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COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT DEPT.
OF THE TRIAL COURT
C.A. NO. 21-0357(B)

TRUSTEES OF BOSTON COLLEGE

Plaintiff,

v.

CITY OF NEWTON and THE
COMMONWEALTH OF
MASSACHUSETTS,

Defendants

RECEIVED
12/15/2023

**AMENDED AND VERIFIED COMPLAINT FOR (I) AN ASSESSMENT OF DAMAGES
FOR EMINENT DOMAIN TAKING, AND (II) DECLARATORY RELIEF
REGARDING A RELIGIOUS LAND USE COVENANT**

NATURE OF ACTION

1. In its original Complaint (Dkt. # 1), the plaintiff, Trustees of Boston College ("Boston College"), sought an assessment of damages, pursuant to General Laws Chapter 79, arising out of a taking by the City of Newton ("City") of a portion of Boston College's property commonly known and numbered as 300 Hammond Pond Parkway in Newton, Massachusetts ("300 Hammond Pond Parkway" and "BC Property") by eminent domain. By this Amended Complaint, Boston College (i) reasserts its Chapter 79 assessment of damages claim against the City in Count I, and (ii) by and through new Counts II and III, adds claims seeking a declaration that a highly unusual land use covenant that the Metropolitan District Commission ("MDC") imposed on 300 Hamond Pond Parkway almost seventy years ago in a deed conveyed to Congregation Mishkan Tefila ("Congregation") is no longer valid, and joins the Commonwealth as a defendant for the purpose of resolving these claims. The covenant does not impose any

restriction on the construction of buildings or other alteration of the landscape, but purports to limit use to only religious and educational uses, and non-profit recreational activities in connection therewith ("Religious Covenant").

2. While the MDC had the authority to sell the land, it lacked the authority to create and enforce the Religious Covenant against any subsequent purchasers. Moreover, even if it had been within the MDC's authority to impose the Religious Covenant back in 1954, the covenant is no longer enforceable as a matter of law.

PARTIES

3. The plaintiff, Boston College, acting by and through its Board of Trustees, is a private and fully accredited institution of higher education with its principal place of business in Chestnut Hill, Newton, Middlesex County, Massachusetts.

4. The defendant, City of Newton, acting by and through its Mayor and City Council, is a duly organized and existing Massachusetts municipal corporation and a political subdivision of the Commonwealth of Massachusetts, with a principal place of business at Newton City Hall, Newton, Middlesex County, Massachusetts.

5. The defendant, Commonwealth of Massachusetts, is a body politic and corporate acting by and through its elected and appointed officials. At all material times hereto, the Commonwealth acted by and through its Division of Conservation and Recreation, and/or its predecessor entity the MDC, with its principal place of business in Boston, Suffolk County, Massachusetts, and the owner of property in Newton, Middlesex County, Massachusetts. As used herein and unless otherwise indicated, "DCR" refers to the Department of Conservation and Recreation and its predecessor entities, including the MDC.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this action pursuant to G. L. c. 79 and G. L. c. 231A, § 2, and Middlesex Court is the proper venue for this action because the BC Property at issue in this case is in Middlesex County. A request for interdepartmental assignment has been made, and if granted, this Court, sitting as the Land Court, will have jurisdiction to resolve Count III, which seeks a declaration, pursuant to G.L. c. 240, § 11, that the Religious Covenant is not enforceable.

ALLEGATIONS COMMON TO ALL COUNTS

The Boston College Property and the Eminent Domain Taking

7. As of the date of the taking by eminent domain described herein, Boston College was the owner of 300 Hammond Pond Parkway consisting of 22.36± acres of land.

8. On December 24, 2019, the City recorded an Order of Taking, dated December 2, 2019, at the Middlesex South Registry of Deeds at Book 73890, Page 239 (“Order of Taking”), taking by eminent domain a 14.77± acre portion of 300 Hammond Pond Parkway (“Parcel Taken”), as described with greater particularity in the 2019 Order of Taking. **Exhibit 1**.

9. A confirmatory Order of Taking was adopted by the Newton City Council on October 2, 2023, and recorded at said Registry at Book 82140, Page 325, on October 26, 2023, together with a Confirmatory Plan, Plan No. 717 of 2023, copies of which are attached as **Exhibit 10**. The 2023 Confirmatory Order of Taking was recorded “solely to correct the record as to the description of the land actually taken” by the 2019 Order of Taking. **Exhibit 10**. The original 2019 Order of Taking and the 2023 confirmatory Order of Taking shall be referred to collectively as the “Taking.”

10. A parcel of land consisting of 7.59± acres, together with the improvements

thereon, remains in Boston College's ownership after the Taking.

11. As stated in the 2019 Order of Taking by the City, the purpose of the Taking is "for open space and conservation purposes." **Exhibit 1** (Book 73890 at Page 242).

12. Title in fee to the Parcel Taken vested in the City "subject to any restrictions or easements of record." **Exhibit 1**.

13. 300 Hammond Pond Parkway is abutted to the north and west by conservation land owned by the City, called the Webster Conservation Area.

14. The road, Hammond Pond Parkway, is a parkway owned by DCR and under its management and control. *See* 302 CMR 11.02.

15. The Parcel Taken is being used by the City as public open space and conservation land as part of the city-owned land in the Webster Conservation Area.

16. The Parcel Taken is not being used by the City for the only uses that are purportedly allowed under the Religious Covenant: educational or religious activities, or non-profit recreational activities in connection with educational or religious activities. (*See* paragraph 27, *infra*, and **Exhibit 3**).

**The DCR Property and the Sale to the Congregation
over the City's Opposition**

17. Abutting 300 Hammond Pond Parkway to the south is land owned by the Commonwealth, by and through DCR ("DCR Property").

18. The DCR Property is a part of the Commonwealth's Hammond Pond Reservation. *See* G. L. c. 92, § 33.

19. Until about 70 years ago, the DCR (through the MDC) owned the DCR Property, of which 300 Hammond Pond Parkway was a part, and other nearby land that was undeveloped, public open space.

20. The MDC determined that the cost of developing 300 Hammond Pond Parkway for recreational purposes would be prohibitive due to ledges that existed on the site. *See Boston Daily Globe*, “MDC Votes to Sell Chestnut Hill Land to Roxbury Temple,” July 31, 1954 (“July 31, 1954, Boston Globe Article,” **Exhibit 2A**). Accordingly, the MDC made the property available for sale, and the Congregation, a religious entity, expressed interest in purchasing the property.

21. When the MDC first contemplated selling the land to the Congregation, MDC’s then-applicable enabling statute required the MDC to obtain concurrence from the parks commission of the municipality in which the land was situated, if such a commission existed. St. 1895, c. 450, § 2 (imposing this requirement on the Metropolitan Parks Commission (“MPC”)); G.L. c. 1919, c. 350, § 123 (vesting the MDC with “all the rights, powers, duties and obligations” of the MPC). At the time, however, the City did not have a parks commission.

22. Two days before the MDC voted to sell 300 Hammond Pond Parkway, the City, in an effort to block the sale, hastily established a parks commission and requested that the MDC retain the land for park purposes. *Boston Daily Globe*, “Temple Counsel Criticizes Newton for Opposition to Land Purchase,” Aug. 18, 1954; and *The Jewish Advocate*, “Court Hearing on Newton Sale to Mishkan Tefila,” August 12, 1954. **Exhibit 2B; Exhibit 2C**.

23. The MDC, over the City’s objection, nonetheless voted to sell the property to the Congregation subject to the Religious Covenant which also included a restriction on the construction of any structure within a narrow buffer zone adjacent to the parkway (discussed in paragraphs 32-36 below).

24. On July 22, 1954, the Commonwealth conveyed the deed for 300 Hammond Pond Parkway to the Congregation (“1954 Deed”). **Exhibit 3**.

25. The portion sold and conveyed to the Congregation, and then later sold and conveyed to Boston College, is shown on a plan dated July 22, 1954 ("1954 Plan"). **Exhibit 4.**

26. After the 1954 Deed was conveyed to the Congregation, the City's newly formed parks commission filed a lawsuit in Suffolk Superior Court, claiming that the sale was invalid because the MDC had not obtained the park's commission's concurrence. **Exhibit 2B.** The judge ultimately sided with the MDC and the Congregation, ruling that, in light of the timing of the parks commission's creation, the parks commission's approval was not required. *Boston Daily Globe*, "Court Backs Sale of Newton Land to Temple Tefila," August 24, 1954. **Exhibit 2D.**

27. Despite threatening an appeal, the City decided not to pursue one in response to the MDC's agreement not to sell any other parkland prior to May 2, 1955, without the concurrence of the Mayor, Board of Aldermen, and City's new parks commission. *Boston Daily Globe*, "Newton's Opposition to Land Sale Ended, Mayor Hails Temple," September 29, 1954. **Exhibit 2E.**

**The Unusual Nature of the Religious Covenant and the
MDC's Lack of Authority to Impose It**

28. The 1954 Deed (**Exhibit 3**) contains the following language:

The aforesaid premises are conveyed subject to the following restrictions for the benefit of remaining land of the grantor abutting said land, which restrictions shall remain in effect for a period of ninety-nine (99) years from the date hereof:

1. That said premises shall be used only for education or religious activities and for non-profit recreational activities in connection therewith;
2. That no building or structure or part thereof shall be erected, placed or maintained easterly of a line marked "restriction line" on the plan recorded herewith.

