

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

February 18, 2026

Bruce Friedman
8 Marvin St.
Malden, MA 02148
BY U.S. MAIL

Re: City Council Executive Session Open Meeting Law Complaint ~ January 20, 2026

Good day Mr. Friedman:

This is the City Council's response to your Open Meeting Law complaint dated January 20, 2026. We received your complaint on January 21, 2026. Our office requested additional information from you on January 29, 2026, and you sent the City Clerk additional information in support of your complaint also on January 29, 2026. Under the Atty. Gen.'s regulations, the deadline to respond to your complaint is 10 business days after receiving your response to the request. 940 CMR 29.05(6).

You alleged that the Malden City Council violated the Open Meeting Law ("OML") by meeting in executive session on January 20, 2026. Note that the Council met in open session at 7 pm on that date before voting to convene in executive session.

The topic of the executive session as stated on the agenda was "whether to go into executive session with legal counsel for the City regarding the matter of Tufts Construction, Inc. v. the City of Malden, Middlesex Superior Court Docket #2181CV01248, ... for an update on recent developments regarding a tentative resolution to this civil action, where such discussion in an open meeting may have a detrimental effect on the litigation position of the city, if so declared by the chair." The agenda also stated that it was an "emergency meeting" and "posted as soon as was reasonably possible... to take up such business that was unknown to the Body 48 hours prior."

I. Public comment, public access, and recording

First, your complaint alleges, “City Council proceeded in chambers and failed to ask for public comment as required under the rules.” Public comment is not required under the open meeting law, although it may be encouraged. Therefore, there was no open meeting law violation in that respect.

Second, your complaint alleges, “The council [a] failed to properly notify the public of this meeting, [b] failed to provide electronic access to this meeting, and [c] failed to record this meeting.”

With respect to item [c], the OML does not require recording of public meetings. The law only requires that a public body prepare minutes of a meeting. G.L. c. 30A, § 22(a), and the minutes need not be a verbatim transcript. OML 2025-187 *Worthington Selectboard* at 3 (“We have consistently explained... that the Open Meeting Law does not require that minutes include a transcript of discussions held during a meeting or that minutes include every remark or opinion presented”). Of course, the fact that the public body did not record the meeting does not mean that you or any other member of the public cannot, after notifying the chair, “make a video or audio recording of an open session of a meeting of a public body.” G.L. c. 30A, § 20(f). One member of the public did in fact record the open session, which resulted in you being able to obtain a very rough transcript of the open session which you attached to your complaint.

With respect to item [b] above, “There is no requirement in the OML that a public body provide the public with remote access if the meeting is instead held in-person at a location that is open and physically accessible to the public, even if a public body member participates remotely.” OML 2023-168 *Gardner Conservation Commission* at 2. Furthermore, your allegation that there was no electronic access is inaccurate insofar as the public portion of the meeting is concerned. The agenda posted for the meeting in question had a Microsoft Teams link for remote participation at the public portion of the meeting. The Open Meeting Law does not require “electronic” access by the public to meetings. As stated in the Atty. Gen.’s frequently asked questions about the OML. “The Open Meeting Law does not require that a public body allow public comment or public participation during its meetings.”¹

¹ <https://www.mass.gov/info-details/frequently-asked-questions-about-the-open-meeting-law> (last accessed 2.5.2024)

(Item [a] concerning notice to the public is discussed next in section II.)

II. Improper use of executive session.

A. Emergency executive session

Your complaint states, “The council failed to properly enter executive session and did not have a legitimate use of exemption three.” Under the open meeting law: “Except in an emergency, in addition to any notice otherwise required by law, a public body shall post notice of every meeting at least 48 hours prior to such meeting, excluding Saturdays, Sundays and legal holidays. In an emergency, a public body shall post notice as soon reasonably possible prior to such meeting.” G.L. c. 30A, § 20(b). The law further defines “emergency” as “a sudden, generally unexpected occurrence or set of circumstances demanding immediate action.” G.L. c. 30A, § 18.

