

Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 6/5/2018 10:18:53 AM

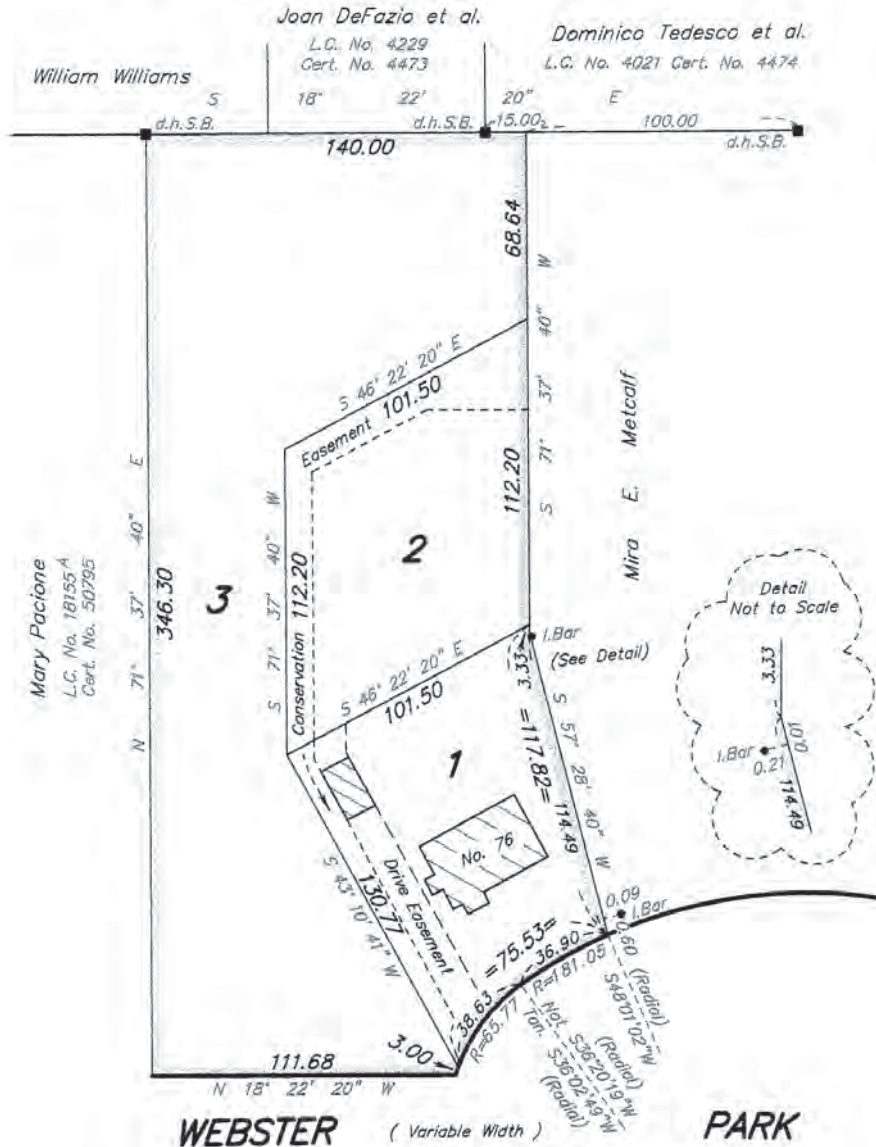
Doc#	Document Type	Town	Book/Page	File Date	Consideration
2032	PL			09/04/2007	
Property-Street Address and/or Description					
WEBSTER PARK LOTS 1, 2 & 3					
Grantors					
NEWTON CITY					
Grantees					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					
240347 01343/146					

SUBDIVISION PLAN OF LAND IN NEWTON

City of Newton D.P.W./Engineering

October 10, 2004

11008B



Subdivision of Land
 Shown on Plan 11008-A
 Filed with Cert. of Title No. 21028
 South Registry District of Middlesex County

Separate certificates of title may be issued for land
 shown hereon as Lots 1, 2 and 3
 By the Court.

Deborah J. Patterson
 Recorder

May 18, 2005

ST-06XB

Middlesex South Registry District
 Dec. 15 2014
 RECEIVED FOR REGISTRATION
 10 O'CLOCK 20 AM

Abutters are shown as
 on original decree plan.

Copy of part of plan
 filed in
LAND REGISTRATION OFFICE
 May 18, 2005
 Scale of this plan 50 feet to an inch
 G.T. Capellanis, Engineer for Court

DEED

Newton Conservators, Incorporated, 84 Fenwick Road, Newton, MA 02468 for consideration of One Dollar (\$1.00) paid, hereby conveys to the City of Newton, of 1000 Commonwealth Avenue, Newton, MA 02459, with quitclaim covenants the following:

A certain parcel of land and buildings thereon situated in Newton, Middlesex County, Massachusetts shown as Lot 3 on Land Court Plan No. 11008^B filed with Certificate of Title 229554 filed in Land Registration Book 1274, Page 4 in the Middlesex (South) County Registry District of the Land Court ("Plan").

Said Lot 3 containing 29,490± square feet of land.

Lot 3 is conveyed subject to all taxes and other municipal charges now due and payable.

Witness my hand and seal this 17th day of August, 2007.

NEWTON CONSERVATORS,
INCORPORATED

By: William Hagar
William Hagar, President

By: Katherine Howard
Katherine Howard, Treasurer

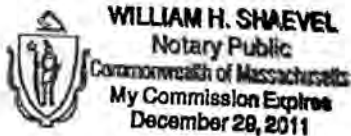
Commonwealth of Massachusetts

Middlesex County, ss

|| _____ 8/17/, 2007

On this 17th day of August, 2007, before me, the undersigned notary public, personally appeared William Hagar, President and Katherine Howard, Treasurer, acting for Newton Conservators, Incorporated, proved to me through satisfactory evidence of identification, which was/were [type of evidence] MASS. DRIVER LICENSE to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



William H. Shaevel
Notary Public
Name (Print): WILLIAM H. SHAEVEL
My commission expires: 12/29/11

Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 6/4/2018 4:45:21 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
1417345	RESTRICTIONS			07/27/2006	
Property-Street Address and/or Description					
76 WEBSTER PK LOT 1					
Grantors					
NEWTON HOUSING AUTHORITY					
Grantees					
NEWTON CITY CONSERVATION					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					
237344 01323/140					

CONSERVATION RESTRICTION

Grantor Clause

A body politic and corporate

76 Webster Park, Newton

Newton Housing Authority with an address at 82 Lincoln Street, Newton, MA 02461, in consideration of \$1.00, hereby grants with quitclaim covenants to the City of Newton, acting by and through its Conservation Commission, with an address of 1000 Commonwealth Avenue, Newton, MA 02459 in perpetuity and for conservation purposes, this conservation restriction having the terms and conditions hereinafter set forth ("conservation restriction") with respect to certain land located in the City of Newton, Middlesex County, Massachusetts, said land containing approximately 1,033 square feet, more or less, and shown as "Conservation Easement" on Land Court Plan No. 11008^B filed with Certificate of Title 229554 filed in Land Registration Book 1274, Page 4 in the Middlesex (South) County Registry District of the Land Court ("Conservation Area"), which contains unusual, unique or outstanding qualities the protection of which in their predominately natural or open condition will be of benefit to the public.

The term "Grantor" shall mean the said Newton Housing Authority and its successors and assigns; the term "Grantee" shall mean the City of Newton, by and through its Conservation Commission, and its permitted successors and assigns; the term "Plan" shall mean the sketch plan referred to above; and, the terms "Conservation Area" shall mean the portion of Lot 1 shown on the Plan and identified as the Conservation Restriction Area. Grantor's title being by a deed from Newton Conservators, Incorporated of even date to be recorded herewith. This conservation restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws.

