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TO: The Honorable Members of the Malden City Council (c/o City Clerk Desiderio, cdesiderio@cityofmalden.org)
City Solicitor Alicia McNeil (amcneil@cityofmalden.org)

FROM: Blake M. Mensing, Esq., Cable, Fleisher & Sosebee, PLLC,
Counsel for Misty Mountain Shop LLC

DATE: June 22, 2026

RE: Opposition to Petition of DMS Trinity, LLC / Beach House Cannabis, LLC
36 Charles Street, Malden, MA (Assessor Parcel #062 239 910)

CASE REF: Amendment to Special Permit Cases 202-22, 233-23, 77-25

HEARING: Tuesday, June 23, 2026, 7:00 PM, Herbert L. Jackson Council Chamber

My name is Blake Mensing and I am writing today on behalf of my client, Misty Mountain Shop LLC, a licensed cannabis retailer operating in the City of Malden. By way of brief background, I am a former municipal attorney who now exclusively represents cannabis businesses in Massachusetts. I have advised more than 250 cannabis businesses through local permitting and state regulatory compliance/licensure and have participated in regulatory proceedings before the Cannabis Control Commission, the Massachusetts Joint Committee on Cannabis Policy, and municipal boards throughout the Commonwealth. I raise this background not to pad the record but because I understand the institutional pressures that municipal boards face when navigating the intersection of state cannabis law and local zoning authority. The arguments that follow are not an attempt to exploit a procedural technicality. They reflect what the statute and the City's own regulatory framework actually require.

I. INTRODUCTION AND RELIEF SOUGHT

This memorandum is submitted on behalf of Misty Mountain Shop LLC, a licensed cannabis retailer operating in the City of Malden, to request that the City Council DENY the petition of DMS Trinity, LLC, on behalf of Charles Street Realty Trust 2020, Roseanne J. Spinney, TRS, seeking to reissue and/or transfer the special permit for the marijuana retailer use at 36 Charles Street to a different entity, Beach House Cannabis, LLC.

The petition must be denied on six independent grounds, each of which is fatal standing alone:

Ground I: The entire chain of special permits for this site is legally void. None of the three decisions in the permit chain has ever been recorded at the Middlesex South Registry of Deeds, meaning none has ever taken effect under M.G.L. c. 40A, § 11, and all underlying zoning relief has lapsed by operation of M.G.L. c. 40A, § 9.

Ground II: The proposed transferee, Beach House Cannabis, LLC, never participated in the City of Malden's mandatory competitive Cannabis Licensing and Enforcement Commission applicant selection process. That process is a condition precedent to the grant of any special permit for a cannabis establishment in Malden, and it cannot be bypassed by the mechanism the petitioner has chosen here.

Ground III: The public record reflects multiple undisclosed changes in DMS Trinity, LLC's ownership and control after its CLEC approval, notwithstanding the CLEC's requirement that such changes be presented to the Commission for review.

Ground IV: The Host Community Agreement independently bars the proposed transfer through its non-assignment clause, mandatory reporting obligations, and amendment requirements.

Ground V: The petition misreads the Land Court's ruling in *Benevolent Botanicals LLC v. City of Malden*. That decision struck buffer zone restrictions in the cannabis zoning text. It did not touch, limit, or disturb the CLEC's independent municipal licensing authority, which is the operative framework at issue here.

Ground VI: The petition contains material representations of fact that are directly contradicted by the City's own public records, including an unsupported and implied claim of CLEC's approval of Beach House Cannabis, LLC and an unsupported implication that the existing Host Community Agreement covers the proposed transfer.

II. ARGUMENT

A. The Entire Chain of Special Permits Has Never Taken Effect and Has Lapsed by Operation of Law (M.G.L. c. 40A, §§ 11 and 9)

1. The Recording Requirement Is an Absolute Condition Precedent to Legal Effect.

M.G.L. c. 40A, § 11 is unambiguous:

"A special permit, or any extension, modification or renewal thereof, shall not take effect until a copy of the decision bearing the certificate of the city or town clerk that twenty days have elapsed and no appeal has been filed... is recorded in the registry of deeds for the county and district in which the land is located."

A thorough search¹ of the Middlesex South Registry of Deeds by property address and owner of record revealed no recorded copies of Cases 202-22, 233-23, or 77-25, confirming that none of the three instruments in the permit chain for 36 Charles Street has ever been recorded:

Case 202-22: Decided April 26, 2022; filed with City Clerk May 10, 2022. Not recorded. The Malden City Council decision page specifically states that a special permit was granted in Case 202-22 on April 26, 2022 (<https://www.cityofmalden.org/Archive.aspx?ADID=731>).

Case 233-23: Decided June 6, 2023 (<https://www.cityofmalden.org/ArchiveCenter/ViewFile/Item/773>); filed with City Clerk June 20, 2023. Not recorded.

Case 77-25: Decided February 11, 2025; filed with City Clerk February 25, 2025. Not recorded. A Mass Cannabis Control document tied to DMS Trinity, LLC and license MR284810 also states that on February 11, 2025, the Malden City Council voted to amend the special permit with conditions (<https://masscannabiscontrol.com/wp-content/uploads/2025/12/MR284810-DMS-Trinity-LLC.pdf>).

The City Clerk's February 25, 2025 notice to petitioner's counsel explicitly confirms that the owner or applicant, not the City, is responsible for obtaining the certified copy and recording it with the Registry of Deeds. The failure to record lies squarely with the permit holder, not with any municipal omission.

Because none of these decisions was ever recorded, none has ever taken legal effect. There are no legal rights here to transfer, reissue, or amend. The Council is being asked to act on a permit that has no legal basis for failure to comply with longstanding statutory requirements. If petitioner contends otherwise, it should identify the applicable Registry book and page.

2. The Two-Year Lapse Clock Has Run on the Entire Chain of Relief.

M.G.L. c. 40A, § 9 provides that a special permit lapses automatically within two years of its grant if substantial use or construction has not lawfully commenced. Because Case 202-22 never took effect, no lawful construction or substantial use could commence under it. Because the permit never took effect, the lapse provision technically never attached; even assuming for the sake of argument that it did, that period expired no later than April 26, 2024.

