

LAW DEPARTMENT



CITY OF NEWTON, MASSACHUSETTS

CITY HALL

1000 COMMONWEALTH AVENUE

NEWTON CENTRE, MA 02459

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JONAH M. TEMPLE

JACLYN R. ZAWADA

JENNIFER C. PUCCI

ANDREW S. LEE

CAROLYN A. WEISMAN

December 24, 2019

BY CERTIFIED MAIL
RETURN RECEIPT REQUESTED
AND REGULAR MAIL

Trustees of Boston College
140 Commonwealth Avenue
Chestnut Hill, Massachusetts 02467

RE: Notice of Eminent Domain Taking
A Portion of a Lot Located at 300 Hammond Pond Parkway, Newton, MA

Dear Trustees of Boston College:

In accordance with Massachusetts G.L. c. 79, §7C, this is to notify you that on December 24, 2019, the City of Newton recorded an Order of Taking of a portion of the lot located at 300 Hammond Pond Parkway, Newton, MA, for the public purpose of open space and conservation pursuant to G.L. c. 79, G.L. c. 40C, §8 and G.L. c. 44B, §5(e). The Order of Taking was recorded in the Middlesex South Registry of Deeds in Cambridge, MA on December 24, 2019 in Book 73890, Page 239, at which time title in the property taken became vested in the City of Newton. A certified copy of the Order of Taking further describing the portion of the lot taken is attached and incorporated herein by reference.

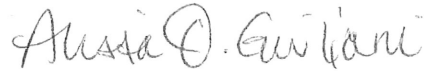
The City of Newton has awarded the sum of Fifteen Million, Two Hundred Thousand, and no/100ths (\$15,200,000.00) as the fair market value of the property taken and the amount of the damages sustained by you as the owner of the property taken as of the date of the taking.

The right to damages vested on December 24, 2019, the date on which the Order of Taking was recorded in the Middlesex South Registry of Deeds. A *pro tanto* payment of the damages awarded will be available on or before February 21, 2020 or within 15 days of a receipt by the City of Newton of a demand for payment or the damages awarded. Payment will be made

either by check or by wire transfer to your account upon provision of the information needed for the wire transfer.

Notice is also given that, in accordance with G.L. c. 79, §14, any person or entity entitled to an award of damages under G.L. c. 79 may petition for the assessment of damages to the Middlesex County Superior Court within three (3) years after the right to such damages has vested. Section 8A of said c. 79 provides, in part, that a person entitled to damages may request the amount awarded either in full settlement or as a *pro tanto* payment from the City of Newton at any time after the right to damages has vested. Please advise the City of Newton if you intend to accept the tendered payment as a *pro tanto* payment only, reserving your right to petition the Superior Court to have your damages set under the foregoing procedure.

City of Newton
By its City Solicitor


Alissa O. Giuliani

Enclosure

Cc: The Honorable Ruthanne Fuller
Marc Laredo, President, City Council
Mark Armstrong, Chair, CPC
Daniel Green, Chair, Conservation Commission
David Olson, City Clerk
Rosemarie Woods, Treasurer/Collector
Jeffery A. Tocchio, Esq., Drohan Tocchio & Morgan, P.C.
Mark Bourbeau, Esq., Drohan Tocchio & Morgan, P.C.
Joseph Herlihy, General Counsel, Boston College
James D. Masterman, Esq., Greenberg Traurig, LLP

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Bk: 73890 Pg: 239 Doc: TAKE
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CITY OF NEWTON

IN CITY COUNCIL

December 2, 2019

ORDER OF TAKING

WHEREAS, upon the recommendation of the Conservation Commission, the Community Preservation Committee and Her Honor the Mayor, and in the opinion of the City Council of the City of Newton, the public necessity and convenience require that approximately 17.4 acres of undeveloped woodlands (the "Parcel"), being a portion of a lot located at 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts (SBL 65008 0003) be taken in fee by eminent domain pursuant to Chapter 79 of the General Law as authorized by Chapter 40C, sec. 8 and Chapter 44B, sec. 5 (e) of the General Law for open space and conservation purposes; and