04/19/78

Purpose

The purposes of this Conservation Restriction are:

1. To restrict the use of the conservation area in perpetuity to conservation purposes including, but not limited to:
 - I. The Conservation Area has natural character and is a scenic landscape, visible from publicly accessible sites, which would be impaired by modification;
 - II. The Conservation Area lies in close proximity to Dolan Pond Conservation Area, and similarly preserves the existing natural habitat;
 - III. The Conservation Area provides its vicinity with relief from urban closeness and provides a protective buffer to nearby protected land;
 - IV. The Conservation Area offers opportunities for education, scientific study, and/or public passive recreation;
 - V. The City of Newton has listed this area in its Comprehensive Open Space Plan.
 - VI. The Conservation Area contains significant natural habitats in which animals and plants thrive in a natural state.
2. To prevent any disposition or diversion of the Conservation Area to public or private



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Schlesinger and Buchbinder, LLP
1200 Walnut St.
Newton, MA. 02461-1267

237344

non-conservation purposes; and

3. To enhance the protections afforded the conservation area by Article 97 of the amendments to the constitution of the Commonwealth of Massachusetts, by establishing a conservation restriction enforceable in perpetuity by the Grantee under sections 31-33 of chapter 184 of the General Laws.

Terms

A. *Prohibited Uses.* Except as to reserved rights set forth in paragraph B below, Grantor will not perform nor allow others to perform the following acts or uses on the Conservation Area:

1. The placing, filling, storing or dumping of any soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other like substances, or the installation of underground storage tanks.
2. Mining, excavating, dredging or removing of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.
3. Cutting, removing or otherwise destroying trees, grasses or other vegetation except as approved by the Conservation Commission or as reasonably necessary in connection with activities permitted under paragraph B.
4. Activities detrimental to drainage, flood control, wildlife habitat, water conservation, water quality, erosion control, soil conservation or scenic views.
5. Hunting or commercial trapping.
6. The use of motorized and non-motorized recreational vehicles, to include, *inter alia*, motorcycles, bicycles of any type, all-terrain or other off-road vehicles, scooters and snowmobiles except for emergency or safety purposes; provided, however, that individual transportation vehicles necessary for the mobility of persons with disabilities shall be permitted.
7. Constructing, placing or allowing to remain any temporary or permanent structure, on, above, or under the Conservation Area, including, but not limited to: any building, tennis or other gaming court, landing strip, mobile home, swimming pool, road, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, light or utility pole, satellite dish, tower, power line, conduit line.
8. Division or subdivision of the Conservation Area.
9. Any other use of the Conservation Area or activity thereon which is

inconsistent with the purposes of this conservation restriction and which would materially and significantly impair the conservation or public passive recreation interests served by this conservation restriction.

- B. *Reserved Rights.* The following acts and uses even if otherwise prohibited in paragraph A are permitted only if such acts and uses do not materially impair the purposes of this Conservation Restriction or other significant conservation interests.
1. Use of the conservation area for passive recreation, or for any other conservation use, and any activity or use reasonably accessory or incidental thereto.
 2. Use of the conservation area by the general public for education, nature study, and passive recreation in accordance with rules and regulations as may be adopted by the Conservation Commission of the Grantee, and the right to pass and repass upon the Conservation Area on foot for the purposes of hiking, nature study, birdwatching, or other passive recreation.
 3. Use of the conservation area by the Grantee's Conservation Commission and its designees to conduct any activity which is consistent with accepted professional land and water management practices, including, but not limited to, the selective pruning and cutting of trees, brush, invasive or nuisance species to prevent, control or remove hazards, disease, insect damage or fire, or to preserve or improve the condition of the conservation area, including vistas, woods, trails; provided that the cutting of trees for commercial timber production shall not be allowed unless it is done in accordance with a plan prepared by a professional forester and approved in writing in advance by the Grantees, said plan being intended to protect the conservation and passive recreation values of the conservation area, including without limitation, scenic and wildlife habitat values.
 4. Management of the conservation area for the benefit of wildlife (including without limitation the planting and cultivation of wildlife cover and food crops), and cutting, mowing, pruning, burning, and removal of vegetation to enhance and promote varied types of wildlife habitat consistent with sound wildlife and forestry management practices.
 5. Installation of underground utilities as approved by Grantee's Conservation Commission so long as (i) such installation is for a public purpose and not solely for the benefit of a private party; and (ii) the area is restored to its former condition with plantings and grading.
 6. Vista pruning and replacement of dead vegetation with noninvasive native species for the purpose of maintaining the physical and visual buffer in perpetuity with prior approval of the Grantee's Conservation Commission.

The exercise of any right reserved by Grantor under this paragraph B shall be in compliance with the Wetlands Protection Act (General Laws Chapter 131, Section 40) and all other applicable federal, state and local laws and regulations. The inclusion of any reserved right in this paragraph B requiring a permit from a public agency shall not be construed to preclude the Grantee or the Commonwealth from opposing the issuance of such a permit on grounds consistent with this instrument or the aforementioned laws.

- C. *Notice and Approval.* Any notices sent under this conservation restriction shall be sent to the parties at the addresses listed above. Any party may provide a new address by sending a notice containing the new address to the other parties. Whenever notice to or approval by Grantee is required hereunder, Grantor shall notify Grantee in writing not less than sixty days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this conservation restriction. The notice shall state that a Grantee's failure to respond within sixty days shall constitute constructive approval of the request. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty days of receipt of Grantor's written request therefor. Failure of Grantee to respond in writing within such 60 days shall be deemed to constitute approval by such Grantee of the request as submitted. Grantee's approval shall not be unreasonably withheld, but a Grantee may withhold its approval if the proposed activity will materially impair the terms of this conservation restriction. Any written notice required or permitted hereunder shall be deemed delivered if sent by certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth at the beginning of this instrument or, with respect to assignees, to the address set forth in a recorded instrument transferring title to the conservation area or rights hereunder, or to such other addresses as the parties may designate in writing from time to time.
- D. *Release.* If any court of competent jurisdiction determines that a change in conditions gives rise to a release by the Grantee of the conservation restriction under applicable law, then Grantee, on a subsequent sale, exchange, conversion or taking by any public authority under power of eminent domain or other act of public authority, shall not be entitled to a portion of the proceeds of any such sale, exchange, conversion or taking.
- E. *Access.* Except as otherwise provided in Section B.2, the conservation restriction hereby conveyed does not grant to Grantee, to the public generally, or to any other person any right to enter upon the Conservation Area except that there is hereby granted to Grantee, Grantee's Conservation Commission, and their representatives the right to enter the conservation area at reasonable times, with reasonable notice and in a reasonable manner for the purpose of inspecting and maintaining the Conservation Area and to determine compliance herewith.
- F. *Legal Remedies of Grantees.* (1) Grantee may enforce this conservation restriction by

appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the conservation area to its condition prior to such violation, it being agreed that Grantee will have no adequate remedy at law. Grantee's rights under this paragraph F shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. No forbearance by the Grantee to exercise its rights under this conservation restriction shall be deemed or construed to be a waiver and no waiver on one occasion shall obligate a Grantee to grant an additional waiver. No waiver shall be valid unless it is written and signed by Grantee, except as to constructive approvals provided for in paragraph C above. (2) Notwithstanding the foregoing, for any dispute or claim arising out of or relating to the terms of the conservation restriction which cannot be resolved in good faith directly between the Grantor and Grantee, no action shall be filed or prosecuted in any court until the claim or dispute has first been submitted to a mediator, mutually selected by the parties hereto, for at least five hours of mediation. All parties shall share the cost and fees associated with the mediation services equally unless otherwise agreed. The mediator's determinations shall not be binding upon any party. If the mediation is not concluded within thirty days from the time that a dispute is presented to the grantor or grantees, then the party raising the dispute may file an action despite the failure to complete the mediation. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the conservation area, including with respect to compliance with hazardous materials or other environmental laws and regulations. Enforcement of the terms of this conservation restriction shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this conservation restriction shall not be deemed or construed to be a waiver.