Case 233-23 was itself never recorded and never took effect. An unrecorded extension has no legal existence and cannot toll a statutory lapse clock. Even treating it as facially valid on its own terms, a 12-month extension from June 2023 would have run out in June 2024 in any event.

Case 77-25 was decided in February 2025, after the entire underlying chain of zoning relief had already expired by operation of law. A City Council cannot amend or extend a dead permit.

¹ A search of the records of the Middlesex South Registry of Deeds by property address (36 Charles Street, Malden, MA), property owner name (Roseanne J. Spinney, Trustee of Charles Street Realty Trust 2020), and petitioner name (DMS Trinity, LLC) confirms that none of the three special permit instruments, Case 202-22, Case 233-23, and Case 77-25, has been recorded at the Registry as required by M.G.L. c. 40A, § 11.

Accordingly, Case 77-25 could not operate to amend or extend zoning relief that was no longer legally effective.

More than four years have elapsed since the April 2022 grant. No cannabis retailer has ever operated at 36 Charles Street. The zoning relief for this site has lapsed and cannot be revived through an amendment proceeding.

The petitioner will likely argue that the May 8, 2024 building permit and the March 12, 2025 final inspection constitute substantial commencement of construction sufficient to satisfy M.G.L. c. 40A, § 9. That argument fails on two independent grounds. First, M.G.L. c. 40A, § 9 requires that substantial use or construction have been lawfully commenced. Construction undertaken without valid underlying zoning relief is not lawful commencement. Because Case 202-22 never took legal effect under M.G.L. c. 40A, § 11, no building permit issued in reliance on it rested on a valid legal foundation, and money spent on construction the permit had no authority to authorize does not cure the recording defect that rendered the permit void. Second, the building permit was pulled on May 8, 2024, twelve days after the theoretical two-year lapse deadline of April 26, 2024, the date that applies even under the most favorable reading of the § 9 clock for DMS Trinity. The permit was void before the foundation was poured. Completed construction cannot revive it.

3. The Council Cannot Reissue an Expired Permit Through an Amendment Proceeding.

The City's own public hearing notice reveals the problem with this petition on its face. The notice seeks to *"reissue the special permit and/or transfer the rights."* Reissuance is not an amendment. It requires a new, baseline application with updated filing fees, a new Planning Board recommendation, a fresh CLEC applicant vetting process, and a full assessment under current standards. Attempting to cure 15 months of non-recording through an amendment hearing is an *ultra vires* act that exposes the City to immediate judicial challenge.

B. Beach House Cannabis, LLC Has Never Participated in the Mandatory Competitive CLEC Applicant Selection Process

The City of Malden's Cannabis Licensing Process Overview establishes a mandatory six-stage sequential process. Stage 1 is an initial application to the CLEC, evaluated by majority vote against competing applicants on criteria including experience, financial strength, business plan, management qualifications, investor backgrounds, and geographic diversity, subject to a hard cap of five retail licenses city-wide.

The CLEC does not approve locations or uses. The CLEC approves applicants. The Planning Board's own June 10, 2026 report in this matter confirms that distinction. The Board's procedural recital states that the petition was "approved by the City's Cannabis Licensing and Enforcement Commission (CLEC) to proceed to the zoning process." That sentence describes the 2021 CLEC approval of DMS Trinity as the applicant that cleared Stage 1 of the competitive selection process. The Board does not state, and the record does not reflect, that Beach House Cannabis, LLC has received any CLEC approval of any kind. The Planning Board's own report is thus directly inconsistent with the Addendum's claim that the petitioner has received CLEC approval. The CLEC approval that cleared DMS Trinity to proceed to the zoning process in 2021 is not

transferable to a joint venture entity that did not exist when that approval was granted and has never appeared before the CLEC in any capacity. A copy of the Planning Board's June 10, 2026 report is attached hereto as Exhibit A. Counsel obtained this document through press reporting; the City Clerk is respectfully invited to substitute the official version into the record if one has been formally issued. The special permit issued to DMS Trinity, LLC was downstream of, and entirely dependent upon, DMS Trinity's approval² through that competitive Stage 1 process. The CLEC minutes from March 8, 2022 confirm that DMS Trinity was the entity that went through that process, missed deadlines twice, and ultimately advanced to the Planning Board and City Council. The City of Malden agenda/minutes page for March 31, 2021 confirms the CLEC interview of DMS Trinity, LLC

(https://cityofmalden.org/AgendaCenter/ViewFile/Minutes/_03312021-1615).

Beach House Cannabis, LLC is not DMS Trinity, LLC. Nothing in the materials submitted with this petition demonstrates that Beach House Cannabis, LLC has itself undergone that applicant review. By the petitioner's own description in the May 7, 2026 Addendum, Beach House is a joint venture between DMS Trinity and "*new financial backers and cannabis operational specialists*." The Secretary of State Corporations Division lists Paul Ferazzi and Casey Baker as the Managers of Beach House Cannabis, LLC. DMS Trinity, LLC does not appear as an associated entity. These new principals have never been evaluated by the CLEC under any standard, and the identity of the "*new financial backers*" has not been disclosed to the City and has plainly not been vetted as required under M.C.C. §§ 2.16.030 and 6.08.070.

Approving this transfer would render the CLEC's competitive selection process a nullity. Any permit holder could sell their CLEC-approved position to an unvetted third party with capital, transforming a public interest licensing framework into a private commodity. Other applicants were denied in the 2021 competitive process. New applicants today are required to satisfy the full application standard. Beach House Cannabis, LLC is seeking an outcome that has never been available to any other entity in Malden's cannabis licensing history.

The CLEC's own public agenda for June 24, 2026, the day after this hearing, lists as Agenda Item 3 an "*Update and discussion on DMS Trinity Request for Special Permit Transferability*" and "*Proposed associated CLEC Regulations*." The CLEC has not approved Beach House Cannabis, LLC. The regulatory framework governing permit transfers has not been finalized. The Council is being asked on June 23, 2026 to approve a transfer that its own cannabis licensing body will not begin formally addressing until June 24, 2026. The City of Malden agenda for June 23, 2026 likewise reflects a DMS Trinity petition seeking amendment to the special permit (https://www.cityofmalden.org/AgendaCenter/ViewFile/Agenda/_06232026-4342).