Trial in the Tufts litigation was scheduled to start on Tuesday, January 20, 2026. On Saturday, January 17, 2026 our City Clerk was alerted that, in light of ongoing settlement discussions between the City and Tufts, executive session might be needed on Tuesday. This was the first time the public body received any notice of a possible need for executive session to discuss any settlement of the litigation. Of course, there was no way of giving the required 48-hour notice prior to a January 20th meeting. Settlement discussions between the city and the plaintiff continued throughout the weekend, including on Monday, January 19, 2026 (which was a holiday for Martin Luther King, Jr.). The City Clerk posted notice of the January 20, 2026 executive session on January 19 at approximately 4:00 PM.

It was not until the morning of Tuesday, January 20, that a settlement in principle was reached between the parties literally outside the courtroom before the start of the trial. In fact, prior to Tuesday during the settlement negotiations, the Parties agreed to impanel the jury on Tuesday morning in the event settlement negotiations were not concluded. Informed of that fact, the court canceled the trial and issued a 30-day nisi order stating that the case will be dismissed because it was apparently settled unless the parties notified the court otherwise of the need for further proceedings or more time to finalize the settlement.

There can be no question that the above circumstances were sudden and unexpected. Nobody involved, least of all the public body, could have foreseen the settlement in time to post notice of a non-emergency meeting under the OML. Just because the settlement negotiations were ongoing for a few days over the holiday weekend – which still would not allow sufficient time under the OML to hold a non-emergency meeting on January 20 – does not mean that the settlement was expected. In one case where a public body “on June 27 at 6:15 PM... posted notice for an emergency meeting to take place on June 28 at 8:30 AM on the fourth floor of the

Middlesex Superior Courthouse in Woburn, Massachusetts,” and met in executive session there for the purpose of considering a settlement offer made the day before and which “was unanticipated with regard to its specifics, its timing, and the need to discuss it” in light of an imminent court hearing, the Attorney General found that the circumstances constituted an emergency requiring immediate response. OML 2020-47 *Acton Board of Selectmen* at 4.

The City Council certainly had a good-faith basis to immediately inform itself of the settlement terms and consider them in executive session due to (1) the time constraints imposed by the court and (2) fairness to the plaintiff. The court order gave the parties 30 days to finalize and complete the settlement. If, for some reason, the City Council refused to appropriate the money to fund the settlement, in whole or in part, it would have been necessary to immediately notify the plaintiff. Otherwise, the city would effectively be leaving the plaintiff in the dark as to the status of the settlement. Respect for the parties and the court made immediate action appropriate.

B. “Fraud” and “fabrication”

Your complaint also alleges: “The council perpetuated a fraud upon the citizens of Malden by falsely holding an emergency meeting, by declaring exemption three and by willfully stating that an update on a tentative resolution of the court case was the reason. This was a willful fabrication.”

The Attorney General has “found that a public body properly met in executive session under Purposes 2 or 3 even though that public body was not a named party in a litigation matter and was not directly involved in a bargaining matter but had a role to play in the litigation or contract negotiation matter.” OML 2024-144 *Needham Selectboard and Planning Board* at 4. In this instance, the City Council and/or its finance committee has a role to play in appropriating funds for claims against the City. As recognized by the Attorney General, “municipal finance committees are often charged with budgetary oversight and therefore, a finance committee may enter executive session to consider legal expenditures, but not litigation strategy, in connection with a civil action in which a municipal body other than the finance committee is a party.” OML 2023-233 *Brookline Advisory Committee* at 3.

There is no real dispute that the subject of the executive session was to inform the City Council of negotiations and settlement in principle between the City and Tufts Construction, Inc. Your own complaint attaches material from the court file about the litigation and settlement. Even though you state the declared reason for the executive session is a “willful fabrication,” you failed to even suggest what the real reason might be. Therefore, it is difficult, if not impossible, to make sense of your allegation of fraud.