- G. *Acts Beyond Grantor's Control.* Nothing contained in this conservation restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the conservation area resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm and earth movement, acts of war whether declared or undeclared, acts of criminals or enemies of the United States, or actions taken in response thereto, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the conservation area resulting from such causes.
- H. *Duration and Assignability.* The burdens of this conservation restriction shall run with the conservation area land and shall be enforceable against Grantor and its successors and assigns in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this conservation restriction, should any such notices or instruments be deemed necessary. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request. The benefits of this conservation restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the terms of this conservation restriction continue to be carried out, and (ii) the assignee, at the time of assignment, qualifies under section 170(h) of the Internal Revenue Code of 1986, as amended, and

applicable regulations thereunder, and under section 32 of Chapter 184 of the General Laws as an eligible donee to receive this conservation restriction directly. Upon any dissolution, Grantee may assign its rights to any other non-profit organization eligible under G.L.c. 184, sec. 32 which has as one of its principal purposes the advancement of the conservation interests protected by this instrument, subject, however, to consent of the Grantor.

- I. *Subsequent Transfers.* In the event of any conveyance or transfer, Grantor agrees to incorporate by reference the terms of this conservation restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the conservation area including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of such transfer or of this conservation restriction, and shall not limit the enforceability of this conservation restriction in any way.
- J. *Termination of Rights and Obligations.* Notwithstanding anything to the contrary contained herein, the rights and obligations under this conservation restriction of any party holding any interest in the conservation area shall terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this conservation restriction, shall survive the transfer.
- K. *Estoppel Certificates.* Upon request by Grantor, Grantee shall within forty-five (45) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this conservation restriction, and which otherwise evidences the status of this conservation restriction as may be requested by Grantor.
- L. *Miscellaneous:*
 1. Controlling Law. The interpretation and performance of this conservation restriction shall be governed by the laws of the commonwealth of Massachusetts.
 2. Severability. If any provision of this conservation restriction shall to any extent be held invalid, the remainder shall not be affected.
 3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the conservation restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the conservation restriction, all of which are merged herein.
 4. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.

5. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when this document has been fully executed and recorded in the Middlesex South Registry of Deeds.
6. Amendment. This Conservation Restriction may be amended only by written agreement of the parties or their successors in interest. Any such amendment shall also require the approval of the Secretary of Environmental Affairs or its successor. No amendment shall be granted unless such amendment enhances, expands, or enlarges the conservation values and purposes of this Conservation Restriction.

No documentary stamps are required as the city of Newton is a party to this instrument.

Executed under seal this 10th day of February, 2006.

NEWTON HOUSING AUTHORITY

Jonathan L. Hackel
By: JONATHAN L. HACKEL
Its: Executive Director

Commonwealth of Massachusetts

Middlesex, ss

February 10, 2006

On this 10th day of February 2006 before me, the undersigned notary public, personally appeared Jonathan L. Hackel, acting for Newton Housing Authority, proved to me through satisfactory evidence of identification, which was/were [type of evidence] MA's Drivers License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]

M. Mello
Notary Public
Name (Print): Melissa Ann Mello
My commission expires: NOV 17, 2011



ACCEPTANCE OF GRANT

The above Conservation Restriction is accepted this 15th day of December, 2005.

CITY OF NEWTON

Approved pursuant to G.L.c. 40, sec. 8C:

Ira Wallach

Ira Wallach, Chairman
Newton Conservation Commission

Approved:

Approved as to form:

[Signature]

Assistant City Solicitor

David B. Cohen

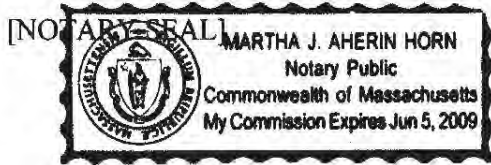
David B. Cohen, Mayor

Commonwealth of Massachusetts

Middlesex County, ss

December 15, 2005

On this 15 day of Dec. 2005, before me, the undersigned notary public, personally appeared Ira Wallach, as Chairman of the Newton Conservation Commission, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



Martha J. Aherin Horn
Notary Public

Name (Print): Martha J. Aherin Horn
My commission expires:

Commonwealth of Massachusetts

Middlesex County, ss

12/21, 2005

On this 21st day of December 2005, before me, the undersigned notary public, personally appeared David B. Cohen, Mayor, acting for the City of Newton, proved to me through satisfactory evidence of identification, which was/were [type of evidence] PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



Barbara Resm
Notary Public

Name (Print): Barbara Resm
My commission expires:

**APPROVAL AND ACCEPTANCE BY BOARD OF ALDERMEN
CITY OF NEWTON (GRANTEE)**

I, the undersigned Clerk of the Board of Aldermen of the City of Newton, Massachusetts, hereby attest and certify that at a meeting duly held on July 14, 2003 the Board of Aldermen voted to approve and accept the foregoing Amendment and Assignment of Conservation Restriction pursuant to M. G. L. Chapter 40, Section 8C.

Attest: Clerk of the Board of Aldermen,
City of Newton, Massachusetts:

Edward G. English

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

December 29, 2005

On this 29th day of December, 2005 before me, the undersigned Clerk of the Board of Aldermen, City of Newton, proved to me through satisfactory evidence of identification, which was/were [type of evidence] Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



Joanne M. Licarie
NOTARY PUBLIC
My Commission Expires: 2-23-12

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the City of Newton has been approved in the public interest pursuant to M.G.L. Chapter 184 Section 32. Approval of this Conservation Restriction is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Conservation Area, and any such pre-existing rights of the public, if any, are not affected by the approval of this Conservation Restriction.



Secretary of Environmental Affairs

Commonwealth of Massachusetts



, ss

6/22

, 2006

On this 2nd day of July 2006, before me, the undersigned notary public, personally appeared the Secretary of Environmental Affairs, acting for Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which was/were ~~[type of evidence]~~ personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

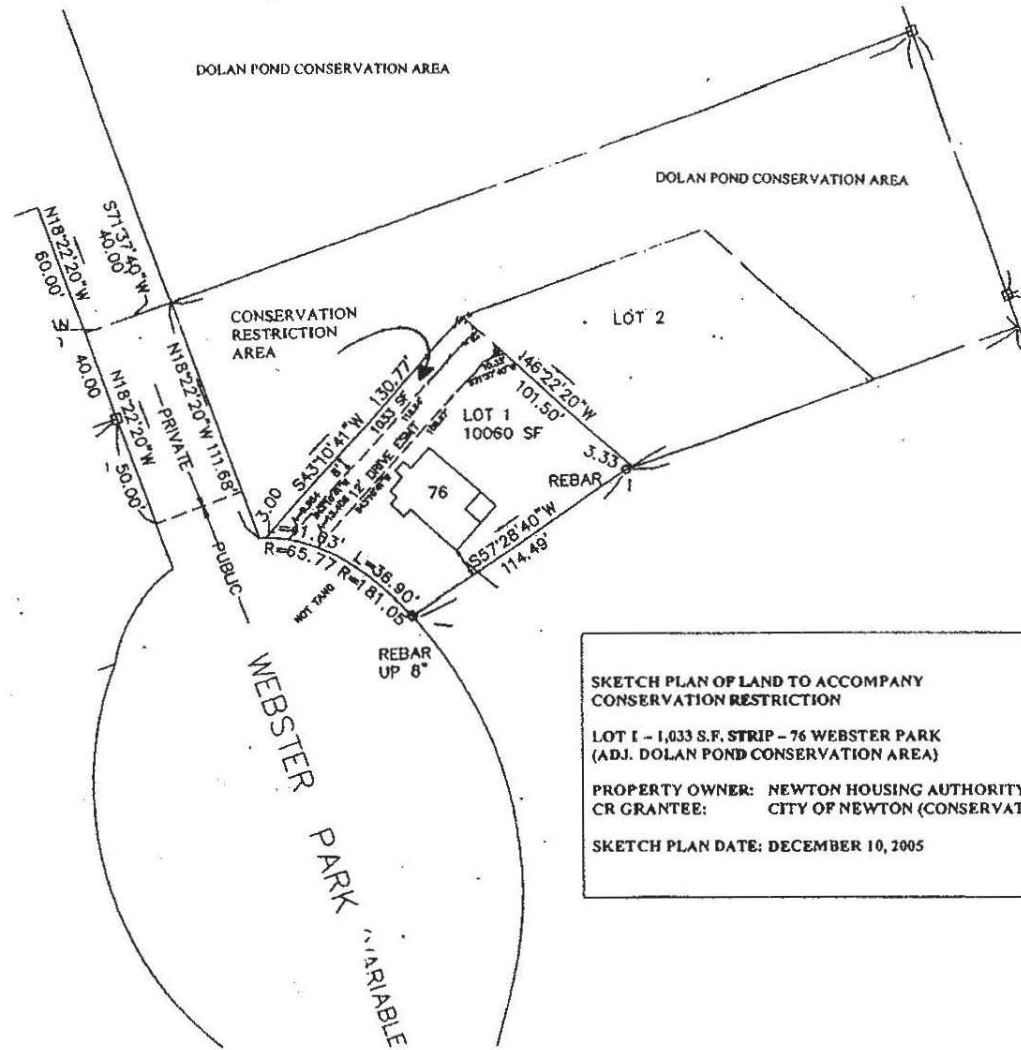
[NOTARY SEAL]