The petitioner's own application materials further undermine the claim that Beach House Cannabis, LLC is an independent transferee. The application describes an asset purchase agreement in which DMS Trinity, LLC retains a financial and operational interest in the business operating the premises, but the nature, extent, and terms of that retained interest are undefined and

² See CLEC Minutes, Apr. 28, 2021, https://www.cityofmalden.org/AgendaCenter/ViewFile/Minutes/_04282021-1672 ("Motion by Chief Molis to move DMS Trinity Forward, Second by Ron Hogan, all in favor. Motion passes.").

undisclosed. The Council has no record of what DMS Trinity will continue to own, control, or profit from, and no basis to evaluate whether this transaction is a true transfer or a disguised continuation of the same unvetted ownership structure. Beach House is not a replacement applicant; it is a restructured vehicle through which the same controlling interests seek to continue operating without ever having undergone the CLEC's competitive vetting process. The CLEC's approval of DMS Trinity in 2021 cannot be stretched to cover a joint venture with new, undisclosed financial backers when DMS Trinity itself remains financially and operationally entangled in the enterprise in ways the petitioner has not explained.

C. DMS Trinity, LLC Has Engaged in a Pattern of Undisclosed Ownership and Control Changes in Direct Violation of the CLEC's Own Governing Requirements

On November 24, 2020, the CLEC voted unanimously that any change in ownership or control must come before the CLEC. The motion was made by Jenelle DeVits and seconded by Nelson Miller. It passed without opposition. That vote was not aspirational language. It was a binding governing requirement adopted by the body whose sole function is to vet cannabis operators in Malden. The public record establishes that DMS Trinity, LLC violated that requirement at least four times over four years and never once sought the disclosure or approval the CLEC required.

1. What the CLEC Was Told.

At its March 31, 2021 interview, DMS Trinity presented as a majority woman-owned business. Mary Susan Blout was identified as holding 60% ownership and 60% control, supported by screenshots of the CCC application portal submitted as part of the CLEC application packet. The company represented that it was pursuing Supplier Diversity Office certification as a Women's Business Enterprise. The CLEC approved DMS Trinity to proceed on the basis of those representations, among others. The City of Malden agenda page for March 31, 2021 confirms the DMS Trinity interview as part of the CLEC applicant presentations (https://cityofmalden.org/AgendaCenter/ViewFile/Minutes/_03312021-1615).

2. What the Operating Agreement Shows.

The Third Amendment to the DMS Trinity, LLC Operating Agreement, executed March 15 through 17, 2022, tells a different story. That amendment restructured the company to give Dos Santos 51.5% of profits, losses, and capital interests, reducing Blout to 12%. Majority ownership and operational control passed from the woman the CLEC approved to someone else. This happened before the April 26, 2022 City Council hearing on Case 202-22 and before the August 9, 2022 Host Community Agreement was signed by both Blout and Dos Santos. There is no entry in any CLEC minutes reflecting that this change of control was ever disclosed to or approved by the CLEC. If the CLEC approved these changes, DMS Trinity must produce the record of that vetting and the CLEC's actual approval.

3. What the Secretary of State Record Shows.

The restructuring did not stop there. The annual reports filed with the Secretary of the Commonwealth document a steady and complete displacement of the original ownership team, none of which was ever brought before the CLEC as required:

The 2023 Annual Report, filed May 24, 2023, still listed Blout and Dos Santos as co-managers and co-signatories, maintaining at least the appearance of the original team.

The 2024 Annual Report, filed December 18, 2024, listed Dos Santos as the sole manager and sole SOC signatory. Blout was reduced to a real property signatory, a role with no management authority. Ventouris, Byrne, Handy, Chalhoub, and Collins had by this point vanished from the public record entirely.

The 2025 Annual Report, filed April 15, 2025, listed Dos Santos as sole manager. Nicole Apostolakis appeared as SOC signatory. Apostolakis does not appear in any prior CLEC filing, City Council proceeding, or any other document in this record. Blout was completely erased from the public facing record for DMS Trinity, LLC.

The 2026 Annual Report, filed April 8, 2026, listed Dos Santos as sole manager with Timothy S. Halpin as the Secretary of the Commonwealth (“SOC”) signatory. Halpin is not a new name in this record, but he was not presented to the CLEC for approval to have the power to sign documents for submission to the SOC. He was the person who circulated the Third Amendment for electronic signature in March 2022, the amendment that transferred control from Blout to Dos Santos in the first place.

4. What the CCC Cap Table Confirms.

The capitalization table submitted to the Cannabis Control Commission in connection with DMS Trinity’s Provisional License application, resulting in a license issued December 13, 2025, shows Dos Santos at 90.5%, Brian Collins at 4%, and Tiffany Palmer at 2%. A Mass Cannabis Control document for MR284810 and DMS Trinity, LLC is available online and reflects the license/proceeding context associated with the project

(<https://masscannabiscontrol.com/wp-content/uploads/2025/12/MR284810-DMS-Trinity-LLC.pdf> at pg. 69). Blout, Ventouris, Byrne, Handy, and Chalhoub, the people who sat before the CLEC in March 2021 and secured approval for this project, hold no ownership interest in the company. The ownership structure presented to the CLEC in 2021 no longer appears to exist.

5. What This Means for the Petition.

Every one of the ownership and control changes described above triggered the CLEC's November 2020 disclosure requirement. None was disclosed. The CLEC has never evaluated Dos Santos as a sole controlling owner at 90.5%. It has never evaluated Nicole Apostolakis or Timothy Halpin in any capacity. It has never reviewed DMS Trinity in its current form against the criteria it applied to the original applicants in 2021.