29. The "aforesaid premises" is the property, 300 Hammond Pond Parkway. **Exhibit 3.**

30. The "remaining land of the grantor abutting said land," and the land purportedly

benefited by the Religious Covenant, is the DCR Property. **Exhibit 3**.

31. The Religious Covenant limits recreation only to activities related to educational and religious uses.

Buffer Zone Restriction

32. The Religious Covenant also imposes a restriction against development easterly of the “restriction line,” along the road, Hammond Pond Parkway, as shown in **Exhibit 4** (“Buffer Zone Restriction”). **Exhibit 3 ¶ #2**. The Buffer Zone Restriction was intended to create a buffer zone between the property conveyed through the 1954 Deed and Hammond Pond Parkway (“Buffer Zone Area”).

33. The road, Hammond Pond Parkway, at all relevant times, has been the only means of access to and egress from 300 Hammond Pond Parkway.

34. Other than the Buffer Zone Restriction, the 1954 Deed imposed no limit on physical development of any portion of the property, 300 Hammond Pond Parkway, including the size, number, and location of buildings, parking lots, and other structures and facilities that may be constructed thereon.

35. The fact that the MDC confined the Buffer Zone Restriction to a narrow area along Hammond Pond Parkway reflects the MDC’s intent not to limit physical development of the remainder of the 300 Hammond Pond Parkway property.

36. In contrast to the Buffer Zone Restriction, the Religious Covenant, which purportedly applies to the entirety of 300 Hammond Pond Parkway, is a restriction on use, and imposes no limitation whatsoever on the physical development of the land outside of the Buffer Zone Area.

Religious Covenant is an Unlawful Restriction on Use

37. Underscoring this point, the so-called Dover Amendment was originally adopted in 1954 and, as of the drafting and recording of the 1954 Deed, provided that “No by-law or ordinance which prohibits or limits the use of land of any church or other religious purpose or which prohibits or limits the use of land for any religious, sectarian, or denominational educational purpose shall be valid.” St. 1950, c. 325, § 1. Accordingly, as of the conveyance of the 1954 Deed, no local zoning ordinance of the City could limit the development of 300 Hammond Pond Parkway in connection with the contemplated religious use.

38. The Religious Covenant was neither intended to limit, nor by its express terms purports to limit, physical development of or on 300 Hammond Pond Parkway.

39. Because the Religious Covenant does not prohibit physical development on 300 Hammond Pond Parkway, it is not a conservation restriction.

40. Because it neither prohibits nor limits physical development, nor imposes any restrictions on the number of people who may visit and use the property, the Religious Covenant confers no benefit on the DCR Property.

41. Because the Religious Covenant, at the time of the 1954 conveyance, did not benefit land that the MDC retained, it was not enforceable against subsequent grantees of 300 Hammond Pond Parkway under the common law.

42. In purporting to allow only religious and educational uses, and any recreational activities related to such uses, the Religious Covenant prevents any other use of 300 Hammond Pond Parkway, including open space and conservation uses.

43. Deeds from private parties, including religious and educational entities, may impose religious and educational covenants. The Religious Covenant is unique because it was

imposed by the MDC, a governmental entity and an agency of the Commonwealth, on the use of private property.

44. The MDC had no statutory authority to promote religious and educational uses by precluding all other uses on land it conveyed to private ownership.

45. On information and belief, research having failed to reveal any, there are no land use covenants or restrictions imposed by the MDC, or by any agency of the Commonwealth, that purport to limit the use of private property to religious and educational uses only other than the Religious Covenant at issue in this case.

Limited in Time and No Right of Reverter

46. Further distinguishing the Religious Covenant from conservation restrictions, the Religious Covenant is limited to 99 years.

47. Conservation restrictions held by the Commonwealth are without time limit because the public's interest in preserving open space lasts in perpetuity. On information and belief, neither the MDC nor any other agency of the Commonwealth has imposed a conservation restriction that purports to be limited in time on any other property.

48. The 1954 Deed did not reserve a right in favor of the MDC or the public to enter and/or use 300 Hammond Pond Parkway for any purpose. **Exhibit 3**.

49. The 1954 Deed did not reserve a right of reverter in favor of the MDC or the public. **Exhibit 3**.

50. The immediate effect of the Religious Covenant was to (i) enable the sale of the property to proceed by assuring the Congregation that it could develop the property as the Congregation saw fit (with the exception of the Buffer Zone Area) while (ii) placing the City, which opposed the MDC's sale of the property to anyone other than the City, in the awkward

position of appearing to have an anti-religious animus in pursuing its opposition. *Boston Daily Globe*, “Temple Counsel Criticizes Newton for Opposition to Land Purchase,” Aug. 18, 1954 (quoting the Congregation’s counsel as saying that “in these days of Communism, it is utterly and morally indefensible for a city and Board of Alderman to attempt to block the erection of a religious structure.”). **Exhibit 2B**.

51. After acquiring 300 Hammond Pond Parkway, the Congregation constructed a synagogue and religious school buildings, consisting of approximately 65,000 square feet (“SF”) and related improvements, including parking lots, on the property. The Congregation used 300 Hammond Pond Parkway with the improvements for more than 60 years until it was sold to BC on May 20, 2016, by deed of the Congregation. **Exhibit 5** (“BC Deed”).

G.L. c. 184, § 23B

52. In 1968, Congress enacted the Federal Civil Rights Act of 1968, Pub. L. 90-284 (“1968 Act”), which, *inter alia*, prohibited discrimination on the basis of “race, color, religion, or national origin” in the sale, rental, and financing of housing. The 1968 Act, however, included the following exemption:

Nothing in this title shall prohibit a religious organization, association, or society, or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin.

53. Shortly thereafter, in 1969, the Massachusetts Legislature enacted St. 1969, c. 523 (“1969 Act”), which states as follows:

A provision in an instrument relating to real property which purports to forbid or restrict the conveyance, encumbrance, occupancy, or lease thereof to individuals of a specified race, color, religious, or national origin shall be void. Any condition, restriction, or prohibition, including a right of entry or possibility of reverter, which directly or indirectly limits the use or occupancy of real property on the basis of race, color,

religious, or national origin, shall be void, excepting a limitation on the basis of use of real property held by a religious or denominational institution or organization or an organization operated for charitable or educational purposes which is operated, supervised, or controlled by or in connection with a religious organization.

54. Therefore, the 1969 Act goes even further than the 1968 Act to the extent that it prohibits any land use restriction that “directly or indirectly limits the use for occupancy of real property on the basis of . . . religion” (“Religious Restriction Prohibition”). The Religious Covenant fits within the scope of the Religious Restriction Prohibition because the Religious Covenant expressly purports to limit use of 300 Hammond Pond Parkway on the basis of religion.

55. The exception to the 1969 Act’s Religious Restriction Prohibition for restrictions that “directly or indirectly limit[] the use or occupancy of real property on the basis of . . . religion” largely tracks the exemption set forth in the 1969 Federal Civil Rights Act. Both the federal exemption and the state exception are intended to permit qualifying religious entities to restrict the use of their own land for religious purposes.

56. The Legislature did not intend for the exception to the Religious Restriction Prohibition to authorize the Commonwealth itself – let alone the MDC – to impose religious-based covenants on the use of property.

57. St. 1969, c. 523 has been codified as G.L. c. 184, § 23B. The statute was amended in 1978, but not in a way that impacted the prohibition against religious covenants and restrictions.

CH Mall and CH Towers

58. Until the development in or about 1971 of the Mall at Chestnut Hill and the Towers at Chestnut Hill, a residential condominium (“CH Mall;” “CH Towers”), the land between 300 Hammond Pond Parkway and south to Boylston Street (Route 9) was undeveloped

open space. **Exhibit 6** (Photos).

