find that no Open Meeting Law violation occurred.

**Facts**

On September 30, 2025, the City Council voted to go into Executive Session with legal counsel “regarding the matter of Tufts Construction, Inc. v. The City of Malden,” pursuant to G. L. c. 30A, § 21(a)(3), “to discuss strategy with respect to litigation, where such discussion in open meeting may have a detrimental effect on the litigation position of the City.” See Exhibit 2, September 30 City Council Meeting Minutes, at 3.

On January 20, 2026, the City Council voted to go into Executive Session with legal counsel again regarding the Tufts matter, this time “for an update on recent developments regarding a tentative resolution to the civil action.” Exhibit 3, January 20 City Council Meeting Minutes, at 1. Council President Linehan “declared that discussions in open session on the suit between Tufts Construction, Inc. and City of Malden may have a detrimental effect on the litigation position of the city.” Id. at 2.

The same day, you sent an email to the City Clerk and City Council President requesting, under the Open Meeting Law, G. L. c. 30A, § 22, any notes, recordings, minutes, documents, or exhibits from the regular and executive sessions from the January 20<sup>th</sup> meeting. Exhibit 1, 6-7.

The City Clerk responded by email on January 27, 2026, providing meeting minutes and a recording of the open session and stating there were no other documents or exhibits used in the open session. Exhibit 1, 7.

However, the Clerk did not provide minutes from the executive session pertaining to the Tufts lawsuit. She stated, “Despite both sides of the case having agreed provisionally to a settlement, this case has not yet been completely resolved and closed with the court, therefore the ES minutes have not been released for public review.” She further stated, “Under the provisions of MGL c. 30A, s. 22(g)(2) the Council will have to meet to perform a review of these records to fulfill your request.”

On February 5, 2026, the City Clerk sent a further response to your request for Executive Session minutes. Exhibit 1, 6. The Clerk stated that, during an Executive Session on February 3, 2026, the City Council voted to release the January 20, 2026 minutes “upon the court’s acceptance of the settlement agreement between Tufts Construction and City of Malden.” Id. The minutes would be released “as redacted, due to the determination that unredacted minutes would defeat the lawful purpose of M.G.L. c. 30A, s. 22(f).” Id. The Clerk further stated that “[t]he City anticipates the date of the court’s acceptance to be on or about February 19.” Id.

On February 5th, you filed this Open Meeting Law Complaint against the City Council, alleging that your requests “were denied despite the fact that the underlying case was settled on the record (attached court records) and that the counsel for the City Council discussed these executive sessions in public at the city council meeting of January 27, 2026 in open session.” Id. at 3.

On February 19th, the deadline for filing an Agreement of Judgment or Stipulation of Dismissal in the Tufts v. City of Malden matter was extended by 11 days until March 2, 2026. Exhibit 4, Endorsement on Joint Motion to Extend Nisi Period.

### **Analysis**

The Open Meeting Law allows public bodies to “meet in executive session . . . [t]o discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.” G. L. c. 30A, § 21(a)(3).

Public bodies must also “maintain accurate minutes of all meetings, including executive sessions.” Id. at § 22(a). These minutes “may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer.” Id. at § 22(f). However, executive session minutes “shall be disclosed . . . [w]hen the purpose for which a valid executive session was held has been served.” Id.<sup>1</sup>

Here, you allege that the City Council violated the Open Meeting Law in failing to produce the Executive Session meeting minutes from September 30<sup>th</sup> and January 20<sup>th</sup>. As grounds, you state that publication of the minutes would not defeat the purpose of the executive sessions because (1) the underlying case was settled on the record and (2) City Council discussed the executive sessions on the record during the January 27<sup>th</sup> open session. These arguments, and related issues not raised by your complaint, are analyzed below.

#### I. Executive Session was Justified at the September 30 and January 20 Meetings

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<sup>1</sup> General Laws chapter 4, Section 7, clause 26 defines “public records” and their exemptions; one exemption is for materials that are “specifically or by necessary implication exempted from disclosure by statute.”

While not directly raised by your complaint, we first address whether City Council had a proper justification for entering Executive Session on September 30<sup>th</sup> and January 20<sup>th</sup>. For both sessions, the City's justification was "[t]o discuss strategy with respect to collective bargaining or litigation" where "an open meeting may have a detrimental effect on [the City's] bargaining or litigating position." See G. L. c. 30A, § 21(a)(3).

