



CITY OF FRAMINGHAM

Public Health Department



Public Health
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Bill Murphy, MS, RS, CHO, Director of Public Health
(508)532-5470
www.framinghamma.gov

REVISED

12:28 pm, Oct 10, 2025

MEMORIAL BUILDING
150 Concord Street, Room 205
Framingham, MA 01702

Board of Health Meeting- IN-PERSON

(Virtual option for the public)

Tuesday October 14, 2025 7:00 PM

Ablondi Room, 1st Floor, Memorial Building

150 Concord Street

Agenda- **UPDATED 10/10/25**

Open Session

1. Call to Order
2. Approval of Minutes- July 15th, 2025 and September 9th, 2025
3. Public Comment
4. **Communication from City Solicitor regarding BMB Wholesale, Inc. v. City of Framingham Board of Health, City of Framingham**
 - a. 10.10.25 Solicitor Memo to BOH re. BMB Wholesale Inc. to Kathryn M. Fallon PC
 - b. Clerk's Notice BMB Wholesale Inc. vs. City of Framingham Board of Health
5. **Community Health Division Report**
Update on MassCall3 and PEC grants, community event participation, Recovery City documentary 10/30/25 showing, other updates
Presenter: Maria McHugh, Community Health Manager
6. **Health Director's Report-** Staffing update- Environmental Health Manager, FY2027 budget planning, Red Cross, MRC Appreciation, legislative briefing, Regional Emergency Planning Committee, flu clinics, Animal regulation update
7. Adjourn

When: Oct 14, 2025 07:00 PM Eastern Time (US and Canada)

Topic: Board of Health 10.14.25

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CITY OF FRAMINGHAM

Office of the City Solicitor

Kathryn Fallon

City Solicitor

Shelly Nicholls

Assistant City Solicitor

Bridget Bradley

First Assistant City Solicitor

Jasmine Choate

Office Administrator/Paralegal

MEMORIAL BUILDING

150 Concord Street, Room B2

Framingham, MA 01702

Tel. 508-532-5648

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TO: Honorable Members of the City of Framingham Board of Health
FROM: Kathryn Fallon, City Solicitor
RE: BMB Wholesale Inc. v. City of Framingham Board of Health, City of Framingham
DATE: October 10, 2025

Please be advised that on October 7, 2025, Public Health Director William Murphy and I attended the hearing at the Middlesex Superior Court on Plaintiff BMB Wholesale, Inc.'s Motion for Preliminary Injunction against the City and the Board of Health.

BMB asked the Court for an injunction against the City and Board preventing enactment or enforcement of prohibitions set out in the July 16, 2025 Notice to tobacco holders. BMB also asked the Court to order the Board to retest products on a "blind basis" by individuals not involved in the prior testing conducted by the Board on July 15, 2025.

The City and Board Opposition to the Motion, supported by the affidavits of Mr. Murphy and Mr. Thillaigovindan, was filed with the Court. I appeared on behalf of the City and Board to oppose the Motion for Injunctive Relief, and Mr. Murphy attended on behalf of the City and Board in the event the Judge required his personal testimony on the issues.

Following the hearing, the Court denied BMB's Motion for Injunctive Relief, and the decision of the Court is attached. Please be advised that the case remains ongoing.

I filed a Notice of Appearance, and an Answer on behalf of the City and Board. I also served a Motion to Dismiss the Complaint on BMB, and await BMB's response.

Once the Motion paperwork is assembled, I will file it with the Court and request a hearing, and provide status updates as the case proceeds.

CLERK'S NOTICE		DOCKET NUMBER 2581CV02094	Trial Court of Massachusetts The Superior Court 
CASE NAME: BMB Wholesale Inc. vs. City of Framingham Board of Health et al		Michael A. Sullivan, Clerk of Court Middlesex County	
TO: Kathryn M Fallon Manupelli, Esq. Kathryn M Fallon PC 200 Broadway Suite 303 Lynnfield, MA 01940		COURT NAME & ADDRESS Middlesex County Superior Court - Woburn 200 Trade Center Woburn, MA 01801	
You are hereby notified that on 10/07/2025 the following entry was made on the above referenced docket: ORDER: MEMORANDUM OF DECISION AND ORDER ON PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION Plaintiff BMB Wholesale Inc. ("BMB") sold and distributed products to retailers in the Defendant City of Framingham ("Framingham") that were banned by the Defendant City of Framingham Board of Health (the "Board") from retail establishments pursuant to G.L. c. 270, § 28(b) (flavored tobacco products). BMB alleges that the Board's decision to ban its products from retail sales was made improperly and will result in a loss of revenue because of the ban on several of its products. BMB seeks an order of this Court prohibiting enforcement of the ban and requiring defendants to conduct a "smell test" of its products on a blind basis by "qualified individuals" who did not participate in the original decision to ban the products. Notably, at the time of the hearing, BMB was not licensed to sell its products in Massachusetts but anticipated being able to do so shortly. For the reasons herein, the request for injunctive relief is DENIED. DISCUSSION A party seeking a preliminary injunction must establish both a likelihood of success on the merits of the case and that irreparable harm will result from the denial of the injunction. See <i>Tri-Nel Mgmt., Inc. v. Board of Health of Barnstable</i>, 433 Mass. 217, 219 (2001). Although, "[t]rial judges have broad discretion to grant or deny injunctive relief," <i>LightLab Imaging, Inc. v. Axsun Technologies, Inc.</i>, 469 Mass. 181, 194 (2014), a preliminary injunction must be denied where money damages would adequately compensate for any harm a plaintiff may suffer before final judgment enters, no "matter how likely it may be that the moving party will prevail on the merits." <i>Packaging Indus. Group, Inc. v. Cheney</i>, 380 Mass. 609, 621 (1980). "A plaintiff experiences irreparable injury if there is no adequate remedy at final judgment." <i>GTE Products Corp. v. Stewart</i>, 414 Mass. 721, 724 (1993). Finally, a preliminary injunction "[is an extraordinary remedy never awarded as of right[.]" <i>Winter v. Natural Resources Defense Council, Inc.</i>, 555 U.S. 7, 24 (2008), and it "should not be granted unless the [moving party] ha[s] made a clear showing of entitlement thereto," <i>Student No. 9 v. Board of Educ.</i>, 440 Mass. 752, 762 (2004). Based on all the evidence before me, I cannot conclude that BMB has shown by any standard of proof a likelihood of success on the merits or that it will suffer irreparable harm, particularly when weighed against the extraordinary relief sought by the injunction. The Court is cognizant of the public policy favoring that the Board conduct an orderly and fair process of decision-making and in enforcement of the law. The Court is equally cognizant of the public policy favoring the safety of children from exposure to flavored tobacco products. ORDER For the foregoing reasons, Plaintiff's Motion for Preliminary Injunction is DENIED.			
DATE ISSUED 10/08/2025	ASSOCIATE JUSTICE/ ASSISTANT CLERK Hon. Emily A Karstetter		SESSION PHONE# (781)939-2772



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