The Council is being asked to transfer a permit that was obtained through representations to the CLEC regarding DMS Trinity, LLC's ownership and control that the public record shows no longer reflect the entity now before the Council. The public record further does not establish that either the current ownership structure of DMS Trinity, LLC or the principals of the proposed transferee, Beach House Cannabis, LLC, have undergone the CLEC review required for changes in ownership and control or for new applicants. Approving this petition would effectively ratify years of undisclosed ownership and control changes and extend the benefit of a CLEC approval issued to a materially different ownership structure without any demonstrated review by the CLEC under its own governing requirements.

D. The Host Community Agreement Independently Bars the Proposed Transfer and Provides Additional Grounds for Denial

The HCA between the City of Malden and DMS Trinity, LLC, effective July 17, 2025, provides four independent bases for denial that operate entirely separately from the zoning and CLEC arguments set forth above.

1. The Special Permit's Own Non-Transfer Condition Independently Prohibits the Requested Relief.

Before reaching the HCA's non-assignment provisions, the Council must confront a prohibition embedded in its own prior decisions. Condition 8 of each of the three special permits granted for 36 Charles Street, Cases 202-22, 233-23, and 77-25, provides without qualification: "The special permit is non-transferable and non-assignable." The Planning Board's June 10, 2026 report reproduces Condition 8 verbatim among the twenty conditions it recommends attaching to any new special permit the Council might issue here. The petitioner is asking the Council to transfer a permit that the Council's own prior decisions made non-transferable, while the Planning Board simultaneously recommends that any new permit issued in response to this very petition include the identical condition that prohibits the transfer being sought. The petition cannot survive its own procedural history.

Condition 8 functions as a land use restriction, not a contractual covenant. Unlike an HCA provision, which is a bilateral agreement between identified parties, a special permit condition is an exercise of the Council's zoning authority that runs with the permit. The Council cannot waive Condition 8 through an amendment proceeding without making an affirmative finding that the condition no longer serves the public interest. Nothing in this petition supports that finding, and the Planning Board's recommendation implicitly rejects it by reattaching the identical condition to any successor permit. The petition asks the Council to accomplish in one proceeding exactly what Condition 8 was designed to prevent: the private transfer of a publicly conferred land use right to an entity that was never vetted by the body whose sole function is to conduct that vetting.

2. The HCA's Non-Assignment Clause Prohibits the Beach House Joint Venture Without Prior Written City Approval.

Section 15 of the HCA provides that DMS Trinity *"may not assign, sublet, or otherwise transfer its rights nor delegate its obligations under this Agreement."* Section 15 defines assignment

events to include, without limitation, a joint venture, a majority equity sale, any change in ownership or control, and any other transfer not approved in advance in writing by the City.

By the petitioner's own description, Beach House Cannabis, LLC is a joint venture between DMS Trinity and new financial backers. That is a defined assignment event under Section 15. No written City approval of that assignment appears in the public record. The formation of Beach House Cannabis, LLC and the filing of a petition to substitute it as the named permittee constitute an unauthorized assignment in direct breach of the HCA.

3. DMS Trinity Failed to Comply with the HCA's Mandatory Interim Reporting Obligations.

Section 7(d) of the HCA required DMS Trinity to copy the City on any request submitted to the Cannabis Control Commission for a change of ownership, structure, or control, and to seek CLEC approval of the same request within seven days of CCC receipt. There is no evidence in the record that DMS Trinity complied with this obligation before filing the May 7, 2026 petition. A petitioner that has not complied with its existing HCA reporting obligations is not entitled to the benefit of an amended or transferred permit. There is a pending public records request with the Cannabis Control Commission's Records Access Officer for any Change of Ownership and Control Applications filed by DMS Trinity since receiving provisional license #MR284810 on December 13, 2025. A thorough search of the Commission's online records revealed no such application.

4. The HCA Cannot Be Amended to Include Beach House Without a Mutually Executed Written Amendment.

Section 14 of the HCA provides that the parties may amend the Agreement only by a mutually executed written amendment signed by authorized representatives of both original parties before the effective date of any amendment. The HCA parties are the City of Malden and DMS Trinity, LLC. Beach House Cannabis, LLC is not a party to the HCA. No executed written amendment adding or substituting Beach House appears in the record. The current public record contains no executed amendment or replacement HCA naming Beach House Cannabis, LLC. DMS Trinity's representation that the HCA condition has been satisfied is contradicted on its face of Sections 14 and 15 read together.

Granting this petition would reward a petitioner that is in breach of its non-assignment obligations, has not met its interim reporting duties, all while asking the Council to substitute an entity that has never executed an HCA with the City in any form nor appeared before the CLEC.

E. The Petition Misapplies *Benevolent Botanicals LLC v. City of Malden*

The May 7, 2026 Addendum invokes the Land Court's ruling in *Benevolent Botanicals LLC v. City of Malden* to justify bypassing the CLEC process and proceeding under general ordinance transfer provisions. That is a material misreading of the decision.

The Land Court invalidated M.C.C. § 12.12.190 because its buffer zone requirements were so restrictive as to make it "*unreasonably impracticable*" for a prudent businessperson to site a

cannabis establishment, in violation of M.G.L. c. 94G, § 3. The ruling was directed exclusively at the siting and buffer restrictions in the zoning text.

The CLEC's applicant vetting authority is a separate municipal licensing function. It does not derive from § 12.12.190 and was not addressed by the court because “the land court’s jurisdiction extends only to zoning bylaws and not to general bylaws.” *See Benevolent Botanicals LLC v. City of Malden*, No. 22 MISC 000076 (DRR) at 41 (Mass. Land Ct.) Jan. 29, 2026 (internal citations omitted). *Benevolent Botanicals* does not stand for the proposition that a new joint venture entity with undisclosed financial backers may circumvent the City's competitive cannabis applicant selection process. No party in that litigation raised, briefed, or obtained relief on that question. The petition's reliance on the ruling for that purpose is without support in the decision itself.

F. Material Factual Assertions Unsupported by the Current Record.

The Addendum contains additional factual assertions that are independently unsupported. The May 7, 2026 Addendum filed by Attorney Roberto Di Marco of Foster, Walker & DiMarco contains the following statements that are directly contradicted by the documentary record.

Unsupported Representation 1: CLEC Approval.