Notary Public

Name (Print): Nicole SICAUD

My commission expires: 12/15/2011



**SKETCH PLAN OF LAND TO ACCOMPANY
CONSERVATION RESTRICTION**

**LOT I - 1,033 S.F. STRIP - 76 WEBSTER PARK
(ADJ. DOLAN POND CONSERVATION AREA)**

**PROPERTY OWNER: NEWTON HOUSING AUTHORITY
CR GRANTEE: CITY OF NEWTON (CONSERVATION COMMISSION)**

SKETCH PLAN DATE: DECEMBER 10, 2005

Doc 01417345

Southern Middlesex LAND COURT

REGISTRY DISTRICT

RECEIVED FOR REGISTRATION

On: Jul 27, 2006 at 09:53A

Document Fee 75.00 Rec Total \$800.00

NOTED ON: CERT 237344 BK 01323 PG 140

Memoranda Of Encumbrances

Cert No: 237344

Book/Page: 01323/140

Cert No 237344
Document Number 1417344
Kind COVENANT
In Favor of
Date of Instr
Terms
Date of Reg 07/27/2006
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Cert No 237344
Document Number 1417345
Kind RESTRICTIONS
In Favor of
Date of Instr
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Cert No 237344
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Kind ACCEPTANCE
In Favor of
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Date of Instr 11/23/2009
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Date of Reg 03/26/2010
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In Favor of

Date of Instr

Terms

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CONSERVATION RESTRICTION

Grantor Clause

76 Webster Park, Newton, MA

The City of Newton, acting by and through its Conservation Commission, with an address at City Hall, 1000 Commonwealth Avenue, Newton, Massachusetts, pursuant to M.G.L. c. 40, §8C, in consideration of \$1.00, hereby grants with quitclaim covenants to the Newton Conservators, Incorporated, P.O. Box 590011, Newton Centre, MA 02459, in perpetuity and for conservation purposes, this conservation restriction having the terms and conditions hereinafter set forth ("conservation restriction") with respect to certain land located in the City of Newton, Newton, Middlesex County, Massachusetts, said land containing approximately 29,490 square feet, more or less, and shown as Lot 3 on Land Court Plan No. 11008^B filed with Certificate of Title 229554 filed in Land Registration Book 1278^B Page 4 in the Middlesex (South) County Registry District of the Land Court, which contains unusual, unique or outstanding qualities the protection of which in their predominately natural or open condition will be of benefit to the public.

The term "Grantor" shall mean the said City of Newton, by and through its Conservation Commission, and its successors and assigns; the term "Grantee" shall mean the Newton Conservators, Incorporated, its permitted successors and assigns; the term "Plan" shall mean the plan referred to above; and the term "Conservation Area" shall mean the parcel shown on the Plan. Grantor's title being by a deed from Newton Conservators, Incorporated of even date to be recorded herewith. This conservation restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws.

Purpose

The purposes of this Conservation Restriction are:

1. To restrict the use of the Conservation Area in perpetuity to conservation purposes including, but not limited to:
 - I. The Conservation Area has natural character and is a scenic landscape, visible from publicly accessible sites, which would be impaired by modification;
 - II. The Conservation Area lies in close proximity to Dolan Pond Conservation Area, which similarly preserves the existing natural habitat;
 - III. The Conservation Area provides its vicinity with relief from urban closeness and the deterioration of the natural state of nearby land;
 - IV. The Conservation Area offers opportunities for education, scientific study, and/or public passive recreation;
 - V. The City of Newton has listed this area in its Comprehensive Open Space Plan.
 - VI. The Conservation Area contains significant natural habitats in which animals and plants thrive in a natural state;
 - VII. Sections of the Conservation Area are situated on hillsides with slopes greater than 20% that are adjacent to or in close proximity to a body of water or stream;

vegetated slopes would be highly susceptible to erosion damage and accelerated storm water runoff that could adversely affect water quality if trees or other vegetation were removed.

2. To prevent any disposition or diversion of the Conservation Area to public or private non-conservation purposes; and
3. To enhance the protections afforded the Conservation Area by Article 97 of the amendments to the constitution of the Commonwealth of Massachusetts, by establishing a conservation restriction enforceable in perpetuity by the Grantee under sections 31-33 of chapter 184 of the General Laws.

Terms

A. *Prohibited Uses.* Except as to reserved rights set forth in paragraph B below, Grantor will not perform nor allow others to perform the following acts or uses which are prohibited on, above, or below the Conservation Area:

1. The placing, filling, storing or dumping of any soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other like substances, or the installation of underground storage tanks.
2. Mining, excavating, dredging or removing of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.
3. Cutting, removing or otherwise destroying trees, grasses or other vegetation except as approved by the Conservation Commission or as reasonably necessary in connection with activities permitted under paragraph B.
4. Activities detrimental to drainage, flood control, wildlife habitat, water conservation, water quality, erosion control, soil conservation or scenic views.
5. Hunting or commercial trapping.
6. The use of motorized and non-motorized recreational vehicles, to include, *inter alia*, motorcycles, bicycles of any type, all-terrain or other off-road vehicles, scooters and snowmobiles except for emergency or safety purposes; provided, however, that individual transportation vehicles necessary for the mobility of persons with disabilities shall be permitted.
7. Constructing, placing or allowing to remain any temporary or permanent structure, on, above, or under the Conservation Area, including, but not limited to: any building, tennis or other gaming court, landing strip, mobile home, swimming pool, road, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, light or utility pole, satellite dish, tower, power line, conduit

line.

8. Division or subdivision of the Conservation Area; no portion of the Conservation Area may be used toward further building requirements on this or any other lot.
9. Any other use of the Conservation Area or activity thereon which is inconsistent with the purposes of this conservation restriction or which would materially impair the conservation or public passive recreation interests served by this conservation restriction.

B. *Reserved Rights.* The following acts and uses even if otherwise prohibited in paragraph A are permitted only if such acts and uses do not materially impair the purposes of this Conservation Restriction or other significant conservation interests.

1. Use of the conservation area for passive recreation, or other conservation use, and any activity or use reasonably accessory or incidental thereto, including without limitation the construction and maintenance of trails, fences, gates, informational signs, kiosks and other site amenities, preferably constructed of natural materials.
2. Use of the conservation area by the general public for education, nature study, and passive recreation in accordance with rules and regulations as may be adopted by the Conservation Commission, and the right to pass and repass upon the Conservation Area on foot for the purposes of hiking, nature study, birdwatching, or other passive recreation.
3. Use of the conservation area to conduct any activity which is consistent with accepted professional land and water management practices, including, but not limited to, the selective pruning and cutting of trees, brush, invasive or nuisance species to prevent, control or remove hazards, disease, insect damage or fire, or to preserve or improve the condition of the conservation area, including vistas, woods, trails; provided that no activity set forth in this paragraph B.3. shall be allowed unless it is done in accordance with a plan approved in writing in advance by the Conservation Commission, said plan being intended to protect the conservation and passive recreation values of the conservation area, including without limitation, scenic and wildlife habitat values.
4. Management of the conservation area for the benefit of wildlife (including without limitation the planting and cultivation of wildlife cover and food crops), and cutting, mowing, pruning, burning, and removal of vegetation to enhance and promote varied types of wildlife habitat consistent with sound wildlife and forestry management practices.
5. Installation of underground utilities as approved by the Conservation Commission so long as (i) such installation is for a public purpose and not solely for the benefit of a private party; and (ii) the area is restored to its former condition with plantings and grading.