59. On March 10, 1971, the MDC, in two separate instruments, granted the CH Mall developer, in connection with its development of the CH Mall, (i) an easement to use 68,164 SF (1.556± acres) of the DCR Property “for all purposes for which ways are commonly used in the City of Newton” (“Mall Access Road Easement Area”) and (ii) an easement over another 106,577 SF (2.447± acres) “for the purpose of parking of vehicles (and roadways incident thereto)” (“Mall Parking Easement Area”). **Exhibit 7**.

60. The CH Mall is a 470,000± SF shopping mall on 21.2± acres with a 3-story garage. It is located adjacent to and south of the DCR Property at the junction of Boylston Street and the Parkway. The CH Mall property was purchased by its developers in 1971. It has been in continuous operation as a shopping center since about 1974 when the first store opened.

61. The CH Towers is a 16-story, 2-tower residential development with 428 units on 17.3± acres. It has no access to Boylston Street, other than for emergency and service vehicles. Its principal means of access and egress, and sole access for cars, is the Mall Access Road.

62. The Mall Access Road and Mall Parking Easement Area, which the MDC provided on and over public conservation land, were “annexed” to the CH Mall property.

Exhibit 7.

63. No land use covenant or restriction for religious, educational, or conservation purposes was imposed on the Mall Parking Easement Area.

64. No land use covenant or restriction for religious, educational or conservation use was imposed on either the CH Mall’s or the CH Tower’s right to use the Mall Access Road.

65. The grant of the easement for the Mall Access Road contained the following right of reverter “if the land ceases to be used for the purposes herein granted, said land shall revert to

the Commonwealth.” **Exhibit 7, ¶ #16.**

66. Development of the CH Mall and CH Towers required the use of public land for the Mall Access Road and Parking Easement Area.

67. Thus, after conveying 300 Hammond Pond Parkway, the MDC, instead of protecting its conservation lands from the effects of nearby development and limiting traffic onto Hammond Pond Parkway, chose to enable the CH Mall and CH Towers to develop public land for the Mall Access Road and Mall Parking Easement Area.

68. The CH Mall would not have been built had the City also not cooperated with the plan to use public conservation land for the Mall Access Road. The City issued a permit for construction of the Mall Access Road on November 6, 1970. **Exhibit 8.**

69. The CH Mall and the CH Towers were built in the mid-1970s, as were the Mall Access Road and the Mall Parking Easement Area. Thousands of cars daily drive on the DCR land to go to and from the CH Mall and the CH Towers off the Hammond Pond Parkway.

G.L. c. 184’s Applicable Time Limitations on Land Use Restrictions

Section 28

70. G.L. c. 184, § 28 (“Section 28”) was originally adopted in 1961, and applies to certain restrictions, including covenants, imposed on land prior to January 1, 1962. St. 1961, c. 448, § 1. In 1974, the Legislature added to Section 28 a provision stating that “[t]he provisions of this section shall not be construed to apply to, and do not apply to, lands owned and conveyed by the commonwealth.” St. 1974 c. 527, § 2. Less than one year later, however, the Legislature repealed that language. St. 1975, c. 356, § 2.

71. In *Manning v. New England Mutual Life Ins.* 399 Mass. 730 (1987) (“*Manning*”), the Supreme Judicial Court held that, in light of the 1974 and 1975 amendments to Section 28,

Section 28 applies to restrictions, including covenants, that the Commonwealth imposed on deeds prior to January 1, 1962, and limits such restrictions to fifty (50) years from their imposition unless, before the expiration of that period, a notice of restriction is filed with the appropriate Registry of Deeds.

72. There have been no changes to Section 28 since *Manning* was decided that would alter *Manning*'s interpretation of Section 28.

73. In 2004, the Religious Covenant reached the 50th anniversary of its imposition.

74. Upon information and belief, no notice of restriction, as required by Section 28, had been filed with respect to the Religious Covenant by 2004.

75. Accordingly, if the Religious Covenant were otherwise valid, Article 28 would prohibit its enforcement.

Section 33

76. The Legislature, through St. 1969, c. 666, added the following provision, which was later codified as part of G.L. c. 184, § 33 ("Section 33"):

Except in cases of a restriction noted on the certificate of title of registered land subject thereto, . . . no other restriction held by any governmental body, which is not . . . [indexed in the public restriction index] shall be enforceable after thirty years from the recording of the instrument imposing it unless before the expiration of such thirty years there is similarly recorded a notice of restriction identifying the instrument . . .

77. The Religious Covenant fits within this provision of Section 33, as the Religious Covenant was not noted on a certificate of title.

78. Upon information and belief, from September 1969, when the foregoing provision of Section 33 first became effective, through August 1, 1984, which was thirty years after the 1954 Deed was recorded, the Religious Covenant was not indexed in the public registration and no notice of restriction required by Section 33 was filed.

79. By operation of law, therefore, the Religious Covenant became unenforceable as of August 3, 1984, at the latest. Accordingly, if the Religious Covenant had otherwise been enforceable prior to that time, 300 Hammond Pond Parkway became free of the covenant as of August 3, 1984.

80. More than one year later, through St. 1985, c. 351, § 2, the Legislature removed the foregoing provision from Section 33. However, by that time, the Religious Covenant had already become unenforceable and could not lawfully be reinstated in favor of the Commonwealth by statute.

Sale to and Use of the Property by Boston College

81. 300 Hammond Pond Parkway was sold to Boston College on May 20, 2016, by deed of the Congregation. **Exhibit 5.**

82. 300 Hammond Pond Parkway has been in continuous use by BC since its purchase. Currently, and as of the date of Taking, the former synagogue is an auditorium venue for BC's Robsham Theater Arts Center and some of the former school space is used for administrative offices. Parking lots serve those purposes, football games and other events on the main campus and for a buildings and grounds maintenance facility.

83. Since July 1, 2012, unrelated to educational or religious uses, and without objection from DCR or the City as interfering with the conservation purposes of their abutting public land, the parking lot was in use and leased to MASCO for 240 parking spaces as part of the shuttle bus service to the Longwood Medical Area. The MASCO lease expired post-taking.

Exhibit 9.

84. The BC Deed provides that 300 Hammond Pond Parkway is conveyed "subject to all easements and restrictions of record, to the extent the same are now in effect and applicable."

Exhibit 5.

85. The Religious Covenant is invalid and unenforceable, and of no force and effect.

86. Boston College is entitled to use the BC Property and the parcel which remains after the Taking to its highest and best use unconstrained by the Religious Covenant.

87. Boston College is entitled to an assessment of damages for the Taking of its property unaffected by the Religious Covenant.

COUNT I

Boston College v. City of Newton

Assessment of Damages, and Interest, Pursuant to G. L. c. 79.

88. Boston College repeats and reavers paragraphs 1 through 87 as if fully set forth herein.

89. The Taking has deprived Boston College of its land, trees, structures and other property which were all of great value and caused damages and resulted in a diminution in value to the remaining portion of the BC Property.

90. As of the time of the Taking, the Religious Covenant was neither in effect nor applicable, and therefore is invalid and unenforceable.

91. The City contends that 300 Hammond Pond Parkway, including the Parcel Taken, is subject to the Religious Covenant, and therefore deprives Boston College of constitutionally mandated just compensation.

92. In addition to the land, trees, structures and any other property taken by the City, as described in its Order of Taking, Boston College brings this action to recover damages for the taking of and damages to all of its land, trees, structures and property by the City, whether or not such is set forth accurately or with sufficient particularity in the description offered by the City in its Order of Taking.

93. The City has offered to Boston College a sum of money as compensation for the Taking which is grossly unfair and totally inadequate.

94. In accordance with the 5th Amendment to the Constitution of the United States and Article X of the Declaration of Rights to the Massachusetts Constitution, the City is bound to award just compensation to Boston College for the injury suffered and damages sustained as a result of the Taking, including damages to the remainder, as described in this Complaint.

95. Boston College, being aggrieved by the failure of the City to award full and just compensation for and resulting from the Taking, hereby petitions this Court for a jury to assess damages according to law.

96. Boston College is also entitled separately to interest on any judgment obtained in this matter to be compensated for the delay between the date of the Taking and the time Boston College is paid just compensation, as an element of just compensation as required by the 5th Amendment to the Constitution of the United States and Article X of the Massachusetts Declaration of Rights. The statutory interest rate pursuant to G. L. c. 79, § 37 is inadequate and fails to meet the constitutional standard of reasonableness. Applying the statutory rate of interest to any judgment so obtained deprives Boston College of just compensation. Boston College, therefore, being aggrieved, hereby petitions the Court for a jury to determine a constitutionally adequate market rate of interest on the amount of any judgment obtained.

COUNT II

Boston College v. Commonwealth of Massachusetts and City of Newton Declaratory Judgment, Pursuant to G. L. c. 231A

97. Boston College repeats and reavers paragraphs 1 through 87 as if fully set forth herein.

98. Since before the time of the Taking, the Religious Covenant has not been valid or

enforceable.