The Addendum states: *"The Petitioner has received... approval by the Cannabis Licensing and Enforcement Commission."*

The CLEC's own public agenda for June 24, 2026 lists DMS Trinity's transfer request as an open item with associated regulations still being drafted. There is no vote record, no written approval, and no meeting minutes in the public record reflecting CLEC approval of either DMS Trinity's transfer or Beach House Cannabis, LLC as a transferee. The only documented CLEC action involving DMS Trinity is the March 8, 2022 status update confirming that DMS Trinity was still in the pre-permit pipeline. The Addendum's claim of CLEC approval is entirely unsupported as it pertains to Beach House Cannabis, LLC.

Unsupported Representation 2: Host Community Agreement.

The Addendum implies that the Host Community Agreement is in place and operative for the proposed transfer. The HCA of record was executed in its current form on July 17, 2025, replacing a prior 2022 HCA after a CCC noncompliance determination and is between the City of Malden and DMS Trinity, LLC exclusively. It has not been amended to add or substitute Beach House Cannabis, LLC, and Beach House has not executed a replacement HCA with the City. Under Condition 16(b) of Case 77-25, a fully executed HCA with the City of Malden is a condition precedent to any final occupancy permit. No such agreement exists for Beach House Cannabis, LLC. The Addendum's implication to the contrary is demonstrably unsupported by the public record.

The Council should not proceed to grant a petition whose foundational factual predicate is contradicted by the City's own records.

III. CONCLUSION

The petitioner has not recorded any of the three special permit instruments granted for 36 Charles Street over a period of four years. For the reasons discussed above, the Council should conclude that the underlying zoning relief is no longer legally effective. Nothing in the public record establishes that the proposed transferee, Beach House Cannabis, LLC, has itself undergone the mandatory competitive CLEC applicant selection process that precedes the issuance of a cannabis special permit in Malden. The public record further reflects that DMS Trinity, LLC has engaged in a pattern of undisclosed ownership and control changes in direct violation of the CLEC's own governing requirements, meaning the entity now before the Council is not the entity that the CLEC originally approved. The Host Community Agreement, by its own terms, prohibits the transfer the petitioner is seeking without prior written City approval that was never sought and never obtained. The *Benevolent Botanicals* ruling does not authorize circumventing the CLEC process. The petition's core factual claims regarding CLEC approval and HCA compliance are directly and demonstrably contradicted by the City's own public records.

For the foregoing reasons, the City Council must DENY the petition. Any new operator seeking to establish a cannabis retail use at 36 Charles Street must file a baseline application, proceed through the full CLEC competitive vetting process, execute a new Host Community Agreement with the City, and comply with all current applicable local and state standards.

Respectfully submitted,



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EXHIBITS

PLANNING BOARD REPORT & RECOMMENDATION

To: Malden City Council
From: Malden Planning Board
Date: June 10, 2026
Subject: **36 Charles Street** (Parcel ID 062 239 910) Permit Application # CMID-040598-2021
Petition to Amend Special Permit (Case 77-25)
Marijuana Establishment, Marijuana Retailer/Title 12.12, Code of City of Malden (MCC)

PROCEDURAL: The Planning Board may submit an advisory report and recommendation re: this petition to the special permit granting authority, the City Council (§12.32.030.B.2).

- The proposal was approved by the City's Cannabis Licensing and Enforcement Commission (CLEC) to proceed to the zoning process.
- On March 9, 2022, the Planning Board made an advisory recommendation to the City Council that the petition be denied; the Board also recommended conditions to any special permit that might be granted.
- On April 26, 2022, the City Council granted a special permit to allow marijuana retailer use of the property, subject to 20 conditions (Case #202-22).
- On August 9, 2022, the City and petitioner executed a Host Community Agreement.
- Petitioner requested a 9-month extension of the expiration date of the special permit in Case #202-22.
- On April 12, 2023, the Planning Board made an advisory recommendation to the City Council that the request for extension be granted for 12 months, subject to 20 conditions.
- On June 6, 2023, the City Council granted a 12-month extension of the special permit in Case #202-22, subject to 20 conditions (Case #233-23).
- On May 8, 2024, the City issued a building permit for the approved project.
- Petitioner requested to amend the special permit granted in Case #233-233 to revise the approved floor plans to increase the size of the premises (by 1,627 SF on the first floor) and approve the revised floor plans.
- On December 10, 2024, the Planning Board made an advisory recommendation to the City Council that the request for amendment be granted, subject to 20 conditions.
- On February 11, 2025, the City Council amended the special permit granted in Case 233-23 and granted a new special permit in Case 77-25, subject to 20 conditions.
- On March 12, 2025, all work under the building permit passed final inspections by the City,
- On December 13, 2025, the state Cannabis Control Commission (CCC) granted petitioner a provisional Marijuana Retailer License.
- After CCC issues a final license, CLEC then may issue a local license.

PETITION: Petitioner is the same petitioner as for special permit petitions approved in Cases #202-22, #233-23 and #77-25, namely, the current tenant, DMS Trinity LLC.

Condition 8 of all special permits granted provides that the special permit is non-transferable and non-assignable.

The petition seeks to reissue the special permit to a new entity and/or transfer the rights authorized by the special permit to this new entity; and to amend the special permit granted in Case #77-25, specifically, to amend the name of petitioner from DMS Trinity LLC to Beach House Cannabis LLC, which according to petitioner is "a joint venture between DMS Trinity, LLC and new financial backers and cannabis operational specialists."

The following information was submitted in support of the petition:

1. "Addendum to Petition on 36 Charles Street, City Council Petition," dated May 7, 2026, prepared by Roberto DiMarco, Attorney, Foster, walker & DiMarco, 350 Main Street, Malden, MA

No changes to the approved plans are proposed, and accordingly no new plans were submitted.

ZONING: The proposal does not affect the project's compliance with use regulations.

DIMENSIONAL CONTROLS: The proposal does not change existing violations of dimensional controls.

PARKING & LOADING REQUIREMENTS: The proposal does not change existing deficiencies.