Bruce Friedman

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Re: City Council Executive Session Open Meeting Law Complaint ~ January 20, 2026

C. Notice to the public

The Atty. Gen.'s OML decisions state, "When the only business to be discussed during an open session is the procedural requirements for entering executive session, public bodies must list 'open session' on the meeting notice, as this is the only means by which members of the public are informed that a public body will, in fact, hold an open meeting that they are permitted to attend." OML 2023-68 *Martha's Vineyard Commission* at 3. The public notice of the January 20, 2026 meeting did not list "open session" on the publicly posted notice. It is, however, important to note that there was an open session accessible to the public and there was a Microsoft Teams link on the notice which gave the public notice that they could even attend the public portion of the meeting remotely if they wished. Even though your complaint fails to identify any specific deficiency in the notice, the City Council acknowledges that omitting the words, "open session" from the notice may have been a technical oversight; if so, it was not intentional. The Council will correct its practice in the future as required.

III. Attendance at executive session

Finally, your complaint states, "Additionally, multiple persons attended this executive session that were not declared to be in attendance." While the agenda did not identify by name every single person who might attend the executive session, it did clearly state that the public body would meet in executive session "with legal counsel for the city." Every person not named in the agenda or not already a member of the public body that attended the executive session was either a clerk for the City Council or legal counsel for the City.

IV. Conclusion

The City Council was justified in holding an emergency executive session meeting on January 20, 2026 and did not violate the OML as alleged in your complaint.

Sincerely,

Alicia A. McNeil

Alicia A. McNeil, City Solicitor

Encl: Open Meeting Law Complaint on 1-20-2026 by Mr. Friedman (with attachments)
Transcript of 1-20-2026 hearing in case #2181CV01248

cc: Attorney General's Office (with enclosures) (openmeeting@state.ma.us)



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 - 20th Floor, Boston, MA 02108. Emails may be sent to: 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.



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: Bruce Last Name: Friedman

Address: 8 Marvin Street

City: Malden State: MA Zip Code: 02148

Phone Number: 6179523183 Ext. _____

Email: info@opencommonwealth.org

Organization or Media Affiliation (if any): OpenCommonwealth.org

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): Malden City Council

Specific person(s), if any, you allege committed the violation: The entire committee (Excluding O'Malley), chair and clerk.

Date of alleged violation: 1-19-2026 and 1-20-2026

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.

On January 19, 2026 the Middlesex Superior Court case number, 2181CV01248 was settled between the City of Malden (Defendant) and the plaintiff. On January 19, 2026 the Clerk of the Malden City Council published the attached "Emergency" Meeting of the City Council for January 20, 2026. No updates have ever been made to this notice. On January 20, 2026, in open court, Middlesex Superior Court case number, 2181CV01248 was settled. The attached docket entry certifies same. A transcript of the hearing/settlement will be provided once procured. The emergency meeting notice does not docket any business aside from "...to go into Executive Session with legal counsel for the City regarding the matter of Tufts Construction, Inc., v. The City of Malden, Middlesex Superior Court Docket #2181CV01248, for the purpose of Exemption Three Massachusetts General Laws Chapter 30A Section 21(a)(3) for an update on recent developments regarding a tentative resolution to the civil action, where such discussion in open meeting may have a detrimental effect on the litigation position of the City, if so declared by the chair." On January 20, 2026 at approximately 7:30 PM the City Council proceeded in chambers and failed to ask for public comment as required under their rules, and then proceeded to move to go into executive session for the above. Over objection of Councilor O'Malley, the Council went into executive session. The Council failed to properly notify the public of this meeting, failed to provide electronic access to this meeting, and failed to record this meeting. The city and members of the council were aware of the settlement, the negotiations and the completed and public record made of the settlement. The council failed to properly enter executive session and did not have legitimate use of exemption three. The council perpetuated a fraud upon the citizens of Malden by falsely holding an emergency meeting, by declaring exemption three and by willfully misstating that an update on a tentative resolution to the court case was the reason. This was a willful fabrication. Councilor O'Malley raised all of these issues publicly with the Council as a part of his NO vote to go into executive session. Additionally, multiple persons attended this executive session that were not declared to be in attendance.

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.

The clerk and the committee should pay a fine. All records from the preparation of, the execution of, and deliberations and discussions in open and executive session should be released without redactions.

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.