6. The Conservation Commission reserves the right to grant permission for prohibited uses as listed in paragraph A above, including parking areas, for conservation, educational, and/or scientific research purposes.
7. Vista pruning and replacement of dead vegetation with noninvasive native species for the purpose of maintaining the physical and visual buffer in perpetuity with prior approval of the Conservation Commission.

The exercise of any right reserved by Grantor under this paragraph B shall be in compliance with the Wetlands Protection Act (General Laws Chapter 131, Section 40) and all other applicable federal, state and local laws and regulations. The inclusion of any reserved right in this paragraph B requiring a permit from a public agency shall not be construed to preclude the Grantee or the Commonwealth from opposing the issuance of such a permit on grounds consistent with this instrument or the aforementioned laws.

C. *Notice and Approval.* Any notices sent under this conservation restriction shall be sent to the parties at the addresses listed above. Any party may provide a new address by sending a notice containing the new address to the other parties. Whenever notice to or approval by Grantee is required hereunder, Grantor shall notify Grantee in writing not less than sixty days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this conservation restriction. The notice shall state that a Grantee's failure to respond within sixty days shall constitute constructive approval of the request. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty days of receipt of Grantor's written request therefor. Failure of Grantee to respond in writing within such 60 days shall be deemed to constitute approval by such Grantee of the request as submitted, provided that the notice contained this constructive approval condition. Grantee's approval shall not be unreasonably withheld, but a Grantee may withhold its approval if the proposed activity will materially impair the terms of this conservation restriction. Any written notice required or permitted hereunder shall be deemed delivered if sent by certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth at the beginning of this instrument or, with respect to assignees, to the address set forth in a recorded instrument transferring title to the conservation area or rights hereunder, or to such other addresses as the parties may designate in writing from time to time.

D. *Release.* (i) If any occurrence ever gives rise to extinguishment or other release of the conservation restriction under applicable law, then the Grantee, on a subsequent sale, exchange or involuntary conversion of the Conservation Area, shall be entitled to a portion of the proceeds equal to such proportionate value, subject, however, to any applicable law which expressly provides for a different disposition of proceeds.

(ii) Whenever all or any part of the Conservation Area or any interest therein is taken by

public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action.

(iii) All related expenses incurred by the Grantor and the Grantee shall first be paid out of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in shares equal to such proportionate value.

(iv) The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes of this grant.

E. Access. Except as otherwise provided in Section B.2, the conservation restriction hereby conveyed does not grant to Grantee, to the public generally, or to any other person any right to enter upon the Conservation Area except that there is hereby granted to Grantee, the Conservation Commission, and their representatives the right to enter the conservation area at reasonable times, with reasonable notice and in a reasonable manner for the purpose of inspecting and maintaining the Conservation Area and to determine compliance herewith.

F. Legal Remedies of Grantees. (1) Grantee may enforce this conservation restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the conservation area to its condition prior to such violation, it being agreed that Grantee will have no adequate remedy at law. Grantee's rights under this paragraph F shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. No waiver shall be valid unless it is written and signed by Grantee, except as to constructive approvals provided for in paragraph C above. (2) Notwithstanding the foregoing, for any dispute or claim arising out of or relating to the terms of the conservation restriction which cannot be resolved in good faith directly between the Grantor and Grantee, no action shall be filed or prosecuted in any court until the claim or dispute has first been submitted to a mediator, mutually selected by the parties hereto, for at least five hours of mediation. All parties shall share the cost and fees associated with the mediation services equally unless otherwise agreed. The mediator's determinations shall not be binding upon any party. If the mediation is not concluded within thirty days from the time that a dispute is presented to the grantor or grantees, then the party raising the dispute may file an action despite the failure to complete the mediation. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the conservation area, including with respect to compliance with hazardous materials or other environmental laws and regulations. Enforcement of the terms of this conservation restriction shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this conservation restriction shall not be deemed or construed to be a waiver, and any forbearance by the Grantee to exercise its rights under this conservation restriction shall not be deemed or construed to be a waiver, and no waiver on one occasion shall obligate Grantee to grant an additional waiver.

G. Acts Beyond Grantor's Control. Nothing contained in this conservation restriction shall be construed to entitle Grantees to bring any action against Grantor for any injury to or change in the conservation area resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm and earth movement, acts of war whether declared or undeclared, acts of criminals or enemies of the United States, or actions taken in response thereto, or from any prudent action taken by Grantor under emergency conditions to prevent, abate, or mitigate significant injury to the conservation area resulting from such causes.

H. Duration and Assignability. The burdens of this conservation restriction shall run with the conservation area land and shall be enforceable against Grantor and its successors and assigns in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this conservation restriction, should any such notices or instruments be deemed necessary. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request. The benefits of this conservation restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the terms of this conservation restriction continue to be carried out, and (ii) the assignee, at the time of assignment, qualifies under section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under section 32 of Chapter 184 of the General Laws as an eligible donee to receive this conservation restriction directly. Upon any dissolution, Grantee may assign its rights to any governmental or other non-profit organization eligible under G.L. c. 184, sec. 32 which has as one of its principal purposes the advancement of the interests protected by this instrument, subject, however, to consent of the Grantor, which shall not be unreasonably withheld.

I. Subsequent Transfers. In the event of any conveyance or transfer, Grantor agrees to incorporate by reference the terms of this conservation restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the conservation area including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of such transfer or of this conservation restriction, and shall not limit the enforceability of this conservation restriction in any way.

J. Termination of Rights and Obligations. Notwithstanding anything to the contrary contained herein, and subject to the provisions of paragraph A.6, the rights and obligations under this conservation restriction of any party holding any interest in the conservation area shall terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this conservation restriction, shall survive the transfer.

K. Estoppel Certificates. Upon request by Grantor, Grantee shall within forty-five (45) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this conservation restriction, and which otherwise evidences the status of this conservation restriction as may

be requested by Grantor.

L. *Representations of the Grantee.* Grantee represents that it is a private, charitable, non-profit conservation land trust or corporation, that it is a qualified organization as that term is defined in Section 170(h)(3) of the Internal Revenue Code of 1986, that it is organized and operated for the purpose of preserving and conserving natural resources, natural habitats and environmentally sensitive areas and for other charitable, scientific and educational purposes, and that it has both the necessary funds and the commitment to hold this conservation restriction exclusively for conservation and recreation purposes in perpetuity and to enforce its terms.

M. *Miscellaneous:*

1. Controlling Law. The interpretation and performance of this conservation restriction shall be governed by the laws of the commonwealth of Massachusetts.
2. Severability. If any provision of this conservation restriction shall to any extent be held invalid, the remainder shall not be affected.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the conservation restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the conservation restriction, all of which are merged herein.
4. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
5. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when all requisite signatures pursuant to section 32 of chapter 184 of the General Laws have been obtained and this document has been recorded in the Middlesex South Registry of Deeds. This Conservation Restriction shall be recorded in a timely manner.
6. Amendment. If circumstances arise which make this Conservation Restriction impossible to accomplish, or that justifies an amendment, this Conservation Restriction may be amended only by written agreement of the parties or their successors in interest. Any such amendment shall require the approval of the Secretary of Environmental Affairs or its successor. No amendment shall be granted unless such amendment enhances, expands, or enlarges the conservation values and purposes of this Conservation Restriction.

No documentary stamps are required as the city of Newton is a party to this instrument.

Executed under seal pursuant to M.G.L. Chapter 184, Section 32 and M.G.L. Chapter 40, Section 8C this 15 day of December, 2005.