WHEREAS, the Parcel is a portion of the lands conveyed in a deed dated May 20, 2016 from Congregation Mishkan Tefila, a Massachusetts religious corporation, to the Trustees of Boston College, a Massachusetts Institution of Higher Education, recorded with the South Middlesex Registry at Book 67338 Page 386; and

WHEREAS, the City authorized and received an independent professional appraisal of the value of the Parcel; and

WHEREAS, the Community Preservation Committee has determined that acquisition of the Parcel, which borders the Webster Conservation Area and the Hammond Pond Reservation held by the Massachusetts Division of Conservation and Recreation, constitutes acquisition of land for open space purposes; and the City Council hereby approves expenditure of Community Preservation funding for such purpose;

THEREFORE, by vote of the City Council, acting on behalf of the City of Newton under Chapter 79 of the Massachusetts General Laws, it is hereby

ORDERED: That the following described Parcel be and hereby is taken in fee, together with all rights, title and interest in the Parcel.

Beginning at a point in the southwesterly sideline of Carlisle Street at land now or formerly of the City of Newton thence;

N62°08'35"E forty and sixty six hundredths (40.66) feet to a point, thence turning and running;

S17°32'05"E forty and thirty six hundredths (40.36) feet to the point, thence;

A True Copy
Agent

City Clerk of Newton, Mass.

Along a curve to the left having a radius of one hundred seventy and zero hundredths (170.00) feet a length of eighty two and thirty four hundredths (82.34) feet, and a chord of S31°24'37"E eighty one and fifty four hundredths (81.54) feet to a point, thence;

Along a curve to the left having a radius of twenty and zero hundredths (20.00) feet a length of thirty two and fifty three hundredths (32.53) feet, and a chord of N88°07'05"E twenty nine and six hundredths (29.06) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of three hundred fourteen and fifty seven hundredths (314.57) feet, and a chord of N57°17'38"E three hundred ten and sixty one hundredths (310.61) feet to a point, thence;

N73°04'09"E ninety one and fifty seven hundredths (91.57) feet to the point, thence;

Along a curve to the right having a radius of five hundred thirty four and forty one hundredths (534.41) feet a length of four hundred ninety one and twenty eight hundredths (491.28) feet, and a chord of S80°35'42"E four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

S54°15'35"E one hundred thirty and forty five hundredths (130.45) feet to the point, thence;

Along a curve to the left having a radius of two thousand nine hundred thirteen and thirty one hundredths (2913.31) feet a length of thirty five and eighty six hundredths (35.86) feet, and a chord of S54°36'44"E thirty five and eighty six hundredths (35.86)

S30°04'12"W one hundred and nineteen hundredths (100.19) feet to a point, thence turning and running;

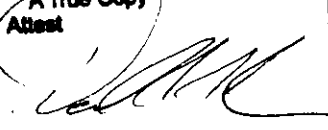
S58°06'41"E eighty three and thirteen hundredths (83.13) feet to a point, thence turning and running;

S29°43'29"W two hundred fifty three and thirty eight hundredths (253.38) feet to a point, thence;

Along a curve to the left having a radius of forty three and ninety seven hundredths (43.97) feet a length of sixty three and sixty three hundredths (63.63) feet, and a chord of S11°43'42"E fifty eight and twenty two hundredths (58.22) feet to a point, thence;

S58°41'43"E seventy nine and sixty four hundredths (79.64) feet to a point, thence turning and running;

N31°05'51"E three hundred fifteen and twenty four hundredths (315.24) feet to a point, thence turning and running;

A True Copy
Attest

City Clerk of Newton, Mass

S70°47'10"E eighty seven and eighty two hundredths (87.82) feet to a point, thence;

Along a curve to the right having a radius of thirty and zero hundredths (30.00) feet a length of thirty eight and thirty one hundredths (38.31) feet, and a chord of S34°12'12"E thirty five and seventy six hundredths (35.76) feet to a point, thence;

S02°22'46"W four hundred fifty five and fifty three hundredths (455.53) feet to a point on the northerly boundary of land of the Commonwealth of Massachusetts Department of Conservation and Recreation thence turning and running;