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: /s/ Bruce Friedman

Date: January 20, 2026

For Use By Public Body

Date Received by Public Body:

For Use By AGO

Date Received by AGO:



City of Malden

Malden City Hall
215 Pleasant Street
Malden, MA 02148

Meeting Agenda - Final City Council

Council President Amanda Linehan
Councillor at Large Karen Colon Hayes
Councillor Paul Condon
Councillor Peg Crowe
Councillor at Large Michelle Luong
Councillor at Large Carey McDonald
Councillor Ryan O'Malley
Councillor Jadeane Sica
Councillor Chris Simonelli
Councillor Ari Taylor
Councillor Stephen Winslow

Tuesday, January 20, 2026

7:00 PM

City Council Chambers
215 Pleasant Street
Malden, MA 02148

Watch the meeting with Teams: <https://tinyurl.com/4a7dxkdz>

This emergency meeting of the Malden City Council is being posted as soon as was reasonably possible in conjunction with M.G.L. c. 30A, 20(b) to take up such business that was unknown to the Body 48 hours prior.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE & MOMENT OF SILENCE IN HONOR OF SERVICE MEMBERS

3. ROLL CALL

4. EXECUTIVE SESSION

[39-26](#)

Order: That the City Council will vote whether to go into Executive Session with legal counsel for the City regarding the matter of Tufts Construction, Inc., v. The City of Malden, Middlesex Superior Court Docket #2181CV01248, for the purpose of Exemption Three Massachusetts General Laws Chapter 30A Section 21(a)(3) for an update on recent developments regarding a tentative resolution to the civil action, where such discussion in open meeting may have a detrimental effect on the litigation position of the City, if so declared by the chair.

And if so allowed by the Body, to admit Maria Luise, Special Assistant to the Mayor.

(Roll Call Required)

Sponsors:

Amanda Linehan

5. ADJOURNMENT

CAROL ANN DESIDERIO, CITY CLERK

If you would like to request a reasonable accommodation, please contact Maria Luise, ADA Compliance Coordinator at mluise@cityofmaiden.org or 781-397-7000 Ext. 2005

For instructions on enabling live translated captions in Teams, please visit:
www.cityofmaiden.org/captions

Access Massachusetts Court Cases

Home Search Results

Log on

2181CV01248 Tufts, Peter et al vs. City Of Malden et al

01/15/2026	Defendants City Of Malden, Yem Lip's Motion in limine to Admit Business Records of Hayner Swanson, Inc.	73	 Image
01/15/2026	Defendants City Of Malden, Yem Lip's Motion in limine to Admit Malden Police Report as Business/Public Record	74	 Image
01/15/2026	Plaintiff, Defendants Peter Tufts, Yem Lip, City Of Malden's Motion in limine for Joint Proposed Description of Case to Jury Venire.	75	 Image
01/15/2026	Plaintiffs, Defendants Peter Tufts, Tufts Construction Inc., City Of Malden, Yem Lip's Motion in limine for List of Currently Pending Motions.	76	 Image
01/15/2026	Plaintiffs, Defendants Peter Tufts, Tufts Construction Inc., City Of Malden, Yem Lip's Motion in limine for Joint Witness List.	77	 Image
01/16/2026	Event Result: Final Trial Conference scheduled on: 01/16/2026 11:00 AM Has been: Held as Scheduled Hon. Michael Pineault, Presiding Appeared: Plaintiff India Lanni Minchoff, Esq., Stephen J Kuzma, Esq., Private Counsel Defendant Zaheer Samee, Esq., Private Counsel Prasanna V Rajasekaran, Esq., Jeffrey T Blake, Esq., Private Counsel Staff: Arthur T DeGuglielmo, Assistant Clerk Magistrate		
01/20/2026	Event Result: Jury Trial scheduled on: 01/20/2026 09:00 AM Has been: Not Held For the following reason: Case Settled Comments: Reported settled in open Court. Nisi order to issue. Hon. Michael Pineault, Presiding Appeared: Plaintiff India Lanni Minchoff, Esq., Stephen J Kuzma, Esq., Private Counsel Defendant Mark E Rumley, Esq., City / Town Counsel Zaheer Samee, Esq., Private Counsel Alicia Ann McNeil, Esq., City / Town Counsel Prasanna V Rajasekaran, Esq., Jeffrey T Blake, Esq., Private Counsel Staff: Arthur T DeGuglielmo, Assistant Clerk Magistrate		

Case Disposition		
Disposition	Date	Case Judge
Pending		

[00:00:00.00]

With the Council of Underwater.