FINDINGS REQUIRED to GRANT SPECIAL PERMIT (§12.12.010.B):

- 1) Any creation or increase in violations of dimensional controls or parking requirements will not be more detrimental to the neighborhood.
- 2) The traffic and traffic patterns generated by the proposed use will not adversely impact any of the surrounding streets or create a traffic or safety hazard.
- 3) The proposed use will not be more detrimental to the neighborhood.
- 4) The proposed use is not in conflict with surrounding land uses.
- 5) The proposed use is in the interest of the common good.

PLANNING BOARD RECOMMENDATION: The Planning Board recommends to the City Council approval of the petition to amend the special permit granted in Case #77-25 and issue a new special permit, only provided subject to the same following twenty (20) conditions of the special permit granted in Case #77-25:

1. Peer review petitioner's Response to Traffic Peer Review Comments dated February 25, 2022 and implement any recommended mitigation.
2. This special permit authorizes marijuana retailer use of only 5,524 SF of the first floor, as per plans, and specifically: 1,676 SF for retail space, 1,455 SF for loading, delivery area and indoor trash storage, and the remainder, approximately 2,393 SF, for vault, accessory offices and common areas. All other areas of the building shall remain vacant and shall be used for no purpose whatsoever, including storage by the marijuana retailer, and any use or occupancy shall require an amendment to this special permit.
3. The loading and delivery area may be used for parking during retail hours.
4. Install bicycle parking onsite for four bicycles, accessible to customers and employees.
5. Repair or replace sidewalks, driveways and perform necessary incidental work, adjacent to the property, to the satisfaction of DPW Director.
6. Implement Transportation Demand Measures regarding rideshare and parking attendant.
7. All development shall be as per plans, including landscaping of the northwest portion of the lot, except as modified by these conditions.
8. The special permit is non-transferable and non-assignable.
9. Design and implement a Security Plan approved by the Malden Police Chief and Malden Cannabis Licensing and Enforcement Commission.
10. Consumption of Marijuana and/or Marijuana Products is prohibited at or within 500 feet.
11. Smoking or burning of Marijuana and/or Marijuana Products is prohibited on the premises.
12. Marijuana in any form, including plants, and Marijuana Products shall not be visible from outside of the building.
13. Any outside storage of any kind is prohibited.
14. Any outside display of any kind is prohibited.
15. Incorporate odor control technology and provisions and ensure that emissions do not violate M.G.L. c.111 § 31C, including but not limited to those specified for odors.
16. Prior to issuance of any final occupancy permit, submit copies of the following licenses and approvals: a) A valid license issued by the Massachusetts Cannabis Control Commission, as defined herein this Ordinance; b) A fully executed Community Host Agreement with the City of Malden, as defined herein this Ordinance; c) Any required license and/or approvals issued by the Malden Cannabis Licensing and Enforcement Commission; and d) Any required license and/or approvals issued by the Malden Board of Health.
17. Mitigation based on preliminary peer review and after the six-month traffic study is conducted.
18. The Petitioner shall work with the City and the abutting property owners to connect the Spot Pond Greenway Project to the bike path.
19. Provide twelve (12) off-site parking spaces.
20. The hours of retail operation shall be 9:00 A.M. to 9:00 P.M.

1022

D**The Commonwealth of Massachusetts****William Francis Galvin**

Secretary of the Commonwealth

One Ashburton Place, Room 1717, Boston, Massachusetts 02108-1512

Limited Liability Company Annual Report
(General Laws Chapter 156C, Section 12)Federal Identification No.: **83-4484332 / 001379767**Year: **2023**

(1a) The exact name of the limited liability company:

DMS TRINITY LLC**FILED****MAY 24 2023**

(1b) The exact name of the limited liability company as amended:

**SECRETARY OF THE COMMONWEALTH
CORPORATIONS DIVISION**

(2a) Location of its principal office:

**38 GOULD STREET
STONEHAM****MA 02180**

(2b) The street address of the office in the commonwealth at which its records will be maintained:

**38 GOULD STREET
STONEHAM****MA 02180**

(3) The general character of the business:

SEE STATEMENT 1

(4) Latest date of dissolution, if specified: _____

(5) The name and street address of the resident agent in the commonwealth:

**MARY SUSAN BLOUT
38 GOULD STREET
STONEHAM****MA 02180**

(6) The name and business address of each manager, if any:

SEE STATEMENT 2

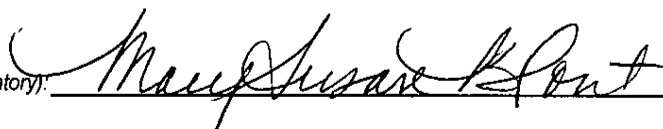
- (7) The name and business address of the person(s) in addition to manager(s) authorized to execute documents filed with the Corporations Division, and at least one person shall be named if there are no managers:

MARY SUSAN BLOUT, 38 GOULD STREET, STONEHAM, MA 02180
DENIS PINHONE DOS SANTOS, 38 GOULD STREET, STONEHAM MA 02180

- (8) The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property.

MARY SUSAN BLOUT, 38 GOULD STREET, STONEHAM, MA 02180
DENIS PINHONE DOS SANTOS, 38 GOULD STREET, STONEHAM MA 02180

- (9) Additional matters:

A handwritten signature in cursive script, appearing to read "Mary Susan Blout", is written over a horizontal line.

33330 DMS Trinity LLC
83-4484332
FYE: 12/31/2022

5/9/2023 10:29 AM

Massachusetts Statements

Statement 1 - Form D, Question 3, General Character of the Business

THE COMPANY MAY ENGAGE IN ANY LAWFUL BUSINESS PERMITTED BY THE MASSACHUSETTS LIMITED LIABILITY COMPANT ACT, M.G.L. CHAPTER 156C, OR THE LAWS OF ANY JURISDICTION IN WHICH THE COMPANY MAY DO BUSINESS, INCLUDING, BUT NOT LIMITED TO ENGAGING IN THE BUSINESS OF PRODUCING, MANUFACTURING, AND DISTRIBUTING GOODS AS A RETAILER OR WHOLESALER; TO PROVIDE CONSULTING AND ADVISORY SERVICES TO OTHER RETAILERS, MANUFACTURERS, PRODUCERS AND WHOLESALERS ENGAGED IN SIMILAR BUSINESSES; AND TO UNDERTAKE AND OF MAKING INVESTMENTS OF ALL KINDS AND DESCRIPTIONS FOR PROFIT, AND TO RNGAGE IN ANY AND ALL ACTIVITES RELATED THERETO.