CITY OF NEWTON

Recommended:

Ira Wallach, Chairman
Newton Conservation Commission

Approved:

Approved as to form:

Assistant City Solicitor

David B. Cohen, Mayor

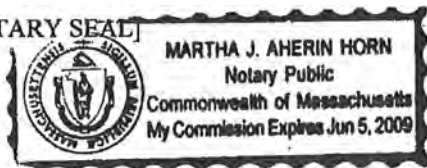
Commonwealth of Massachusetts

Middlesex County, ss

December 15, 2005

On this 15 day of Dec. 2005, before me, the undersigned notary public, personally appeared Ira Wallach, as Chairman of the Newton Conservation Commission, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



Notary Public
Name (Print):
My commission expires:

Commonwealth of Massachusetts

Middlesex County, ss

12/21, 2005

On this 21st day of December 2005, before me, the undersigned notary public, personally appeared David B. Cohen, Mayor, acting for the City of Newton, proved to me through satisfactory evidence of identification, which was/were [type of evidence] PERSONAL KNOWLEDGE, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



Notary Public
Name (Print):
My commission expires:

ACCEPTANCE OF GRANT

The above Conservation Restriction is accepted this 29 day of December, 2005

NEWTON CONSERVATORS, INCORPORATED

By: William G. Hagar
William G. Hagar, President

Commonwealth of Massachusetts

Middlesex County, ss

Dec 29, 2005

On this 29 day of Dec 2005 before me, the undersigned notary public, personally appeared William G. Hagar acting for the Newton Conservators, Incorporated, proved to me through satisfactory evidence of identification, which was/were [type of evidence] MA Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL



Diana A. Ferguson

Notary Public

Name (Print):

My commission expires:

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Newton Conservators, Incorporated has been approved in the public interest pursuant to M.G.L. Chapter 184 Section 32. Approval of this Conservation Restriction is not to be construed as representing the existence or non-existence of any re-existing rights of the public, if any, in and to the Conservation Area, and any such pre-existing rights of the public, if any, are not affected by the approval of this Conservation Restriction.


Secretary of Environmental Affairs

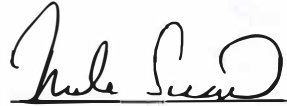
Commonwealth of Massachusetts


Middlesex County, ss

Dec. 28, 2006


On this 28th day of Dec., 2006, before me, the undersigned notary public, personally appeared the Secretary of Environmental Affairs, acting for Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge of identity to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]


Notary Public
Name (Print): Dickie Picard
My commission expires: 12/15/2011

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Newton Conservators, Incorporated has been approved in the public interest pursuant to M.G.L. Chapter 184 Section 32. Approval of this Conservation Restriction is not to be construed as representing the existence or non-existence of any re-existing rights of the public, if any, in and to the Conservation Area, and any such pre-existing rights of the public, if any, are not affected by the approval of this Conservation Restriction.


Secretary of Environmental Affairs

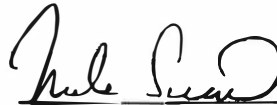
Commonwealth of Massachusetts


Middlesex County, ss

Dec. 28, 2006

On this 28th day of Dec., 2006, before me, the undersigned notary public, personally appeared the Secretary of Environmental Affairs, acting for Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge of identity to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



Notary Public

Name (Print): NEEDLE SICARD

My commission expires: 12/15/2011

DOCUMENT 01453592

Southern Middlesex LAND COURT

REGISTRY DISTRICT

RECEIVED FOR REGISTRATION

On: Sep 04, 2007 at 02:56P

Document Fee: 75.00
Receipt Total: \$575.00

CERT: 240347 BK: 01343 PG: 146

Southern Middlesex - 20/20 Perfect Vision i2 Document Detail Report

Current datetime: 2/14/2019 12:49:43 PM

Doc#	Document Type	Town	Book/Page	File Date	Consideration
1452823	RESTRICTIONS			08/24/2007	
Property-Street Address and/or Description					
76 WEBSTER PK LOT 2					
Grantors					
HABITAT FOR HUMANITY GREATER BOSTON INC					
Grantees					
NEWTON CITY CONSERVATION					
References-Book/Pg Description Recorded Year					
Registered Land Certificate(s)-Cert# Book/Pg					
240266 01343/65					



Bk: 1343 Pg: 65 Cert#: 240266
Doc: REST 08/24/2007 03:49 PM

5

CONSERVATION RESTRICTION

Grantor Clause

Habitat for Humanity ^{BMB} Greater Boston, Inc. with an address at 273 Summer Street, 3rd Floor, Boston, MA 02210, in consideration of \$1.00, hereby grants with quitclaim covenants to the City of Newton, acting by and through its Conservation Commission, with an address of 1000 Commonwealth Avenue, Newton, MA 02459, pursuant to M.G.L.c. 40, §8C, in perpetuity and for conservation purposes, this conservation restriction having the terms and conditions hereinafter set forth ("conservation restriction") with respect to certain land located in the City of Newton, Middlesex County, Massachusetts, said land containing approximately 2,649 square feet, more or less, and shown as "Conservation Easement" on Land Court Plan No. 11008^B filed with Certificate of Title 229554 filed in Land Registration Book 1278 Page 4 in the Middlesex (South) County Registry District of the Land Court ("Conservation Area"), which contains unusual, unique or outstanding qualities the protection of which in their predominately natural or open condition will be of benefit to the public.

The term "Grantor" shall mean the said Habitat for Humanity and its successors and assigns; the term "Grantee" shall mean the City of Newton, by and through its Conservation Commission, their permitted successors and assigns; the term "Plan" shall mean the plan referred to above; and, the terms "Conservation Area" shall mean the portion of Lot 2 shown on the Plan and identified as the Conservation Restriction Area. Grantor's title being by a deed from Newton Conservators, Incorporated of even date to be recorded herewith. This conservation restriction is defined in and authorized by Sections 31-33 of Chapter 184 of the General Laws.

Purpose

The purposes of this Conservation Restriction are:

1. To restrict the use of the Conservation Area in perpetuity to conservation purposes including, but not limited to:
 - I. The Conservation Area has natural character and is a scenic landscape, visible from publicly accessible sites, which would be impaired by modification;
 - II. The Conservation Area lies in close proximity to Dolan Pond Conservation Area, and similarly preserves the existing natural habitat;
 - III. The Conservation Area provides its vicinity with relief from urban closeness and provides a protective buffer to nearby protected land;
 - IV. The Conservation Area offers opportunities for education, scientific study, and/or public passive recreation;
 - V. The City of Newton has listed this area in its Comprehensive Open Space Plan.
 - VI. The property contains significant natural habitats in which animals and plants thrive in a natural state.

76 Webster Park Lot 2 Newton

2. To prevent any disposition or diversion of the Conservation Area to public or private non-conservation purposes; and

3. To enhance the protections afforded the conservation area by Article 97 of the amendments to the constitution of the Commonwealth of Massachusetts, by establishing a conservation restriction enforceable in perpetuity by the Grantee under sections 31-33 of chapter 184 of the General Laws.

Terms

A. *Prohibited Uses.* Except as to reserved rights set forth in paragraph B below, Grantor will not perform nor allow others to perform the following acts and uses which are prohibited on, above, or below the Conservation Area:

1. The placing, filling, storing or dumping of any soil, refuse, trash, vehicle bodies or parts, rubbish, debris, junk, waste, or other like substances, or the installation of underground storage tanks.
2. Mining, excavating, dredging or removing of soil, loam, peat, gravel, sand, rock or other mineral resource or natural deposit.
3. Cutting, removing or otherwise destroying trees, grasses or other vegetation except as approved by the Conservation Commission or as reasonably necessary in connection with activities permitted under paragraph B.
4. Activities detrimental to drainage, flood control, wildlife habitat, water conservation, water quality, erosion control, soil conservation or scenic views.
5. Hunting or commercial trapping.
6. The use of recreational vehicles, whether motorized or non-motorized including *inter alia*, motorcycles, bicycles of any type, all-terrain or other off-road vehicles, scooters and snowmobiles except for official emergency or safety purposes and in the performance of their official duties; provided, however, that individual transportation vehicles necessary for the mobility of persons with disabilities shall be permitted.
7. Constructing, placing or allowing to remain any temporary or permanent structure, on, above, or under the Conservation Area, including, but not limited to: any building, tennis or other gaming court, landing strip, mobile home, swimming pool, road, asphalt or concrete pavement, sign, billboard or other advertising display, antenna, light or utility pole, satellite dish, tower, power line, conduit line.