[00:00:02.04]

All right. Let's go to the next.

[00:00:05.09]

I'm going to be pleased. I'm going to be pleased to be the President of United States of America, and to the Republic for which it stands, one nation under God, individual, liberty, and justice for all.

[00:00:17.03]

Please remain silent for a moment of silence in honor of our veteran service members and those who have given an ultimate sacrifice. We honor and acknowledge the Massachusetts, Penacope, and Patuket peoples, whose ancestral lands we now call home and on which we gather today. We express gratitude to the indigenous peoples who have cared for this land for generations, for their heritage colonization, and continuing to the present. Moving forward, we are committed to ensuring that the history, voices, and contributions of Indigenous peoples are recognized and respected in the life of our city.

[00:00:52.09]

Corky is responsible. Council Cohnkame. Here. Council Cohn. Here. Council Thur. Here. Council McDonald. Here. Council McDonald. Here. Council McDonald. Here. Council Almanz. Here.

[00:01:06.05]

Council Sears. Here. Council McDonald.

[00:01:08.11]

Here.

[00:01:09.09]

Council Sears. Here.

[00:01:10.05]

Council Ms. Williams. Here. Council Cohnkame.

[00:01:12.13]

Here. Council for Naya I'm sorry. Did you have an additional moment of silence or something for the earlier part of the agenda? No. Okay, no problem.

[00:01:23.08]

So moving on to the conditions of the meeting off.

[00:01:26.14]

For those of you in extended sense, be informed that the open part of Concade, here. Council of This meeting is being streamed live on Microsoft Teams. So just be aware there will be audio and video recordings of this meeting. First order of business. Okay.

[00:01:38.01]

39,26. The order that the city council will vote, let us go into the decade's session. Would legal counsel for the city regarding It is a matter of cost constructions, be incorporated, be the city of Malden, North Texas, superior Court, 12181, CB 01248 for the purpose of exemption 3, Massachusetts General Log, Chapter 38, Section 21, day 3, for an update on recent developments regarding the tentative resolution to the civil action. With such discussion in open meeting may have a detrimental effect on the location of the city, if so, declared by the chair, and if so, allowed by the body to admit Maria Louise's special assistance you may have a role call required.

[00:02:19.01]

Thank you to the clerk. Okay, so signing an exemption free of Master General Chapter Survey, Section 21A. We're in discussion paper 39-26. In open meeting would have a detrimental effect on the city So we're going to be in the position. Do I have a motion to enter into the executive session? No. Okay. I have a motion by Councilor Sika, seconded by Council Louwam, and I do have a light on by Councilor O'Malley. Can I just ask, is anybody in the chamber in the chamber in the Okay. I just want to make note that we do have one member in the public recording. Councilor O'Malley.

[00:02:51.05]

Yeah. So obviously this was posted yesterday morning, this morning. I don't remember when. And I object to this. I don't think it complies with the open meeting law. I don't think it was an emergency. I believe it was known to the city and to members of the council. This is already been reported in open session that there's a settlement that was announced in court today. I think we should take this out in Milton because settling potentially in violation of the open meeting law and having millions of dollars expended because of the behavior of our legal department, I think is appropriate. So I'll be objecting to this.

[00:03:31.06]

Thank you. Okay. Thank you, Councilor O'Neill. Okay. So we do have a motion on the second on the floor. The clerk, call it roll.

[00:03:39.00]

Seeing no otherwise, we call it roll. Council is on the page. Yes.

[00:03:42.08]

Council is on it.

[00:03:45.00]

Yes. Council Pro. Yes. Council Alon. Yes. Council McDonald.

[00:03:50.00]

Yes.

[00:03:50.08]

Council O'Malley. Council O'Malley, would you like to go on record with your vote? Council O'Malley said that he does not wish to go on record with his vote. Council Seca. Yes. Council Seminali. Yes. Council Taylor? Yes. Council Winslow?

[00:04:11.09]

Yes.

[00:04:12.04]

Council President Wendell?

[00:04:13.11]

Yes.