Statement 2 - Form D, Question 6, Name and Business Address of Each Manager

MARY SUSAN BLOUT, 38 GOULD STREET, STONEHAM, MA 02180
DENIS PINHONE DOS SANTOS, 38 GOULD STREET, STONEHAM, MA 02180

1022 DMS TRINITY LLC 83-4484332
COMMONWEALTH OF MASSACHUSETTS

Form D, page 3

William Francis Galvin
Secretary of the Commonwealth
One Ashburton Place, Boston, Massachusetts 02108-1512

Limited Liability Company Annual Report
(General Laws Chapter 156C, Section 12)

I hereby certify that upon examination of this limited liability company annual report, duly submitted to me, it appears that the provisions of the General Laws relative thereto have been complied with, and I hereby approve said application; and the filing fee in the amount of \$500 having been paid, said application is deemed to have been filed with me this

24 day of May, 20 23, at _____ a.m./p.m.
time

Effective date: _____


WILLIAM FRANCIS GALVIN
Secretary of the Commonwealth

Filing fee: \$500

TO BE FILLED IN BY LIMITED LIABILITY COMPANY
Contact Information:

MARY SUSAN BLOUT

38 GOULD STREET

STONEHAM

MA 02180

Telephone: 781-864-3379

Email: _____

Upon filing, a copy of this filing will be available at www.sec.state.ma.us/cor.

If the document is rejected, a copy of the rejection sheet and rejected document will be available in the rejected queue.

The Commonwealth of Massachusetts, William Francis Galvin
Corporations Division

One Ashburton Place - Floor 17, Boston MA 02108-1512 | Phone: 617-727-9640

Annual Report

(General Laws, Chapter 156C, Section 12)

Filing Fee: \$500.00

Identification Number:				001379767			
Annual Report Filing Year: 2024							
1.a. Exact name of the limited liability company: DMS TRINITY, LLC							
☐ Check if amending entity name 1.b. The exact name of the limited liability company as amended, is: DMS TRINITY, LLC							
2. Address in the Commonwealth where the records will be maintained:							
Number and street:		260 SECOND STREET					
Address 2:							
City or town:		CHELSEA		State:		MA	
				Zip code:		02150	
Country:		UNITED STATES					
3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:							
THE COMPANY MAY ENGAGE IN ANY LAWFUL BUSINESS PERMITTED BY THE MASSACHUSETTS LIMITED LIABILITY COMPANY ACT, M.G.L. CHAPTER 156C, OR THE LAWS OF ANY JURISDICTION IN WHICH THE COMPANY MAY DO BUSINESS, INCLUDING BUT NOT LIMITED TO ENGAGING IN THE BUSINESS OF PRODUCING, MANUFACTURING AND DISTRIBUTING GOODS AS A RETAILER OR WHOLESALER; TO PROVIDE CONSULTING AND ADVISORY SERVICES TO OTHER RETAILERS, MANUFACTURERS, PRODUCERS AND WHOLESALEERS ENGAGED IN SIMILAR BUSINESSES; AND TO UNDERTAKE AND OF MAKING INVESTMENTS OF ALL KINDS AND DESCRIPTIONS FOR PROFIT, AND TO ENGAGE IN ANY AND ALL ACTIVITIES RELATED THERETO.							
4. The latest date of dissolution, if specified: (mm/dd/yyyy)							

5. Name and address of the Resident Agent:			
Agent name:		DENIS PINHONE DOS SANTOS	
Number and street:		144 MARBLE STREET UNIT 508	
Address 2:			

City or town:	STONEHAM	State:	MA	Zip code:	02180
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6. The name and business address of each manager, if any:

Title	Name	Address
MANAGER	DENIS PINHONE DOS SANTOS	38 GOULD ST STONEHAM, MA 02180 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Name	Address
SOC SIGNATORY	DENIS PINHONE DOS SANTOS	38 GOULD ST STONEHAM, MA 02180 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Name	Address
REAL PROPERTY	MARY SUSAN BLOUT	38 GOULD ST. STONEHAM, MA 02180

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 18 Day of December, 2024,

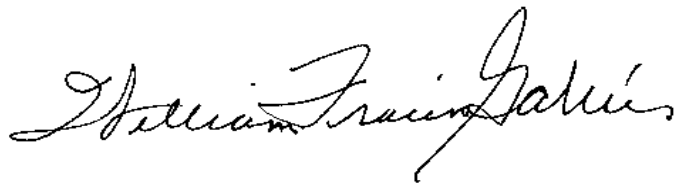
DENIS PINHONE DOS SANTOS

, Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

December 18, 2024 01:30 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive, flowing style with a large initial 'W' and 'G'.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

The Commonwealth of Massachusetts, William Francis Galvin
Corporations Division

One Ashburton Place - Floor 17, Boston MA 02108-1512 | Phone: 617-727-9640

Annual Report

(General Laws, Chapter 156C, Section 12)

Filing Fee: \$500.00

Identification Number:	001379767
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Annual Report Filing Year: 2025

1.a. Exact name of the limited liability company: DMS TRINITY, LLC
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☐ Check if amending entity name
1.b. The exact name of the limited liability company as amended, is:
DMS TRINITY, LLC

2. Address in the Commonwealth where the records will be maintained:			
Number and street:	260 SECOND STREET		
Address 2:			
City or town:	CHELSEA	State:	MA
		Zip code:	02150
Country:	UNITED STATES		

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:
THE COMPANY MAY ENGAGE IN ANY LAWFUL BUSINESS PERMITTED BY THE MASSACHUSETTS LIMITED LIABILITY COMPANY ACT, M.G.L. CHAPTER 156C, OR THE LAWS OF ANY JURISDICTION IN WHICH THE COMPANY MAY DO BUSINESS, INCLUDING BUT NOT LIMITED TO ENGAGING IN THE BUSINESS OF PRODUCING, MANUFACTURING AND DISTRIBUTING GOODS AS A RETAILER OR WHOLESALER; TO PROVIDE CONSULTING AND ADVISORY SERVICES TO OTHER RETAILERS, MANUFACTURERS, PRODUCERS AND WHOLESALERS ENGAGED IN SIMILAR BUSINESSES; AND TO UNDERTAKE AND OF MAKING INVESTMENTS OF ALL KINDS AND DESCRIPTIONS FOR PROFIT, AND TO ENGAGE IN ANY AND ALL ACTIVITIES RELATED THERETO.