S88°39'41"W by land of said Commonwealth of Massachusetts four hundred nine and ninety four hundredths (409.94) feet to a point, thence turning and running;

N63°39'46"W nine hundred forty and zero hundredths (940.00) feet to a point, thence;

Along a curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet a length of one hundred forty two and eighty two hundredths (142.82) feet, and a chord of N01°43'12"W one hundred forty two and forty five hundredths (142.45) feet to a point, thence ;

Along a curve to the left having a radius of three hundred fifteen and twenty four hundredths (315.24) feet a length of fourteen and eighty seven hundredths (14.87) feet, and a chord of N04°05'21"E fourteen and eighty seven hundredths (14.87) feet to a point, thence;

N02°44'16"E ten and fifty eight hundredths (10.58) feet to a point in the line of other lands of the City of Newton, thence;

Along a curve to the left having a radius of three hundred fifteen and sixty hundredths (315.60) feet a length of one hundred eleven and sixty seven hundredths (111.67) feet, and a chord of N07°23'55"W one hundred eleven and nine hundredths (111.09) feet thence;

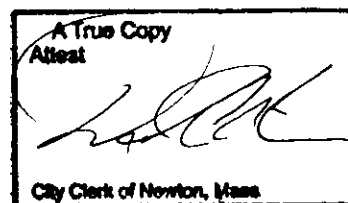
N17°32'05"W seventy nine and seven hundredths (79.07) feet to the point and place of beginning.

The above described parcel contains about seven hundred fifty six thousand nine hundred thirty six (756,936) square feet or seventeen and four tenths (17.4) acres, more or less.

So far as is known to the Council, the owner and mortgagee for the Parcel are as follows:

Record Owner: Trustees of Boston College
Bk 67338 Pg 386

Mortgagee: None



In accordance with General Laws Chapter 79, it is further

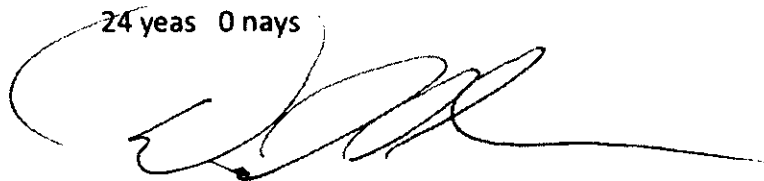
ORDERED: That upon the recommendation of the Community Preservation Committee and Her Honor the Mayor, the award of damages in the amount of Fifteen Million Two Hundred Thousand Dollars (\$15,200,000) is hereby made as a result of this eminent domain taking, to be paid to the persons entitled thereto; and the expenditure therefor by the City Solicitor is authorized and approved; and it is further

ORDERED: That the Parcel is taken for open space use and conservation purposes; and that custody and management of the Parcel is hereby assigned to the Conservation Commission, and it is further

ORDERED that this taking is subject to any restrictions or easements of record, and more specifically, an easement to New England Telephone and Telegraph Company and Boston Edison Company, and their successors and assigns forever as tenants in common with quitclaim covenants, to erect, operate, maintain and remove a line of poles with the necessary cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity recorded in the Middlesex South Registry of Deeds Bk 9038 Pg 443, and it is further

ORDERED: That in accordance with General Laws chapter 79 section 1, the trees and waters upon and structures affixed to said land are hereby included as part of this taking, except that all existing light poles and all existing cables, wires, anchors, guys, supports and fixtures thereon for the transmission of electricity and the transmission of intelligence by electricity are excluded from this taking.

Under Suspension of Rules
Readings Waived and Adopted
24 yeas 0 nays

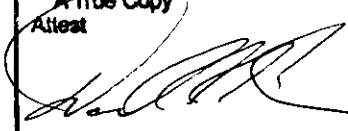


(SGD) DAVID A. OLSON
City Clerk



(SGD) RUTHANNE FULLER
Mayor

Date: 12/4/19

A True Copy
Attest

City Clerk of Newton, Mass