99. The Commonwealth and the City assert that the Religious Covenant is valid and enforceable.

100. An actual controversy therefore exists concerning the validity and enforceability of the Religious Covenant.

101. Pursuant to G.L. c. 231A, § 1, *et seq.*, Boston College is entitled to a determination of the rights of the parties and to a declaration that the Religious Covenant is invalid and unenforceable and has been so since before the Taking.

COUNT III

Boston College v. Commonwealth of Massachusetts and the City of Newton Declaratory Judgment, Pursuant to G.L. c. 240, § 11

102. Boston College repeats and reavers paragraphs 1 through 87 as if fully set forth herein.

103. G.L. c. 240, § 11 states that the owner of land subject to a “possible condition, restriction, reservation, stipulation or agreement made or imposed more than thirty years” ago may file a petition in Land Court to determine the validity of the “condition or other encumbrance.”

104. Boston College, accordingly, seeks a determination that the Religious Covenant is invalid and unenforceable and has been so since before the Taking.

RELIEF REQUESTED

WHEREFORE, the plaintiff, the Trustees of Boston College demands judgment enter as follows:

As to Count I, Plaintiff prays that this Court:

1. Have a jury determine the constitutionally mandated just compensation and the amount of damages to which Plaintiff is entitled as a result of actions of the City;
2. Have a jury determine the constitutionally mandated just compensation and the

amount of damages to which the Plaintiff is entitled be in accordance with the Court's determination of the rights of the parties and declaration made as to Count II hereof;

3. Have a jury determine the constitutionally adequate rate of interest to be applied to any judgment obtained by Plaintiff; and
4. Grant such other and further relief as the Court deems appropriate and just.

As to Counts II and III, Plaintiff prays that this Court determine the rights of the parties and enter a judgment for Boston College declaring that:

1. the Religious Covenant set forth in the 1954 Deed is invalid and unenforceable and has been so since before the time of the Taking; and
2. the jury's determination of just compensation under Count I hereof shall disregard the Religious Covenant for any and all purposes; and
3. such other and further relief as the Court deems appropriate and just.

THE TRUSTEES OF BOSTON COLLEGE

By its attorneys,

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Dated: November 28, 2023

VERIFICATION

I, Joseph M. Herlihy, hereby state that I am personally familiar with the facts and circumstances giving rise to this Verified Complaint or have been informed of them and believe them to be true, that I have read this Verified Complaint, and that the facts stated in the Verified Complaint are true to the best of my knowledge and the information available to me.

Signed under the penalties of perjury this 28th day of November, 2023.

/s/ Joseph M. Herlihy
Of Counsel, Office of the General
Counsel, Boston College

Dated: November 28, 2023

CERTIFICATE OF SERVICE

I, James D. Masterman, hereby certify that I have this 28th day of November 2023, served a copy of the foregoing document, upon the counsel of record by electronic mail.

/s/ James D. Masterman
James D. Masterman

EXHIBIT 1



2019 00205470
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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;

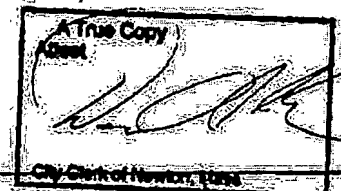
THEREFORE, by vote of the City Council, acting on behalf of the City of Newton under Chapter 79 of the Massachusetts General Laws, it is hereby

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;



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 $S31^{\circ}24'37''E$ 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 $N88^{\circ}07'05''E$ 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 $N57^{\circ}17'38''E$ three hundred ten and sixty one hundredths (310.61) feet to a point, thence;

$N73^{\circ}04'09''E$ 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 $S80^{\circ}35'42''E$ four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

$S54^{\circ}15'35''E$ 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 $S54^{\circ}36'44''E$ thirty five and eighty six hundredths (35.86)

$S30^{\circ}04'12''W$ one hundred and nineteen hundredths (100.19) feet to a point, thence turning and running;

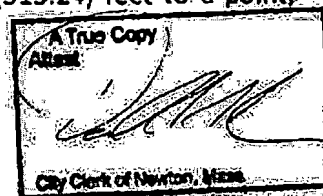
$S58^{\circ}06'41''E$ eighty three and thirteen hundredths (83.13) feet to a point, thence turning and running;

$S29^{\circ}43'29''W$ 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 $S11^{\circ}43'42''E$ fifty eight and twenty two hundredths (58.22) feet to a point, thence;

$S58^{\circ}41'43''E$ seventy nine and sixty four hundredths (79.64) feet to a point, thence turning and running;

$N31^{\circ}05'51''E$ three hundred fifteen and twenty four hundredths (315.24) feet to a point, thence turning and running;



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;

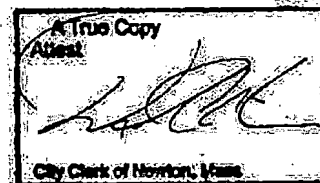
N17°32'05"W seventy nine and seven hundredths (79.07) feet to the point and place of beginning.

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 years 0 days


(SGD) DAVID A. OLSON
City Clerk


(SGD) RUTHANNE FULLER
Mayor

Date: 12/4/19

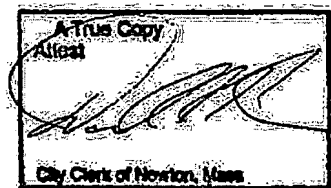


EXHIBIT 2A

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MDC Votes to Sell Chestnut Hill Land to Roxbury Temple
Boston Globe, July 31, 1954

MDC Votes to Sell Chestnut Hill Land to Roxbury Temple
Daily Boston Globe (1928-1960), Jul 31, 1954
pg. 8

**MDC Votes to Sell
Chestnut Hill Land
to Roxbury Temple**

The Metropolitan District Commission has voted 3 to 2 to sell 23 acres off Hammond Pond Parkway in Chestnut Hill to Temple Mishkan Tefila of Roxbury, it was announced yesterday.

The vote to sell the plot for \$9200 was taken Thursday, despite opposition from the Newton Board of Aldermen who wanted to reserve the MDC land for future recreational use.

Temple sources said the deed is being drawn up and is expected to be signed within 10 days. A religious school and community center will be erected on the site, they said.

William R. Mattson, vice president of the Board of Aldermen, said the board voted 15 to 3 a month ago against selling the land.

The MDC voted to sell the site after it had been determined that the cost of developing the area for recreational purposes would be prohibitive because of ledges.

Temple Mishkan Tefila has long sought a site in Newton since more than half of its membership resides in that area.

The price of the land was set at \$400 an acre following a valuation survey, the MDC said.

EXHIBIT 2B

EXHIBIT 2B

Temple Counsel Criticizes Newton for Opposition to Land Purchase
Daily Boston Globe (1928-1960); Aug. 18, 1954;
pg. 4

Temple Counsel Criticizes Newton for Opposition to Land Purchase

Newton city officials yesterday block the erection of a religious structure.

were charged with making "a bold and brazen attempt" to halt the sale of state-owned land in Hammond Pond Parkway, Newton, to Congregation Mishkan Tefila, which plans to build a new synagogue there.

Judge Jacob J. Spiegel, counsel for the temple and the trustees, told Judge Daniel T. O'Connell in Suffolk Superior Court that, "In these days of Godlessness and Communism, it is utterly and morally indefensible for a city and Board of Aldermen to attempt to

Spiegel's plea was made as he opposed a bill in equity brought by Newton Mayor Howard Whitmore Jr., seeking to enjoin or have rescinded the sale by the Metropolitan District Commission of 37 acres of land on the west side of Hammond Pond Parkway to the congregation.

It was alleged in the suit that the M.D.C. agreed to sell the land and signed a deed conveying the site to the temple last July 22 without obtaining the consent of the Newton Park Commission.

Spiegel told the court that "although Newton has been in existence more than 200 years, it never had a park commission." But, he continued, "On July 10 the Mayor of Newton and the Aldermen suddenly decided the city needed a park commission."

That day, he said, the Aldermen passed a resolution requesting the Mayor to appoint a park commission and on the same day the Mayor named a five-man board. Spiegel argued the appointments were not made in accordance with state law and, hence, there was no valid commission at the time the M.D.C. voted to sell the land.

Spiegel explained that the temple, now located in Roxbury, decided to build in Newton as more than half its 700 families have moved from Roxbury to Newton.

Judge O'Connell continued the case to Thursday.