That justification was proper because, on both dates, the City was in active litigation regarding the Tufts matter. As of September 30, 2025, the case was ongoing after a mistrial, a new trial was to be scheduled, and no settlement had been reached. As of January 20, 2026, although the City had agreed to a settlement in principle, the case remained open and would only receive a final judgment or dismissal upon the parties filing an Agreement of Judgment or Stipulation of Dismissal. See Exhibit 1, 8. In both situations, open discussion of the City's bargaining or litigating position could have jeopardized its pursuit of a favorable settlement. See OML 2021-25, *Stockbridge Select Board* ("We find that the executive session discussions were appropriate under Purpose 3 because they related to pending litigation and a settlement agreement that was a proposed resolution to that litigation").

## II. Releasing Minutes May Defeat the Purpose of the Executive Sessions

Next, we consider whether publication of minutes may defeat the lawful purpose of the September 30<sup>th</sup> and January 20<sup>th</sup> Executive Sessions. See G. L. c. 30A, § 22(f).

You first contend that City Council discussed the settlement during open session on January 27, 2026, obviating the need to withhold prior Executive Session minutes. However, the open session discussion was limited, and other topics discussed at the September 30<sup>th</sup> and January 20<sup>th</sup> meetings were not addressed in open session. Moreover, the January 27<sup>th</sup> discussion did not warrant release of minutes because the case remained open. See OML 2020-108, *Nahant Board of Selectmen* ("a public body has a litigating position to protect if there is pending litigation in which the public body has a litigating position").

You also contend that withholding these minutes is no longer justified because the underlying case was settled. While it's true the City "had agreed upon all material terms of a binding settlement" as of January 20<sup>th</sup>, the case had not received a final judgment or dismissal; instead, the Court entered a Nisi Order requiring the parties "to file an Agreement of Judgment or Stipulation of Dismissal in the Clerk's office no later than February 19, 2026." Exhibit 1, 8. Only upon such filing would the Court "enter a Judgment dismissing the action, and al[l] claims thereof." Id. After your complaint was filed, the Court extended the Nisi period to March 2, 2026. See Exhibit 4.

Therefore, while the settlement was agreed to in principle, it has not been finalized and the Tufts case remains open on the Court's docket. The parties continue to prepare the Settlement Agreement. In this respect, the City's litigating position is no different than it was on January 20<sup>th</sup>. Until an Agreement of Judgment or Stipulation of Dismissal is filed by the parties and the Court enters a final judgment or dismissal, releasing the minutes "may defeat" the purpose of the September 30<sup>th</sup> and January 20<sup>th</sup> and Executive Sessions. See G. L. c. 30A, § 22(f); OML 2024-250, *Northfield Board of Selectmen* ("We have found that litigation remained active after a settlement agreement was reached but prior to the dismissal of the case because the settlement agreement specified that the matter would not be dismissed until after final payment under the agreement was made").

Despite finding no Open Meeting Law violation, we emphasize that the City Council has voted to release the January 20<sup>th</sup> Executive Session minutes once the Tufts matter is closed, subject to necessary redactions. The City Council will continue to diligently review Executive Session minutes pertaining to

the Tufts matter and release minutes that do not jeopardize the City’s litigating position. See OML 2022-90, *Halifax Board of Selectmen* (“When the purpose for a valid executive session has been served, the minutes and any documents or exhibits used at the session must be disclosed unless the attorney-client privilege or an exemption to the Public Records Law applies to withhold them, in whole or in part, from disclosure”).

### **Conclusion**

For the reasons stated, the City Council’s decision not to release Executive Session minutes from September 30<sup>th</sup>, 2025, and January 20<sup>th</sup>, 2026, meetings abide by the Open Meeting Law.

