



April 1, 2026

Dear Select Board:

We are writing to urge the Board to use appropriate due diligence in the exercise of its authority to determine whether to approve a transfer of the license to operate the Chappy Ferry and, if so, on what terms. We also urge the Board to accord due weight to the considered recommendations of the Chappy Ferry Steering Committee, in particular with respect to revision of the existing ferry license.

As the licensing authority for an essential public ferry service, the Board's core obligation is to conduct a genuine, informed inquiry into the applicant's suitability, the financial integrity of the transaction, the adequacy of existing license requirements, and the potential impact on the public interest — and to document that inquiry in a public record. A 2007 legal opinion from Palmer & Dodge to Edgartown Town Counsel Ron Rappaport addressed the Town's rights and responsibilities regarding ferry license transfer approval. It provides, in pertinent parts, as follows:

The issuance of a **ferry license is not a contract, but is instead a governmental act taken under regulatory powers granted to the licensing authority by state law.** ... [A]s in the case of any other governmental action, there is a general legal requirement that a decision not be arbitrary or capricious....

Article V of the 1993 license issued to EFI [transferred to CFI in 2008] provides that the license 'shall not be transferred, except by permission of the Board [of Selectmen], which shall not be unreasonably withheld.' The phrase "**not be unreasonably withheld**" is interpreted to require action that is "in accordance with usual standards of reasonableness." [citation omitted] If the Board decided not to approve a transfer, the determination whether that decision was or was not reasonable would depend upon the Board's rationale for its decision. **As long as the decision was based on legitimate grounds, such as the qualifications of the proposed transferee (including its capacity to provide satisfactory service, its business history, financial resources, and similar considerations), or the availability of another provider of ferry services with better qualifications, the decision would not be unreasonable.**

...

Indeed, we believe **the selectmen also have authority to make approval of a transfer of [the 1993] license to a purchaser subject to the requirement that the purchaser's license have reasonable conditions, even if the conditions were not in [the 1993] license.** We base that conclusion on two sources for the authority: first the

selectmen's reservation of the right not to approve a transfer of the license as long as the basis for their decision is not unreasonable; and second, on the fact that [the 1993] license itself is subject to nonrenewal for just cause ... and (in Section VI.B of the license) to suspension or revocation (as well as nonrenewal for good cause [citation omitted]). Taken together, these limitations in the 1993 license, we believe, permit the Town to add the same kinds of reasonable conditions to the license of a ferry operator that purchases [the 1993] ferry license as those the Town could include in a new license to a different operator. [Emphasis supplied].

Based upon the regulatory requirements familiar to the Select Board on information to be submitted to the Board and considered by it on applications for liquor license transfers, we believe the Board should gather and review information in each of the following areas:

- Identity and Ownership Structure of Proposed Transferee
- Business Experience and References
- Purchase Price and Terms
- Source of Funds
- Discharge of Existing Debt and Encumbrances
- Disclosure of All Interested Parties (including all lenders and investors)
- Service and Financial Impacts of Proposed Transfer on the Public
- Continuing Adequacy of the Current License Terms
- Public Input

The underlying principle is that **the Select Board must exercise its discretion with respect to approval of a ferry license transfer on the basis of actual information, not assumption.** In addition to being vulnerable as arbitrary and capricious, a decision made without reviewing the categories of information above — or made on the basis of an incomplete record — would not meet the Board's duty to act in the public interest.

Thank you for your consideration.

Very truly yours,

Chappaquiddick Island Association Board

Pete Taft	Sam Fuller
Ed Pla	Lynne McCauley
Carmin Reiss	Kirk Oswald
Patricia Floyd	Jonathan Phinney

Cc: Chappy Ferry Steering Committee