8. Division or subdivision of the Conservation Area; no portion of the Conservation Area may be used toward further building requirements on this or any other lot.
9. Any other use of the Conservation Area or activity thereon which is inconsistent with the purposes of this conservation restriction or which would materially impair the conservation or public passive recreation interests served by this conservation restriction.

B. *Reserved Rights.* The following acts and uses even if otherwise prohibited in paragraph A are permitted only if such acts and uses do not materially impair the purposes of this Conservation Restriction or other significant conservation interests.

1. Use of the conservation area for passive recreation, or other conservation use, and any activity or use reasonably accessory or incidental thereto.
2. Use of the conservation area by the general public for education, nature study, and passive recreation in accordance with rules and regulations as may be adopted by the Conservation Commission, and the right to pass and repass upon the Conservation Area on foot for the purposes of hiking, nature study, birdwatching, or other passive recreation.
3. Use of the conservation area to conduct any activity which is consistent with accepted professional land and water management practices, including, but not limited to, the selective pruning and cutting of trees, brush, invasive or nuisance species to prevent, control or remove hazards, disease, insect damage or fire, or to preserve or improve the condition of the conservation area, including vistas, woods, trails; provided that no activity set forth in this paragraph B.3. shall be allowed unless it is done in accordance with a plan approved in writing in advance by the Conservation Commission, said plan being intended to protect the conservation and passive recreation values of the conservation area, including without limitation, scenic and wildlife habitat values.
4. Management of the conservation area for the benefit of wildlife (including without limitation the planting and cultivation of wildlife cover and food crops), and cutting, mowing, pruning, burning, and removal of vegetation to enhance and promote varied types of wildlife habitat consistent with sound wildlife and forestry management practices.
5. Installation of underground utilities as approved by the Conservation Commission so long as (i) such installation is for a public purpose and not solely for the benefit of a private party; and (ii) the area is restored to its former condition with plantings and grading.
6. Vista pruning and replacement of dead vegetation with noninvasive native

species for the purpose of maintaining the physical and visual buffer in perpetuity with prior approval of the Conservation Commission.

The exercise of any right reserved by Grantor under this paragraph B shall be in compliance with the Wetlands Protection Act (General Laws Chapter 131, Section 40) and all other applicable federal, state and local laws and regulations. The inclusion of any reserved right in this paragraph B requiring a permit from a public agency shall not be construed to preclude the Grantee or the Commonwealth from opposing the issuance of such a permit on grounds consistent with this instrument or the aforementioned laws.

C. *Notice and Approval.* Any notices sent under this conservation restriction shall be sent to the parties at the addresses listed above. Any party may provide a new address by sending a notice containing the new address to the other parties. Whenever notice to or approval by Grantee is required hereunder, Grantor shall notify Grantee in writing not less than sixty days prior to the date Grantor intends to undertake the activity in question. The notice shall describe the nature, scope, design, location, timetable and any other material aspect of the proposed activity in sufficient detail to permit Grantee to make an informed judgment as to its consistency with the purposes of this conservation restriction. The notice shall state that a Grantee's failure to respond within sixty days shall constitute constructive approval of the request. Where Grantee's approval is required, Grantee shall grant or withhold its approval in writing within sixty days of receipt of Grantor's written request therefor. Failure of Grantee to respond in writing within such 60 days shall be deemed to constitute approval by such Grantee of the request as submitted, provided that the notice contained this constructive approval condition. Grantee's approval shall not be unreasonably withheld, but a Grantee may withhold its approval if the proposed activity will materially impair the terms of this conservation restriction. Any written notice required or permitted hereunder shall be deemed delivered if sent by certified mail, return receipt requested, postage prepaid, to the parties at the addresses set forth at the beginning of this instrument or, with respect to assignees, to the address set forth in a recorded instrument transferring title to the conservation area or rights hereunder, or to such other addresses as the parties may designate in writing from time to time.

D. *Release.*

(i) If any occurrence ever gives rise to extinguishment or other release of the conservation restriction under applicable law, then the Grantee, on a subsequent sale, exchange or involuntary conversion of the Conservation Area, shall be entitled to a portion of the proceeds equal to such proportionate value, subject, however, to any applicable law which expressly provides for a different disposition of proceeds.

(ii) Whenever all or any part of the Conservation Area or any interest therein is taken by public authority under power of eminent domain or other act of public authority, then the Grantor and the Grantee shall cooperate in recovering the full value of all direct and consequential damages resulting from such action.

(iii) All related expenses incurred by the Grantor and the Grantee shall first be paid out

of any recovered proceeds, and the remaining proceeds shall be distributed between the Grantor and Grantee in shares equal to such proportionate value.

(iv) The Grantee shall use its share of the proceeds in a manner consistent with the conservation purposes of this grant.

E. *Access.* Except as otherwise provided in Section B.2, the conservation restriction hereby conveyed does not grant to Grantee, to the public generally, or to any other person any right to enter upon the Conservation Area except that there is hereby granted to the Conservation Commission, and their representatives the right to enter the conservation area at reasonable times, with reasonable notice and in a reasonable manner for the purpose of inspecting and maintaining the Conservation Area and to determine compliance herewith.

F. *Legal Remedies of Grantees.* (1) Grantee may enforce this conservation restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including without limitation relief requiring restoration of the conservation area to its condition prior to such violation, it being agreed that Grantee will have no adequate remedy at law. Grantee's rights under this paragraph F shall be in addition to, and not in limitation of, any other rights and remedies available to Grantee. No waiver shall be valid unless it is written and signed by Grantee, except as to constructive approvals provided for in paragraph C above. (2) Notwithstanding the foregoing, for any dispute or claim arising out of or relating to the terms of the conservation restriction which cannot be resolved in good faith directly between the Grantor and Grantee, no action shall be filed or prosecuted in any court until the claim or dispute has first been submitted to a mediator, mutually selected by the parties hereto, for at least five hours of mediation. All parties shall share the cost and fees associated with the mediation services equally unless otherwise agreed. The mediator's determinations shall not be binding upon any party. If the mediation is not concluded within thirty days from the time that a dispute is presented to the grantor or grantees, then the party raising the dispute may file an action despite the failure to complete the mediation. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the conservation area, including with respect to compliance with hazardous materials or other environmental laws and regulations. Enforcement of the terms of this conservation restriction shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this conservation restriction shall not be deemed or construed to be a waiver, and no waiver on one occasion shall obligate Grantee to grant an additional waiver.

G. *Acts Beyond Grantor's Control.* Nothing contained in this conservation restriction shall be construed to entitle Grantee to bring any action against Grantor for any injury to or change in the conservation area resulting from causes beyond the Grantor's control, including, but not limited to, fire, flood, storm and earth movement, acts of war whether declared or undeclared, acts of criminals or enemies of the United States, or actions taken in response thereto, or from any prudent action taken by Grantor under emergency

conditions to prevent, abate, or mitigate significant injury to the conservation area resulting from such causes.

H. *Duration and Assignability.* The burdens of this conservation restriction shall run with the conservation area land and shall be enforceable against Grantor and its successors and assigns in perpetuity. Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this conservation restriction, should any such notices or instruments be deemed necessary. Without limiting the foregoing, Grantor agrees to execute any such instruments upon request. The benefits of this conservation restriction shall be in gross and shall not be assignable by Grantee, except in the following instances from time to time: (i) as a condition of any assignment, Grantee requires that the terms of this conservation restriction continue to be carried out, and (ii) the assignee, at the time of assignment, qualifies under section 170(h) of the Internal Revenue Code of 1986, as amended, and applicable regulations thereunder, and under section 32 of Chapter 184 of the General Laws as an eligible donee to receive this conservation restriction directly. Upon any dissolution, Grantee may assign its rights to any governmental or other non-profit organization eligible under G.L.c. 184, sec. 32 which has as one of its principal purposes the advancement of the conservation interests protected by this instrument, subject, however, to consent of the Grantor, which consent shall not be unreasonably withheld.