---

**Prasanna Rajasekaran**  
**Assistant City Solicitor**  
215 Pleasant Street, Suite 420  
Malden, MA 02148  
prajasekaran@cityofmalden.org  
Phone: 781-397-7106

cc: Attorney General’s Office ([openmeeting@state.ma.us](mailto:openmeeting@state.ma.us))  
Honorable Malden City Council  
Alicia A. McNeil, City Solicitor

# EXHIBIT 3

Alicia A. McNeil  
City Solicitor



Zaheer A. Samee  
Assistant City Solicitor

Christopher Mooney  
Assistant City Solicitor

Prasanna Rajasekaran  
Assistant City Solicitor

Mark E. Rumley  
Special Counsel

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SENT VIA EMAIL: [info@opencommonwealth.org](mailto:info@opencommonwealth.org)

March 10, 2026

Bruce Friedman  
8 Marvin Street  
Malden, MA 02148

**Re:** Open Meeting Law Complaint from February 19, 2026

---

Dear Mr. Friedman,

On February 19, 2026, you filed an Open Meeting Law complaint with the Malden City Council. Your complaint alleges that City Council “refuses to release executive session meeting minutes without redactions where they posses[s] no legal justification to continue to withhold and/or redact them.” Exhibit 1, Open Meeting Law Complaint. Specifically, you request release of “[a]ll records from the preparation of, the execution of, and deliberations and discussions in open and executive sessions . . . without redactions for the requested dates, February 3, 2026.” Id.

Upon investigating your complaint, we find that no Open Meeting Law violation occurred.

**Facts**

On February 3, 2026, the City Council voted to go into Executive Session with legal counsel “in accordance with Exemption Seven [of the Open Meeting Law] in order to act on the periodic review of the Executive Session minutes listed herein to determine if release of records is appropriate at this time.” See Exhibit 2, February 3 City Council Meeting Minutes, at 1. The Executive Session minutes under review were from September 30, 2025, and January 20, 2026. Id. Those sessions involved strategic discussions about ongoing litigation in the Tufts v. City of Malden matter.

On February 9, 2026, you sent an email to the City Clerk and City Council President requesting, under the Open Meeting Law, G. L. c. 30A, § 22, any notes, recordings, minutes, documents, or exhibits from the regular and executive sessions from the February 3rd meeting. Exhibit 1, 4-5.

The City Clerk responded in an email on February 19<sup>th</sup> that the City Council voted, in a February 17<sup>th</sup> Executive Session, to release the February 3<sup>rd</sup> Executive Session minutes “whole and unredacted upon the court’s acceptance of the proposed settlement agreement between Tufts Construction and the City of Malden.” Exhibit 1, 4.

As of March 4, 2026, the Tufts matter is still pending on the Court’s docket, and no Agreement for Judgment or Stipulation of Dismissal has yet been filed and accepted by the Court. Exhibit 3, Docket.

### **Analysis**

The Open Meeting Law allows public bodies to “meet in executive session . . . [t]o discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares.” G. L. c. 30A, § 21(a)(3).

Public bodies must also “maintain accurate minutes of all meetings, including executive sessions.” Id. at § 22(a). These minutes “may be withheld from disclosure to the public in their entirety under subclause (a) of clause Twenty-sixth of section 7 of chapter 4, as long as publication may defeat the lawful purposes of the executive session, but no longer.” Id. at § 22(f). However, executive session minutes “shall be disclosed . . . [w]hen the purpose for which a valid executive session was held has been served.” Id.<sup>1</sup>

Here, you allege that the City Council violated the Open Meeting Law by failing to produce the Executive Session meeting minutes from February 3rd. As grounds, you state that publication of the minutes would not defeat the purpose of the executive sessions because (1) the underlying case was settled on the record and (2) City Council discussed the executive sessions on the record during the January 27<sup>th</sup> open session.

However, as we discussed in responding to your Open Meeting Law complaint from February 3, 2025 — which is based on the exact argument you raise here — release of Executive Session minutes that pertain to the Tufts case would “defeat the lawful purposes of the executive session[s]” because the Tufts case is ongoing. As of March 4, 2026, the case is open on the Court’s docket and the Court has not accepted an Agreement for Judgment or Stipulation of Dismissal. So long as that is the case, any request for minutes from Executive Sessions that pertain to the Tufts case, including the February 3<sup>rd</sup> Executive Session, is premature.

### **Conclusion**

For the reasons stated, the City Council’s decision not to release Executive Session minutes from the February 3<sup>rd</sup>, 2026, meeting abides by the Open Meeting Law.

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**Prasanna Rajasekaran**  
**Assistant City Solicitor**  
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Honorable Malden City Council  
Alicia A. McNeil, City Solicitor

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<sup>1</sup> General Laws chapter 4, Section 7, clause 26 defines “public records” and their exemptions; one exemption is for materials that are “specifically or by necessary implication exempted from disclosure by statute.”