[00:04:15.04]

Okay, so that order has been adopted to enter into executive session.

[00:04:19.10]

Okay, so the council will enter into executive session. The council will now enter into executive session. The body will not reach the need for any further business this evening.

80

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT
Civil No. 2181CV01248

PETER TUFTS and TUFTS CONSTRUCTION, INC.

v.

CITY OF MALDEN and YEM LIP

ORDER FOR ENTRY OF DISMISSAL NISI

The above-captioned action came before the Court for the first day of trial and was thereupon reported to be resolved, counsel of record informing the Assistant Clerk that the parties had agreed upon all material terms of a binding settlement. Accordingly, the parties are directed to file an Agreement for Judgment or Stipulation of Dismissal in the Clerk's Office no later than February 19, 2026.

If no Agreement for Judgment or Stipulation of Dismissal is filed by said date, the Clerk is hereby directed to prepare, sign and enter a Judgment dismissing the action, and all claims thereof and related thereto, without prejudice and without statutory costs.

The Court may, in its discretion, enlarge the nisi period. Barring unusual circumstances beyond the control of the parties, however, this case will not be returned to the active trial list. Failing 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.

SO ORDERED.

Dated: January 20, 2026



Michael J. Pineault
Associate Justice of the Superior Court

Volume I of I
Pages: 1-7
Exhibits: None

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS

SUPERIOR COURT DEPARTMENT

PETER TUFTS, ET. AL.

v.

CITY OF MALDEN, ET. AL.

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DOCKET NO.
2181CV01248

SETTLEMENT HEARING

BEFORE THE HONORABLE MICHAEL J. PINEAULT

APPEARANCES:

For the Plaintiffs, Peter Tufts & Tufts Construction, Inc.:

Law Office of Stephen J. Kuzma
210 Union Wharf
Boston, MA 02109
By: Stephen J. Kuzma, Esq.

Law offices of Russo & Minchoff
210 Union Wharf
Boston, MA 02109
By: India Lanni Minchoff, Esq.

For Defendant, City of Malden:

For City of Malden & Yem Lip:

KP Law, P.C.
101 Arch Street
Boston, MA 02110
By: Jeffrey T. Blake, Esq.

Zaheer Samee, Esq.
210 Pleasant Street, Ste 4200
Malden, MA 02148

Tuesday, January 20, 2026
Courtroom 520
Woburn, MA

SUSAN M. LOBIE, CET
OFFICE SOLUTIONS PLUS
15 Marion Road, Salem, MA 01970
(617) 471-3510
SueLobie@osptranscriptionervices.com

I N D E X

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P R O C E E D I N G S

(Court in session at 9:26 a.m.)

THE CLERK: We're on the record, and for the record, this case called for trial, Middlesex Superior Court Civil Action Number 2021-1248, Peter Tufts, Tufts Construction, Incorporated, Plaintiff v. the City of Malden and Yem Lip, Defendants.

Counsel, would you identify yourselves for the Court and the record, please?

MR. KUZMA: Good morning, Your Honor.

Stephen Kuzma for Tufts Construction, Incorporated.

MS. MINCHOFF: Good morning, Judge.

India Minchoff, also on behalf of plaintiffs.

MR. SAMEE: Good morning, Your Honor.

Zaheer Samee for the defendants.

MR. BLAKE: Good morning, Your Honor.

Jeff Blake for the defendants.

THE COURT: Okay. Good morning, everyone.

SETTLEMENT HEARING

THE COURT: So, we were here to impanel. I'm told you've all reached a resolution, am I right?

1 MR. KUZMA: We have, Your Honor.

2 MS. MINCHOFF: Yes.

3 THE COURT: Okay. So, what we're going to do is,
4 I will issue a NISI order. How much time do you need
5 to document whatever you need to document and get a
6 Stipulation of Dismissal or an Agreement for Judgment
7 on the file?

8 MS. MINCHOFF: Thirty days.

9 THE COURT: Thirty days? Okay. That takes us
10 to February 19th. So, what I'll do is, I use a pretty
11 standard order, I think it -- well, let me ask counsel.