I. *Subsequent Transfers.* In the event of any conveyance or transfer, Grantor agrees to incorporate by reference the terms of this conservation restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the conservation area including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of such transfer or of this conservation restriction, and shall not limit the enforceability of this conservation restriction in any way.

J. *Termination of Rights and Obligations.* Notwithstanding anything to the contrary contained herein, the rights and obligations under this conservation restriction of any party holding any interest in the conservation area shall terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to transfer, and liability for the transfer itself if the transfer is in violation of this conservation restriction, shall survive the transfer.

K. *Estoppel Certificates.* Upon request by Grantor, Grantee shall within forty-five (45) days execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this conservation restriction, and which otherwise evidences the status of this conservation restriction as may be requested by Grantor.

L. *Miscellaneous:*

1. Controlling Law. The interpretation and performance of this conservation restriction shall be governed by the laws of the commonwealth of Massachusetts.
2. Severability. If any provision of this conservation restriction shall to any extent be held invalid, the remainder shall not be affected.
3. Entire Agreement. This instrument sets forth the entire agreement of the parties with respect to the conservation restriction and supersedes all prior discussions, negotiations, understandings, or agreements relating to the conservation restriction, all of which are merged herein.
4. Captions. The captions in this instrument have been inserted solely for convenience of reference and are not a part of this instrument and shall have no effect upon construction or interpretation.
5. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder shall take effect when this document has been fully executed and recorded in the Middlesex South Registry of Deeds. This Conservation Restriction shall be recorded in a timely manner.
6. Amendment. If circumstances arise which make this Conservation Restriction impossible to accomplish, or that justifies an amendment, this Conservation Restriction may be amended only by written agreement of the parties or their successors in interest. Any such amendment shall also require the approval of the Secretary of Environmental Affairs or its successor. No amendment shall be granted unless such amendment enhances, expands, or enlarges the conservation values and purposes of this Conservation Restriction.

No documentary stamps are required as the city of Newton is a party to this instrument.

Executed under seal this 7th day of December, 2006.

HABITAT FOR HUMANITY ~~OF~~ ^{BMB}
GREATER BOSTON, INC.

VOTE =
LARK PALERMO

Lark Jureu Palermo
By: LARK JUREU PALERMO
Its: EXECUTIVE DIRECTIVE

Commonwealth of Massachusetts

Suffolk, ss

December 7th, 2006

On this 7th day of December 2006, before me, the undersigned notary public, personally appeared Lark Jureu Palermo, acting for Habitat for Humanity of Greater Boston, Inc., proved to me through satisfactory evidence of identification, which was/were [type of evidence] MA Dr. Lic., to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



JAMES P. DEVER, III
Notary Public
Commonwealth of Massachusetts
My Commission Expires August 30, 2013

[Signature]
Notary Public
Name (Print): James P. Dever III
My commission expires: 8/30/13

ACPT

ACCEPTANCE OF GRANT

The above Conservation Restriction is accepted this 21st day of December, 2006.

CITY OF NEWTON

Approved pursuant to G.L.c. 40, sec. 8C:

Ira Wallach

Ira Wallach, Chairman
Newton Conservation Commission

Approved:

Approved as to form:

[Signature]
Assistant City Solicitor

[Signature]

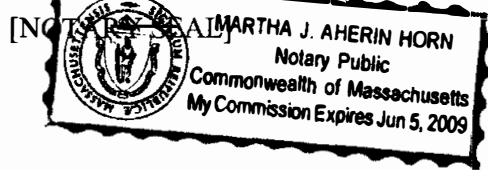
David B. Cohen, Mayor

Commonwealth of Massachusetts

Middlesex County, ss

December 21, 2006

On this 21st day of December 2006, before me, the undersigned notary public, personally appeared Ira Wallach, as Chairman of the Newton Conservation Commission, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



Martha J. Aherin Horn

Notary Public
Name (Print):
My commission expires:

Commonwealth of Massachusetts

Middlesex County, ss

December 22, 2006

On this 22nd day of December 2006, before me, the undersigned notary public, personally appeared David B. Cohen, Mayor, acting for the City of Newton, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personally known to me, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.



Catherine L. Farrell

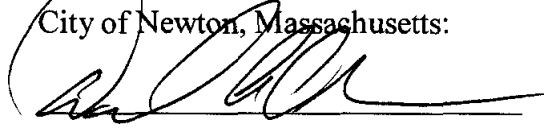
Notary Public
Name (Print): Catherine L. Farrell
My commission expires: Jan 31, 2008

APVZ

**APPROVAL AND ACCEPTANCE BY BOARD OF ALDERMEN
CITY OF NEWTON (GRANTEE)**

I, the undersigned Clerk of the Board of Aldermen of the City of Newton, Massachusetts, hereby attest and certify that at a meeting duly held on November 1, 2006, the Board of Aldermen voted to approve and accept the foregoing Conservation Restriction pursuant to M. G. L. Chapter 40, Section 8C.

Attest: Clerk of the Board of Aldermen,
City of Newton, Massachusetts:



COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

Dec. 22, 2006

On this 22nd day of December, 2006, before me, the undersigned Clerk of the Board of Aldermen, City of Newton, proved to me through satisfactory evidence of identification, which was/were [type of evidence] MA Driver's License, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

Karen A. Griffey
NOTARY PUBLIC
My Commission Expires: 9.19.2008

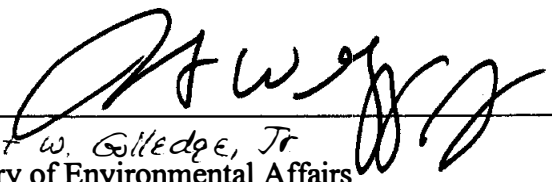
714 Webster Park Lot 2 Newton

APV
3-23
Sealed
Comm
Env
Affairs

- APV L

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the City of Newton, by and through its Conservation Commission, has been approved in the public interest pursuant to M.G.L. Chapter 184 Section 32. Approval of this Conservation Restriction is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Conservation Area, and any such pre-existing rights of the public, if any, are not affected by the approval of this Conservation Restriction.



Robert W. Gollidge, Jr.
Secretary of Environmental Affairs

Commonwealth of Massachusetts

Sullivan, ss

Dec 28, 2006

On this 28th day of Dec., 2006, before me, the undersigned notary public, personally appeared the Secretary of Environmental Affairs, acting for Executive Office of Environmental Affairs, proved to me through satisfactory evidence of identification, which was/were [type of evidence] personal knowledge of identity to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily, in such capacity, for its stated purpose.

[NOTARY SEAL]



Notary Public
Name (Print): Nicole Spear
My commission expires: 12/15/2011

710 Webster Park Lot 2 Newton

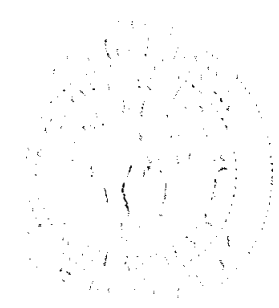
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Southern Middlesex LAND COURT
REGISTRY DISTRICT
RECEIVED FOR REGISTRATION

On: Aug 24, 2007 at 03:49P

Document Fee 75.00 Rec Total \$650.00

NOTED ON: CERT 240266 BK 01343 PG 65



Memoranda Of Encumbrances

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Book/Page: 01343/65

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Document Number 1452821
Kind CERTIFICATE
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Terms
Date of Reg 08/24/2007
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Cert No 240266
Document Number 1452822
Kind CERTIFICATE
In Favor of
Date of Instr
Terms
Date of Reg 08/24/2007
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Document Number 1452823
Kind RESTRICTIONS
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Date of Instr
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In Favor of

Date of Instr 06/11/2009

Terms

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Number

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In Favor of

Date of Instr 06/23/2009

Terms

Date of Reg 07/01/2009

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Document 1506080

Number

Kind MASTER DEED

In Favor of

Date of Instr 05/29/2009

Terms

Date of Reg 07/01/2009

Time of Reg 10:25AM

Cert No

Document

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In Favor of

Date of Instr

Terms

Date of Reg

Time of Reg