4. The latest date of dissolution, if specified: (mm/dd/yyyy)

5. Name and address of the Resident Agent:	
Agent name:	DENIS PINHONE DOS SANTOS
Number and street:	144 MARBLE STREET UNIT 508
Address 2:	

City or town:	STONEHAM	State:	MA	Zip code:	02180
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6. The name and business address of each manager, if any:

Title	Name	Address
MANAGER	DENIS PINHONE DOS SANTOS	270 SECOND ST CHELSEA, MA 02150 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Name	Address
SOC SIGNATORY	NICOLE APOSTOLAKOS	260 SECOND ST CHELSEA, MA 02150 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Name	Address
REAL PROPERTY	DENIS PINHONE DOS SANTOS	144 MARBLE ST UNIT 508 STONEHAM, MA 02180 USA

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 15 Day of April, 2025,

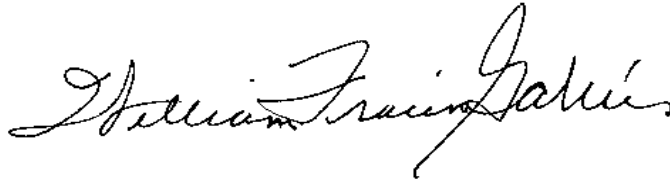
NICOLE APOSTOLAKOS

, Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

April 15, 2025 12:48 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive, flowing style with a large initial 'W' and 'G'.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth

The Commonwealth of Massachusetts, William Francis Galvin Corporations Division

One Ashburton Place - Floor 17, Boston MA 02108-1512 | Phone: 617-727-9640

Annual Report

(General Laws, Chapter 156C, Section 12)

Filing Fee: \$500.00

Identification Number: 001379767

Annual Report Filing Year: 2026

1.a. Exact name of the limited liability company: DMS TRINITY, LLC

☐ Check if amending entity name

1.b. The exact name of the limited liability company as amended, is:

DMS TRINITY, LLC

2. Address in the Commonwealth where the records will be maintained:

Number and street: 260 SECOND STREET

Address 2:

City or town: CHELSEA State: MA Zip code: 02150

Country: UNITED STATES

3. The general character of business, and if the limited liability company is organized to render professional service, the service to be rendered:

THE COMPANY MAY ENGAGE IN ANY LAWFUL BUSINESS PERMITTED BY THE MASSACHUSETTS LIMITED LIABILITY COMPANY ACT, M.G.L. CHAPTER 156C, OR THE LAWS OF ANY JURISDICTION IN WHICH THE COMPANY MAY DO BUSINESS, INCLUDING BUT NOT LIMITED TO ENGAGING IN THE BUSINESS OF PRODUCING, MANUFACTURING AND DISTRIBUTING GOODS AS A RETAILER OR WHOLESALE; TO PROVIDE CONSULTING AND ADVISORY SERVICES TO OTHER RETAILERS, MANUFACTURERS, PRODUCERS AND WHOLESALEERS ENGAGED IN SIMILAR BUSINESSES; AND TO UNDERTAKE AND OF MAKING INVESTMENTS OF ALL KINDS AND DESCRIPTIONS FOR PROFIT, AND TO ENGAGE IN ANY AND ALL ACTIVITIES RELATED THERETO.

4. The latest date of dissolution, if specified: (mm/dd/yyyy)

5. Name and address of the Resident Agent:

Agent name: DENIS PINHONE DOS SANTOS

Number and street: 144 MARBLE STREET UNIT 508

Address 2:

City or town:	STONEHAM	State:	MA	Zip code:	02180
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6. The name and business address of each manager, if any:

Title	Name	Address
MANAGER	DENIS PINHONE DOS SANTOS	270 SECOND ST CHELSEA, MA 02150 USA

7. The name and business address of the person(s) in addition to the manager(s), authorized to execute documents to be filed with the Corporations Division, and at least one person shall be named if there are no managers.

Title	Name	Address
SOC SIGNATORY	TIMOTHY S. HALPIN	260 SECOND STREET CHELSEA, MA 02150 USA

8. The name and business address of the person(s) authorized to execute, acknowledge, deliver and record any recordable instrument purporting to affect an interest in real property:

Title	Name	Address
REAL PROPERTY	DENIS PINHONE DOS SANTOS	144 MARBLE ST UNIT 508 STONEHAM, MA 02180 USA

9. Additional matters:

SIGNED UNDER THE PENALTIES OF PERJURY, this 8 Day of April, 2026,

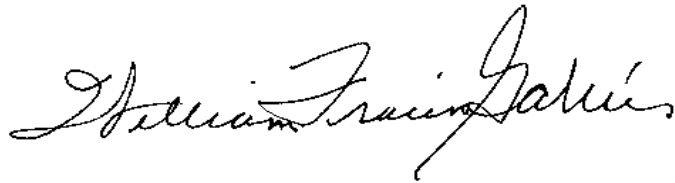
DENIS PINHONE DOS SANTOS

, Signature of Authorized Signatory.

THE COMMONWEALTH OF MASSACHUSETTS

I hereby certify that, upon examination of this document, duly submitted to me, it appears that the provisions of the General Laws relative to corporations have been complied with, and I hereby approve said articles; and the filing fee having been paid, said articles are deemed to have been filed with me on:

April 08, 2026 02:47 PM

A handwritten signature in black ink, reading "William Francis Galvin". The signature is written in a cursive, flowing style with a large initial 'W' and 'G'.

WILLIAM FRANCIS GALVIN

Secretary of the Commonwealth