EXHIBIT 2C

Dedicated to
Americanism, Judaism,
Social Service

Vol. 115, No. 6
Published Weekly
Subscription Price \$1.00 per Annum
Single Copies 10 Cents

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THE JEWISH VOICE

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SURVEY SAYS HIRING BIAS WIDESPREAD

NEW YORK (JTA)—Racial and religious discriminatory practices in employment are widespread throughout the United States, it is asserted in a report by the National Community Relations Advisory Council, the coordinating body of national and local Jewish organizations engaged in combating anti-Semitism and in fighting for civil rights.

"Every study that has been undertaken, whether by public or private agencies, whether of a locality or of an industry, whether of hiring or of upgrading, has established the existence of discrimination against race, religion and national minorities," the report says. It points out that the extent and nature of the bias varies.

See SURVEY (Continued on Page 13)

JDC Reports It Aided 162,700 Overseas in '53

NEW YORK (JTA)—The Joint Distribution Committee provided assistance in 1953 to 162,700 needy Jews in Israel, Europe and the United States, it was reported this week by JDC headquarters.

The largest group aided—57,645—were Jews in seven Moslem countries of Asia and North Africa, where more than one of every six Jewish men, women and children are dependent on the agency's help. The JDC is supported locally through contributions from the combined Jewish Appeal of Greater Boston.

The report indicates continued expansion of the assistance provided by Malben, JDC's welfare program on behalf of aged, ill and handicapped newcomers. The program aided 21,510 men, women and children during 1953 in the United States. In 1954, JDC has allocated a budget of \$11,750,000 for its Malben program.

See JDC (Continued on Page 13)

In Israel

Artists Minus Hungry Look

By LEO KOENIG

I do not think there is a country (this side of the Iron Curtain) where writers and artists are so comparatively well off and well cared for as in Israel.

Of course, for individual Jewish artists with an international reputation or for those who are well established in their own country, Israel may seem a small market. For example, there is that great sculptor Lutzky, who is well known by both Jewish and non-Jewish artists and critics. For the last few years he has been living and working in a studio specially built for him on the kibbutz of Givat Shimon. He is surrounded by love and admiration and has many friends all over the country.

Some two hundred painters have been known to live in Israel. The majority of them seem prosperous, almost surprisingly so. For the last two decades, have found their haven in Israel. The majority of them seem prosperous, almost surprisingly so. For the last two decades, have found their haven in Israel. The majority of them seem prosperous, almost surprisingly so.

Proportionately, I should say, there are more art exhibitions in Israel than in London or, indeed, anywhere else with the possible exception of New York. These take place in the museums of Modern Art in Jerusalem, Tel Aviv, Haifa, Ein Harod and Acre (the last city a picturesque former Turkish bath was lately transformed into a museum) and in several private galleries. One must presume, considering the frequency of the exhibitions, that neither artist nor gallery owner is making a fortune out of the art scene.

There is hardly a home in Israel that does not have a few original paintings in the most suitable room—usually a parlor or a study. These are considered among the best in Israel. Original paintings in the most suitable room—usually a parlor or a study. These are considered among the best in Israel.

See ARTISTS (Continued on Page 13)

Court Hearing on Newton Sale to Mishkan Tefila

Temple to Argue Plea Next Tuesday

A request by Mayor Howard Whitmore, Jr., of Newton, and the Board of Park Commissioners for an order restraining the conveyance of Newton land from the Metropolitan District Commission to Congregation Mishkan Tefila was denied this morning by Judge Jesse Morton in the Suffolk Superior Court.

Judge Morton this morning ruled that a plea in bar, entered by Mishkan Tefila and the MDC, shall be heard next Tuesday. The congregation's plea is based on the following: (1) Mayor Whitmore's appointments of Park Commissioners are not legal and (2) Even if they are, said officials could not take office until the first Monday in May following their appointment.

The land, located in Hammond Pond Parkway, "is sought by Mishkan Tefila for the erection of a new house of worship in Newton. The present temple is located on Seaver street at Elm Hill Avenue, Roxbury."

"The MDC on July 16, after a public hearing, by a vote of 3 to 2 had agreed to convey the land in question to the congregation. Several days later, the Newton Board of Aldermen sent a resolution to the Mayor calling for and authorizing the appointment of a Board of Park Commissioners which would pass upon such a sale. Newton had never named such a board. On the same day, the Mayor named these officials and the appointments were approved by the Aldermen."

The newly-created Board of Park Commissioners then objected to the conveyance by the MDC.

The deed to the land has already been conveyed. Judge Jacob J. Spiegel represents Congregation Mishkan Tefila.

GOLDMANN DOMINATES ZIONIST MEETING

By FRED MONOSSON
(Special to the Advocate)

[A member of the World Zionist Committee, Mr. Monossion is now in Israel where he attended the recently concluded, Actions Committee session.]

Jerusalem—There can be no question that the World Zionist Committee session which was held in Jerusalem, was dominated by the figure of Dr. Nahum Goldmann. As chairman of the committee, Dr. Goldmann, has been the leading position in world Zionism and few who know him will disagree that it is due largely to his unique personality that the Zionist movement, the knowledge of which is the keynote of the Actions Committee session.

Dr. Goldmann's stirring, eloquent address to the delegates from the Government of Israel, and led the delegates to a new understanding of the Zionist movement. It was fitting that Nahum Goldmann should open the committee's session with an address on Theodore Herzl, marking the 50th anniversary of the founder of modern Zionism. Only ten years ago, when Herzl died, Dr. Goldmann, has become recognized as "Chaim of Herzl" and now he is only to the late Dr. Chaim Weizmann, Israel's first President.

Nahum Goldmann listed Herzl's three central Zionist ideas: the Jewish State; the Jewish State as a Jewish State; the Jewish State as a Jewish State.

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EXHIBIT 2D

Strikers to Get Food on Credit in Fall River

FALL RIVER, Aug. 26.—(AP)—The city of Fall River has agreed to advance \$100,000 to the strikers of the Fall River Shipyard, who are on strike for the third time in three years, to help them pay for food and other necessities.

1000 Bay Staters of 84th Division Begin Field Training at Camp Draper

PORT CHARLES, N. Y., Aug. 26.—(AP)—The 84th Division of the National Guard, which is being trained for service in the Philippines, began field training at Camp Draper, N. Y., today.

Body in Church at Framingham Ruled Suicide

FRAMINGHAM, Aug. 26.—(AP)—The body of a man found in a church in Framingham, Mass., today was ruled a suicide by a local coroner.

TRY K&M TO HOLLAND

A French Island named K&M, 100 miles from the coast of Holland, is for sale. It is 1000 acres in area and has a beautiful beach. It is a perfect place for a vacation home or a business investment.

Court Backs Sale of Newton Land to Temple Tullio

NEWTON, Mass., Aug. 26.—(AP)—The state court today ruled in favor of the sale of land in Newton, Mass., to Temple Tullio.

PLANNING FARMERS' SHOW AND CONVENTION

NEWTON, Mass., Aug. 26.—(AP)—The Newton Farmers' Association is planning a show and convention for the fall.

Handbook for Night's Work

NEWTON, Mass., Aug. 26.—(AP)—A handbook for night workers has been published by the state.

TRY K&M TO HOLLAND

A French Island named K&M, 100 miles from the coast of Holland, is for sale. It is 1000 acres in area and has a beautiful beach. It is a perfect place for a vacation home or a business investment.

Good News for Filter Tip Smokers!

Presenting
Herbert Tareyton
with the New Selective* Filter
and famous Tareyton quality
for real filtration and smoking satisfaction

NOW 2 WAYS

REGULAR or SILVER
Each List Price 10 Cents, 10 Cents

Here, at last, is everything you've been looking for in a filter cigarette—the real filtration you want, and the full, rich taste of fine tobacco that makes smoking so enjoyable.

Tareyton's new Selective* Filter has unusual power of selectivity which holds back elements that can detract from the pleasure of smoking. At the same time, the smooth, easy-drawing Tareyton Filter permits the full-bodied flavor of Tareyton's quality tobacco to come through to you for your complete smoking enjoyment.

Look for the red, white and blue stripes on the package. They identify the best in filtered smoking—Filter Tip Herbert Tareyton, the cigarette with a time-honored reputation for quality tobacco and the only filter cigarette with a genuine credit tip.

from the Herbert Tareyton

is actively being consumed in Herbert Tareyton, a filter cigarette of perfect selection, intense flavor and complete satisfaction. A genuine credit tip, a genuine credit tip, a genuine credit tip.

A SUPERIOR FILTER AT A POPULAR FILTER PRICE

HERBERT TAREYTON, PRODUCT OF The American Tobacco Company, NEW YORK, N. Y. MADE IN U. S. A.

MADE IN U. S. A.