12 Have both sides -- well, all sides, I guess,
13 reached agreement on all of the material terms of a
14 settlement?

15 MR. KUZMA: We have, Your Honor, and pursuant
16 to emails that were agreed to yesterday, as well as
17 an email this morning, we have.

18 THE COURT: Okay. So, you have emails to document
19 the agreement on the material terms.

20 Counsel for the defendants agree?

21 MR. BLAKE: I believe that's correct, Your Honor.

22 THE COURT: Okay. And this will resolve all
23 claims, all parties, case will be done, yes?

24 MS. MINCHOFF: Yes.

25 MR. KUZMA: That's the intent.

1 THE COURT: Well, we're past intent. I'm looking
2 for confirmation --

3 MR. KUZMA: Yes.

4 THE COURT: -- that you've reached agreement, yes?

5 MR. KUZMA: Yes.

6 THE COURT: Okay. All right. So, my order will
7 specify that if we don't reach -- if we don't receive
8 an Agreement for Judgment or a Stipulation of Dismissal
9 by February 19th, the Clerk is going to go ahead and
10 enter judgment dismissing the case, unless you've
11 requested an extension and I've granted it, okay,
12 just so you know.

13 And barring incredibly unusual circumstances
14 beyond your control, which is a high bar to clear,
15 we're not going to be returning this case to the
16 active trial list. So, I'm treating this matter as
17 settled, a NISI order will issue.

18 I appreciate your efforts over the weekend.
19 I think this was a case that could and should be
20 settled, so I'm glad that you've achieved that.
21 Thank you.

22 Anything else to take up while you're all here?

23 MS. MINCHOFF: No, Judge.

24 THE COURT: No?

25 MR. KUZMA: No, thank you, Your Honor.

1 MS. MINCHOFF: Thank you.

2 THE COURT: Okay. All right, thank you, counsel.

3 MR. BLAKE: Thank you, Judge.

4 (Hearing Concluded at 2:36 p.m.)

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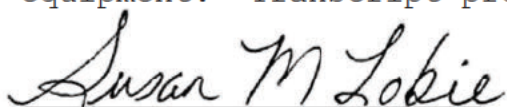
C E R T I F I C A T E

I, Susan M. Lobie, Certified Electronic Transcriptionist and Notary Public for the Commonwealth of Massachusetts, and a Court Approved Transcriptionist for Office Solutions Plus do hereby certify that the foregoing is a true and accurate transcript prepared to the best of my ability, from audio recordings of a Sentencing Hearing held on Tuesday, February 11, 2020, in the matter of in the matter of Peter Tufts, et. al. v. City of Malden, et. al., Docket No. 2181CV01248, before the Honorable Michael J. Pineault.

I, Susan M. Lobie, further certify that the foregoing is in compliance with the Administrative Office of the Trial Court Directive on Transcript Format.

I, Susan M. Lobie, further certify that I neither am counsel for, related to, nor employed by any of the parties to the action in which this hearing was taken, and further that I am not financially nor otherwise interested in the outcome of the action.

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DATE: January 29, 2026

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(circle one) **TYPE:** **(CD)** **TAPE** **QUALITY:** **EXCELLENT** **(GOOD)** **FAIR** **POOR**

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background noise **time stamp:** _____

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other: _____ **time stamp:** _____

COMMENTS: For the most part, the audio for this transcript was fine for the Court and the witness,
but when counsel was speaking, she must not have been near a working microphone
because she was always difficult to hear, so hopefully, everything was properly
transcribed.

