

MEMORANDUM

To: Malden City Council
From: Ronald Hogan, Chief Strategy Officer
Nelson Miller, Building Commissioner
Date: June 23, 2026
Re: Cannabis Special Permit 36 Charles Street

We write in advance of tonight's meeting regarding the removal of the special permit transfer restriction for 36 Charles Street. The goal of this memo is to outline the various steps that would be required if the City Council and Mayor desire to allow a Marijuana Establishment to effectively transfer a license. It is our hope that this additional information will provide helpful context for the discussion tonight.

Current Prohibitions on Transfers

Regulations adopted by the City Council and agreements executed by the Mayor prohibit the transfer of Cannabis business in multiple ways.

Local Cannabis Licensing Ordinance

Section 6.08.07 Section F states:

1. License Transfer Prohibited: A Marijuana Establishment shall have no ability to transfer a license to a new operator.

An amendment of this ordinance would be required to allow for the transfer of a license. Such amendment should address what process should be applied for such a request, any restrictions, etc., or defer to the Cannabis License and Enforcement Commission to promulgate regulations on the same.

Host Community Agreement

All host community agreements in effect have the same language as follows:

15. Successors/Assignees.

This Agreement is binding upon the Parties hereto, their successors, assignees and legal representatives. The Company may not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement.

Events deemed an assignment include, without limitation: (i) Company's final and adjudicated bankruptcy whether voluntary or involuntary; (ii) the Company's takeover or merger by or with any other entity; (iii) the Company's outright sale of assets and equity, majority stock sale to another organization or entity for which the Company does not maintain a controlling equity interest; (iv) or any other change in ownership or status of the Company; (v) any assignment for the benefit of creditors; and/or (vi) any other assignment not approved in advance in writing by the City.

In the event that there is a change in ownership, this Agreement may be renegotiated in good faith at the discretion of the City.

The Mayor may negotiate a new agreement with a new operator, but is under no obligation to, provided they are able to obtain the local license under a newly prescribed process as mentioned above.

Special Permit

All special permit decisions contain the same language which states simply and clearly:

The Special Permit is non-transferable and non-assignable.

A council vote to remove this special permit restriction is NOT a vote to approve an assignment/transfer; that can only be effectuated with an ordinance update removing the restriction on transfers and defining a process for the same, and the execution of a new Host Community Agreement, in addition to removing the special permit restriction. The City Council removing this restriction without any further action has no impact; however, it does signal the intent and support to complete the remaining steps to outline the regulations and process for a Marijuana establishment to sell and transfer to a new operator.

Analysis of The Merits of Removing Restrictions

At the time of the establishment of Marijuana licensing in Malden, it was a new industry with many unknowns, and great competition for licenses. The restrictions on transfers in many ways reflected that competitiveness and uncertainty, but it's important to recognize that a lot has changed as well.

The initial licensing was such that the current license holders all went through a competitive licensing process that focused on the totality of the application. Location, makeup of the proposed ownership, and prior experience were just some of the variables considered. This proposed transfer involves the same location as was vetted by both CLEC and the City Council. A well-designed, thoroughly documented process to allow for the transfer of a Marijuana establishment should provide for vetting by CLEC of the new proposed ownership and require approval by CLEC (and subsequently the CCC). However, it cannot and will not replicate the competitive process that the original applicant (and others) went through, which relied at least in part on an evaluation of the ownership team as compared to other applicants. It would be a qualifying review versus competitive and that will feel unfair to some.

The industry has changed a lot since then. Market saturation and maturation have caused the Cannabis Control Commission to react with appropriate regulatory changes. In our opinion, it's reasonable to adopt a well-designed local transfer process, starting with removing the Special Permit restriction, even while acknowledging the fundamental difference between that and the competitive process that existed at the outset. Every business owner eventually needs an exit strategy, and it might seem fundamentally unfair to not allow for one for Marijuana establishments in Malden with just about every other business not facing such restrictions, with the appropriate safeguards of course.