EXHIBIT 2E

POWERED BY
Newspapers™
com

EXHIBIT 3

8300

PAGE

100

The undersigned and each subsequent owner of the equity of redemption of the real estate at any time covered by this mortgage, shall at all times be a member of the Reliance Co-operative Bank, as provided in the statutes of the Commonwealth or the by-laws of said bank; and failure to comply with this requirement shall constitute a breach of condition of this mortgage, for which the unpaid balance of the loan secured by this mortgage shall become due and payable forthwith, at the option of the said Bank.

For any breach of the aforesaid *Statutory Condition* or any of the aforesaid other *Conditions* the *Mortgagee* shall have the *Statutory Power of Sale*.

Wherever the words Mortgagor and Mortgagee are used herein they shall include their several heirs, executors, administrators, successors, grantees and assigns subject to the limitations of law and of this instrument, and if the context requires, the words Mortgagor and Mortgagee and the pronouns referring to them shall be construed as plural, neuter or feminine.

WITNESS our hand and seal this Second day
of August --- 19 54.

Ralph H. Gilbert
Madeline Gilbert

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss August ✓ 19 54.

Then personally appeared the above-named Ralph H. Gilbert

and acknowledged the foregoing instrument

to be his-- free act and deed, before me,

Louis L. Green
Notary Public Justice of the Peace

My commission expires May 20, 19 61.

Rec'd & entered for record Aug. 3, 1954 at 8h. 52m. A.M. 438

The Commonwealth of Massachusetts acting through its Metropolitan District Commission, for consideration paid, grants to Harry Cohen, Nathan Yamins and Harry Feinberg, all of Newton, Middlesex County, Massachusetts, Robert Goldstein of Boston, Suffolk County, Massachusetts, and Miah Marcus of Brookline, Norfolk County, Massachusetts, as they are Trustees of Congregation Mishkan Tefila of Roxbury, Massachusetts, with quitclaim covenants, the land situated in Newton in the County of Middlesex and Commonwealth of Massachusetts, bounded and described as follows:

Beginning at a stone bound set in the southwesterly side line of Carlisle Street at land now or formerly of Edwin S. Webster, as shown on the plan herein after mentioned;

Thence the line runs north 62° 28' 49" east crossing said Carlisle Street forty and 66/100 (40.66) feet to a point at land now or formerly of Edwin S. Webster, et al, Trustees;

SEE BOOK 7124 Page 151
" " 9120 " 160
" " 9120 " 161

Thence south 17° 11' 51" east forty and 36/100 (40.36) feet to a point;
Thence southeasterly by a line curving to the left with a radius of one hundred seventy and 00/100 (170.00) feet, eighty-two and 34/100 (82.34) feet to a stone bound;

Thence southeasterly, easterly and northeasterly by a line curving to the left with a radius of twenty and 00/100 (20.00) feet, thirty-two and 53/100 (32.53) feet to a stone bound;

Thence northeasterly by a line curving to the right with a radius of five hundred seventy-one and 39/100 (571.39) feet, three hundred fourteen and 57/100 (314.57) feet to a drill hole;

Thence north 73° 24' 23" east ninety-one and 57/100 (91.57) feet to a stone bound;

Thence northeasterly, easterly and southeasterly by a line curving to the right with a radius of five hundred thirty-four and 41/100 (534.41) feet, four hundred ninety-one and 28/100 (491.28) feet to a point;

Thence south 53° 55' 21" east one hundred thirty and 45/100 (130.45) feet to a stone bound;

Thence southeasterly by a line curving to the left with a radius of two thousand nine hundred thirteen and 30/100 (2913.30) feet, four hundred ninety-eight and 79/100 (498.79) feet to a stone bound;

Thence southeasterly, easterly and northeasterly by a line curving to the left with a radius of four hundred fifty-eight and 81/100 (458.81) feet, two hundred seventy-nine and 47/100 (279.47) feet to a point;

Thence north 81° 22' 01" east two hundred thirty and 11/100 (230.11) feet to a point at land of the Commonwealth of Massachusetts known as Hammond Pond Parkway; the last ten (10) courses and distances being by said land of Edwin S. Webster, et al. Trustees;

Thence continuing north 81° 22' 01" east thirty-four and 89/100 (34.89) feet more or less to a point;

Thence southeasterly by a line curving to the right with a radius of eight hundred one and 50/100 (801.50) feet, five hundred and 00/100 (500.00) feet to a point;

Thence northwesterly nine hundred seventy-five (975) feet more or less to a drill hole;

Thence continuing northwesterly nine hundred forty (940) feet more or less to a stone bound at land now or formerly of Edwin S. Webster; the last four (4) courses and distances being by said land of the Commonwealth of Massachusetts;

Thence northeasterly by a line curving to the right with a radius of five hundred seventy-one and 39/100 (571.39) feet, one hundred forty-two and 82/100 (142.82) feet to a stone bound;

Thence northeasterly by a line curving to the left with a radius of three hundred fifteen and 24/100 (315.24) feet, fourteen and 87/100 (14.87) feet to a stone bound;

Thence north 3° 04' 30" east ten and 58/100 (10.58) feet to a stone bound;

Thence northeasterly, northerly and northwesterly by a line curving to the left with a radius of three hundred fifteen and 60/100 (315.60) feet, one hundred eleven and 67/100 (111.67) feet to a stone bound;

Thence north 17° 11' 51" west seventy-nine and 07/100 (79.07) feet to the bound first mentioned and point of beginning; the last five (5) courses and distances being by said land now or formerly of Edwin S. Webster; containing twenty-three (23) acres more or less and being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Parks Division, Hammond Pond Parkway, Newton, Plan of land to be conveyed to Trustees of Congregation Mishkan Tefila, * * * July 22, 1954, Benjamin W. Fink, Director of Park Engineering," being plan accession number 32696-V.T. to be recorded herewith.

The aforesaid premises are conveyed subject to the following restrictions^s for the benefit of remaining land of the grantor abutting said land, which restrictions shall remain in effect for a period of ninety-nine (99) years from the date hereof:

1. That said premises shall be used only for educational or religious purposes and for non-profit recreational activities in connection therewith.

2. That no building or structure or part thereof shall be erected, placed or maintained easterly of a line marked "Restriction Line" on the plan recorded herewith.

IN WITNESS WHEREOF the Commonwealth of Massachusetts has caused these presents to be executed in its name by a majority of its said Metropolitan

8300

PAGE

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District Commission, who do, therefore, hereunto set their hands and seals, without, however, incurring any personal liability by reason of the execution hereof or of anything herein contained, this *twenty-second* day of *July*, 1954.

COMMONWEALTH OF MASSACHUSETTS

By

Wm. J. Grigalus Commissioner

John J. Grigalus Associate

Milton Cook Commissioners

Benjamin W. Fink
Being a majority of the
Metropolitan District Commission.

COMMONWEALTH OF MASSACHUSETTS

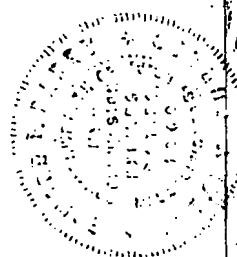
Suffolk, ss.

July 22 1954.

Then personally appeared the above named John J. Grigalus, Associate Commissioner as aforesaid, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Commonwealth of Massachusetts before me

Benjamin W. Fink
Notary Public

My commission expires *July 22, 1960*



In Metropolitan District Commission

Boston *July 22, 1954*

VOTED: To convey to the Trustees of Congregation Mishkan Tefila of Boston (Roxbury District) Suffolk County, Massachusetts, a parcel of land situated in Newton in the County of Middlesex containing approximately 23 acres and shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Parks Division, Hammond Pond Parkway, Newton, Plan of land to be conveyed to Congregation Mishkan Tefila, * * * July 22, 1954, Benjamin W. Fink, Director of Park Engineering," being plan accession number 32696-V.T. subject to the restriction for a period of 99 years said premises shall be used for educational or religious purposes and for non profit recreational activities and that no buildings or structures or part thereof be erected,

placed, or maintained easterly of a line marked "Restriction Line" and to execute a deed accordingly.

A true copy.

ATTEST: Edward T. Barry
Acting Secretary, Metropolitan District
Commission

Rec'd & entered for record Aug. 3, 1954 at 8h. 55m. A.M. #39

The Hillside-Cambridge
formerly known as the Cambridge Co-operative Bank
of Massachusetts, holder of a mortgage

from James Lagrera and Rosa Lagrera

to said Cambridge

dated March 13, 1938

recorded with Middlesex South District

Book 5914

Page 371

County Registry of Deeds

acknowledges satisfaction of the same

In witness whereof the said

Hillside-Cambridge

Co-operative Bank

has caused its corporate seal to be hereto affixed and these presents to be signed, acknowledged, and

delivered in its name and behalf by Donald M. Sleeper

its treasurer

this second

day of August

A.D. 1954

Signed and sealed in presence of

Hillside-Cambridge Co-operative Bank

By Donald M. Sleeper
Donald M. Sleeper, Treasurer

Up Commonwealth of Massachusetts

Middlesex

ss.