PETER FUTS, ET. AL. V. CITY OF MALDEN, ET. AL.
DOCKET NO. 2181CV01248
SETTLEMENT HEARING - 1/20/2026

1 19th ^[2] 4:10 5:9 2 2:36 ^[1] 6:4 2021-1248 ^[1] 3:5 9 9:26 ^[1] 3:2 A a.m ^[1] 3:2 achieved ^[1] 5:20 action ^[1] 3:5 active ^[1] 5:16 agree ^[1] 4:20 agreed ^[1] 4:16 agreement ^[5] 4:6,13,19 5:4,8 ahead ^[1] 5:9 appreciate ^[1] 5:18 B bar ^[1] 5:14 barring ^[1] 5:13 behalf ^[1] 3:13 believe ^[1] 4:21 beyond ^[1] 5:14 blake ^[4] 3:16,17 4:21 6:3 both ^[1] 4:12 C called ^[1] 3:4 case ^[5] 3:4 4:23 5:10,15, 19 circumstances ^[1] 5:13 city ^[1] 3:6 civil ^[1] 3:5 claims ^[1] 4:23 clear ^[1] 5:14 clerk ^[2] 3:3 5:9 concluded ^[1] 6:4 confirmation ^[1] 5:2 construction ^[2] 3:6,11 control ^[1] 5:14	correct ^[1] 4:21 counsel ^[4] 3:8 4:11,20 6: 2 court ^[14] 3:2,5,9,18,20 4:3, 9,18,22 5:1,4,6,24 6:2 D days ^[2] 4:8,9 defendants ^[4] 3:7,15,17 4:20 dismissal ^[2] 4:6 5:8 dismissing ^[1] 5:10 document ^[3] 4:5,5,18 done ^[1] 4:23 E efforts ^[1] 5:18 email ^[1] 4:17 emails ^[2] 4:16,18 enter ^[1] 5:10 everyone ^[1] 3:18 extension ^[1] 5:11 F february ^[2] 4:10 5:9 file ^[1] 4:7 G glad ^[1] 5:20 granted ^[1] 5:11 guess ^[1] 4:12 H hearing ^[2] 3:19 6:4 high ^[1] 5:14 honor ^[7] 3:10,14,16 4:1, 15,21 5:25 I identify ^[1] 3:8 impanel ^[1] 3:20 incorporated ^[2] 3:6,11 incredibly ^[1] 5:13 india ^[1] 3:13 intent ^[2] 4:25 5:1 issue ^[2] 4:4 5:17	J jeff ^[1] 3:17 judge ^[3] 3:12 5:23 6:3 judgment ^[3] 4:6 5:8,10 K kuzma ^[8] 3:10,11 4:1,15, 25 5:3,5,25 L lip ^[1] 3:7 list ^[1] 5:16 looking ^[1] 5:1 M malden ^[1] 3:7 material ^[2] 4:13,19 matter ^[1] 5:16 middlesex ^[1] 3:4 minchoff ^[7] 3:12,13 4:2,8, 24 5:23 6:1 morning ^[6] 3:10,12,14,16, 18 4:17 ms ^[6] 3:12 4:2,8,24 5:23 6: 1 much ^[1] 4:4 N need ^[2] 4:4,5 nisi ^[2] 4:4 5:17 number ^[1] 3:5 O okay ^[8] 3:18 4:3,9,18,22 5: 6,11 6:2 order ^[4] 4:4,11 5:6,17 over ^[1] 5:18 P p.m ^[1] 6:4 parties ^[1] 4:23 past ^[1] 5:1 peter ^[1] 3:5 plaintiff ^[1] 3:6 plaintiffs ^[1] 3:13 please ^[1] 3:9	pretty ^[1] 4:10 pursuant ^[1] 4:15 R reach ^[1] 5:7 reached ^[3] 3:21 4:13 5:4 receive ^[1] 5:7 record ^[3] 3:3,4,9 requested ^[1] 5:11 resolution ^[1] 3:21 resolve ^[1] 4:22 returning ^[1] 5:15 S samee ^[2] 3:14,15 session ^[1] 3:2 settled ^[2] 5:17,20 settlement ^[2] 3:19 4:14 sides ^[2] 4:12,12 specify ^[1] 5:7 standard ^[1] 4:11 stephen ^[1] 3:11 stipulation ^[2] 4:6 5:8 superior ^[1] 3:4 T terms ^[2] 4:13,19 thirty ^[2] 4:8,9 treating ^[1] 5:16 trial ^[2] 3:4 5:16 tufts ^[3] 3:5,5,11 U unless ^[1] 5:10 unusual ^[1] 5:13 up ^[1] 5:22 W weekend ^[1] 5:18 whatever ^[1] 4:5 will ^[5] 4:4,22,23 5:6,17 Y yem ^[1] 3:7 yesterday ^[1] 4:16 yourselves ^[1] 3:8
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zaheer ^[1] 3:15