August 2,

1954. Then personally appeared

the above named Donald M. Sleeper

and acknowledged the foregoing

instrument to be the free act and deed of the Hillside-Cambridge Co-operative Bank

Registration Study before me

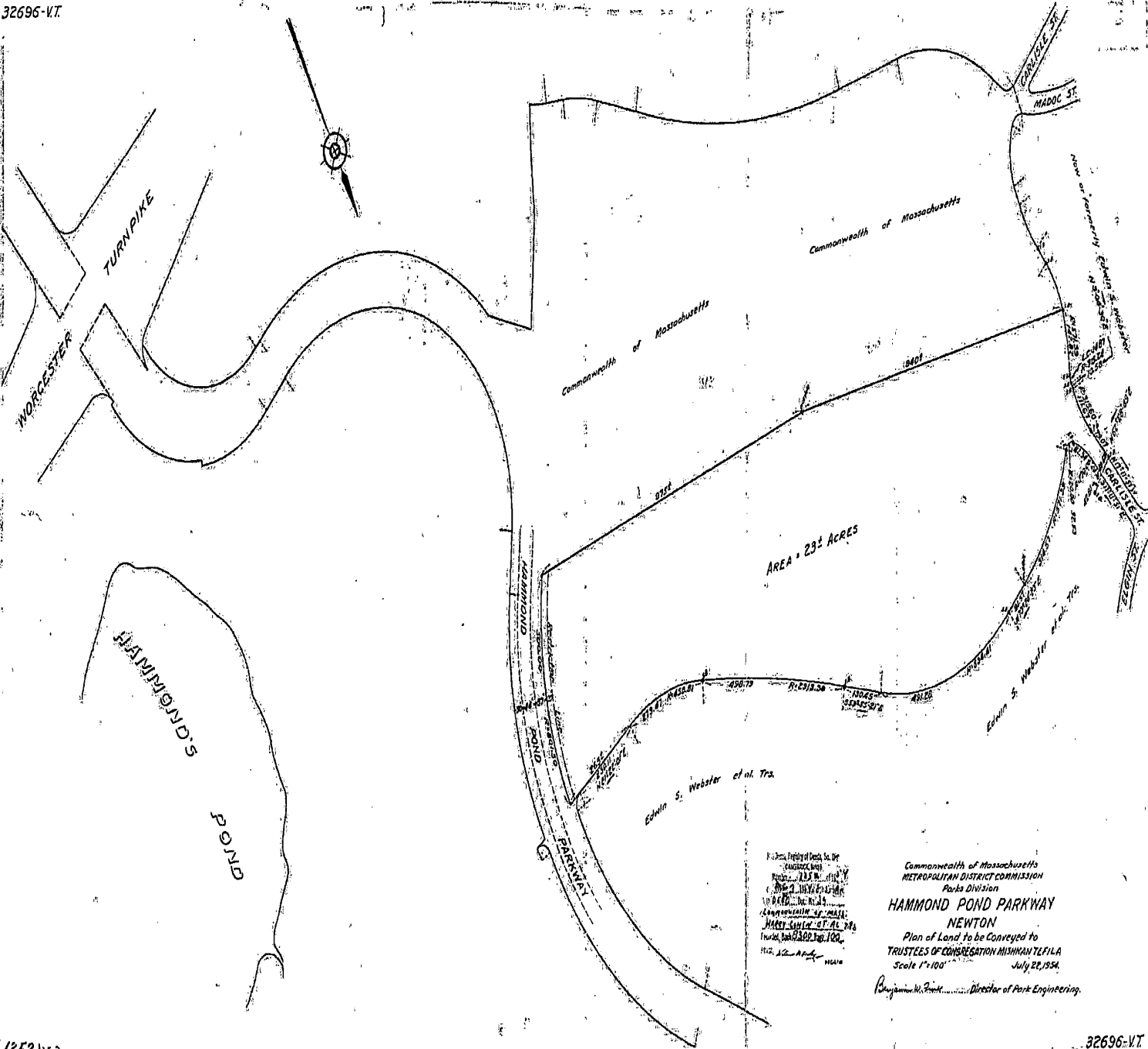
Thomas J. Harris
Notary Public - State of Massachusetts

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

Rec'd & entered for record Aug. 3, 1954 at 8h. 57m. A.M. #40

EXHIBIT 4

32696-VT.



32696-VT.

EXHIBIT 5



2016 00085187
Bk: 67338 Pg: 386 Doc: DEED
Page: 1 of 5 05/31/2016 09:56 AM

~~MASSACHUSETTS EXCISE TAX
Southern Middlesex District ROD # 001
Date: 05/31/2016 09:56 AM
Ctrl# 242802 17367 Doc# 00085187
Fee: \$91,200.00 Cons: \$20,000,000.00~~

Quitclaim Deed

CONGREGATION MISHKAN TEFILA, a Massachusetts religious corporation, having an address of 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts 02467 ("**Grantor**"),

for consideration of Twenty Million and 00/100 Dollars (\$20,000,000.00) paid, grants,

with *Quitclaim Covenants*, to

TRUSTEES OF BOSTON COLLEGE, a Massachusetts Institution of Higher Education, having a mailing address of 140 Commonwealth Avenue, Chestnut Hill, Massachusetts 02467 ("**Grantee**"),

that certain parcel of land with the improvements thereon situated in Newton, Middlesex County, Massachusetts, more particularly described in Exhibit A attached hereto and made a part hereof.

Said premises are conveyed subject to all easements and restrictions of record, to the extent the same are now in effect and applicable, and subject to real estate taxes for the current fiscal period not yet due and payable which Grantee, by its acceptance hereof, hereby assumes and agrees to pay.

Meaning and intending to convey and hereby conveying all of the property conveyed to Grantor by deed of Henry G. Cohen, sometimes known as Harry Cohen, Nathan Yamins, Harry Feinberg, Robert Goldstein and Miah Marcus, Trustees of Congregation Mishkan Tefila (u/d/t dated July 22, 1954), dated July 22, 1954, recorded with the Middlesex South District Registry of Deeds in Book 9120, Page 167; see also deed of the Commonwealth of Massachusetts acting through its Metropolitan District Commission (formerly the Board of Metropolitan Park Commissioners), dated July 22, 1954, recorded with said Registry in Book 8300, Page 100.

(Remainder of Page Intentionally Left Blank; Signature Pages to Follow)

FIDELITY NATIONAL TITLE INSURANCE COMPANY
133 FEDERAL STREET, 3RD FLOOR
BOSTON, MA 02110

JAY MELKONIAN
14-0019

Property Address: 300 Hammond Pond Parkway, Newton, Middlesex County, MA

Executed as a sealed instrument as of May 20, 2016.

CONGREGATION MISHKAN TEFILA, a Massachusetts
religious corporation

By: [Signature]
Name: Paul H. Gershkowitz
Title: President

By: [Signature]
Name: Mark Shooman
Title: Treasurer

COMMONWEALTH OF MASSACHUSETTS

Norfolk County, ss.

On this 20th day of May, 2016, before me, the undersigned notary public, personally appeared before me the above-named Paul H. Gershkowitz, proved to me through satisfactory evidence of identification, which was MA Driver's License (e.g., personal knowledge of identity, ☐ 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 for the stated purposes as President of Congregation Mishkan Tefila, a Massachusetts religious corporation.

[Signature]
Notary Public
My commission expires:

[affix seal]

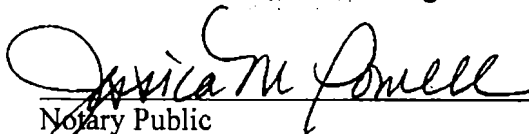


JESSICA M. POWELL
Notary Public
Commonwealth of Massachusetts
My Commission Expires Jan. 30, 2020

COMMONWEALTH OF MASSACHUSETTS

Middlesex County, ss.

On this 3rd day of May, 2016, before me, the undersigned notary public, personally appeared before me the above-named Mark Shoman, proved to me through satisfactory evidence of identification, which was _____ (e.g., personal knowledge of identity, ☒ 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 for the stated purposes as Treasurer of Congregation Mishkan Tefila, a Massachusetts religious corporation.



Notary Public

My commission expires:

[affix seal]



JESSICA M. POWELL
Notary Public
Commonwealth of Massachusetts
My Commission Expires Jan. 30, 2020

EXHIBIT A

REAL PROPERTY DESCRIPTION

The land situated in Newton, County of Middlesex, Commonwealth of Massachusetts, and bounded and described as follows:

Beginning at a stone bound set in the southwesterly side line of Carlisle Street at land now or formerly of Edwin S. Webster, as shown on the plan hereinafter mentioned;

Thence the line runs North $62^{\circ} 28' 49''$ East, crossing said Carlisle Street, forty and $66/100$ (40.66) feet to a point at land now or formerly of Edwin S. Webster, et al, Trustees;

Thence South $17^{\circ} 11' 51''$ East, forty and $36/100$ (40.36) feet to a point;

Thence southeasterly by a line curving to the left with a radius of one hundred seventy and $00/100$ (170.00) feet, eighty-two and $34/100$ (82.34) feet to a stone bound;

Thence southeasterly, easterly and northeasterly by a line curving to the left with a radius of twenty and $00/100$ (20.00) feet, thirty-two and $53/100$ (32.53) feet to a stone bound;

Thence northeasterly by a line curving to the right with a radius of five hundred seventy-one and $39/100$ (571.39) feet, three hundred fourteen and $57/100$ (314.57) feet to a drill hole;

Thence North $73^{\circ} 24' 23''$ East, ninety-one and $57/100$ (91.57) feet to a stone bound;

Thence northeasterly, easterly and southeasterly by a line curving to the right with a radius of five hundred thirty-four and $41/100$ (534.41) feet, four hundred ninety-one and $28/100$ (491.28) feet to a point;

Thence South $53^{\circ} 55' 21''$ East, one hundred thirty and $45/100$ (130.45) feet to a stone bound;

Thence southeasterly by a line curving to the left with a radius of two thousand nine hundred thirteen and $30/100$ (2,913.30) feet, four hundred ninety-eight and $79/100$ (498.79) feet to a stone bound;

Thence southeasterly, easterly and northeasterly by a line curving to the left with a radius of four hundred fifty-eight and $81/100$ (458.81) feet, two hundred seventy-nine and $47/100$ (279.47) feet to a point;

Thence North $81^{\circ} 22' 01''$ East, two hundred thirty and $11/100$ (233.11) feet to a point at land of the Commonwealth of Massachusetts known as Hammond Pond Parkway; the last ten (10) courses and distances being by said land of Edwin S. Webster, et al Trustees;

Thence continuing North $81^{\circ} 22' 01''$ East, thirty-four and $89/100$ (34.89) feet, more or less, to a point; Thence southwesterly by a line curving to the right with a radius of eight hundred one and $50/100$ (801.50) feet, five hundred and $00/100$ (500.00) feet to a point;

Thence northwesterly, nine hundred seventy-five (975) feet, more or less, to a drill hole;

Thence continuing northwesterly, nine hundred forty (940) feet, more or less, to a stone bound at land now or formerly of Edwin S. Webster; the last four (4) courses and distances being by said land of the Commonwealth of Massachusetts;

Thence northeasterly, by a line curving to the right with a radius of five hundred seventy-one and $39/100$ (571.39) feet, one hundred forty-two and $82/100$ (142.82) feet to a stone bound;

Thence northeasterly, by a line curving to the left with a radius of three hundred fifteen and $24/100$ (315.24) feet, fourteen and $87/100$ (14.87) feet to a stone bound;

Thence North $3^{\circ} 04' 30''$ East, ten and $58/100$ (10.58) feet to a stone bound;

Thence northeasterly, northerly and northwesterly by a line curving to the left with a radius of three hundred fifteen and $60/100$ (315.60) feet, one hundred eleven and $67/100$ (111.67) feet to a stone bound;

Thence North $17^{\circ} 11' 51''$ West, seventy-nine and $07/100$ (79.07) feet to the bound first-mentioned and point of beginning; the last five (5) courses and distances being by said land now or formerly of Edwin S. Webster; containing twenty-three (23) acres, more or less and being shown on a plan entitled, "Commonwealth of Massachusetts Metropolitan District Commission Parks Division Hammond Pond Parkway Newton Plan of Land to be Conveyed to Trustees of Congregation Mishkan Tefila," prepared by Benjamin W. Fink, Director of Park Engineering, dated July 22, 1954, recorded with the Middlesex South District Registry of Deeds on August 3, 1954 as Plan No. 1252 of 1954 (in 3 parts; A, B and C).

3034970.3

EXHIBIT 6

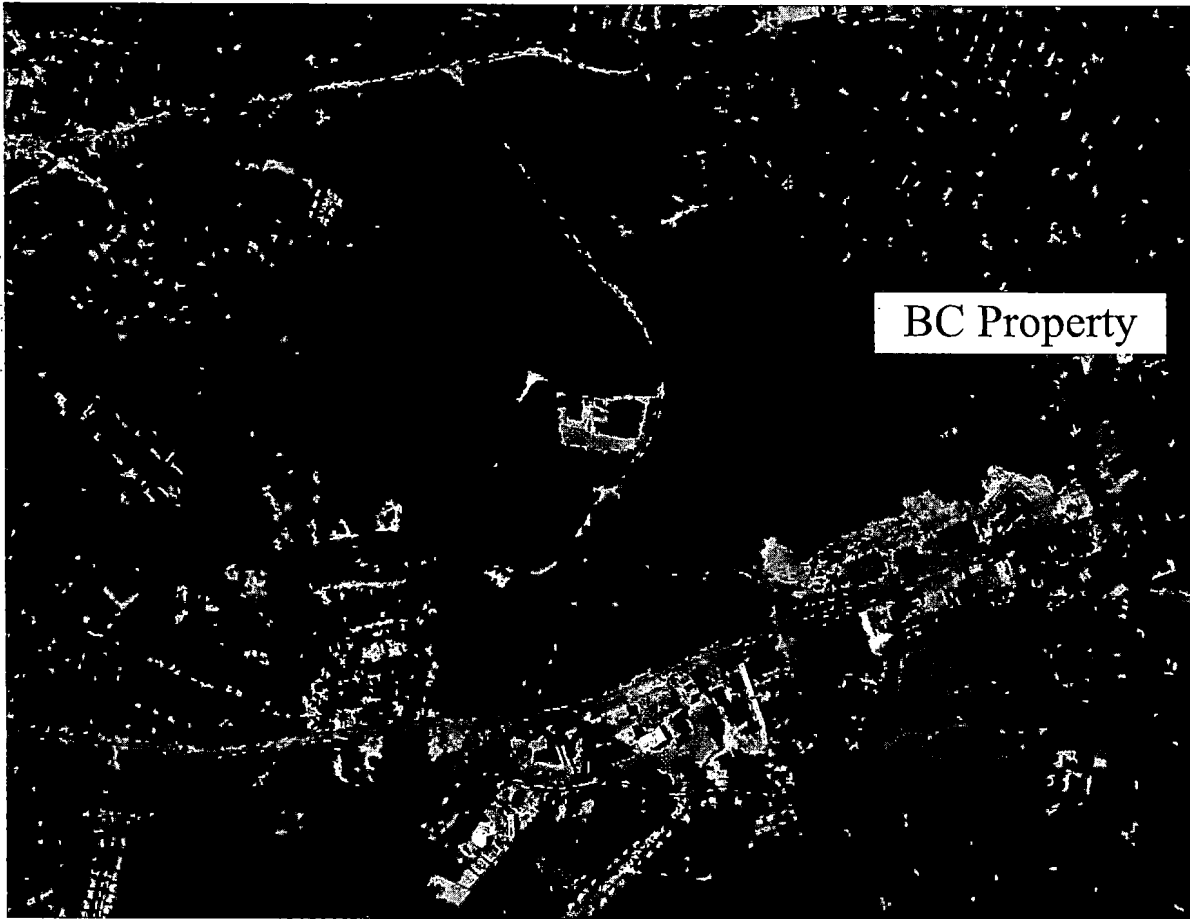




EXHIBIT 7

MAY 11-71 AM 2:53 OSMRE**JLS

BK12084 PG184

PK11995 PG247

126
122
14.5

SEE PLAN IN RECORD BOOK 11995 PAGE 347

464

The Commonwealth of Massachusetts, acting through its Metropolitan District Commission ("Grantor"), grants to the parties listed below the perpetual right and easement to use in common with the Grantor for all purposes for which ways are commonly used in the City of Newton, a strip of land approximately eighty feet (80') in width situated on the westerly side of Hammond Pond Parkway in said Newton, which strip of land is bounded and described as set forth in Schedule A hereto annexed and hereby made a part hereof, and shown on a plan entitled "Plan of Land in Newton, Mass. Showing Access Easements to be granted to Julian Cohen and Chestnut Hill Towers, Inc. by the Metropolitan District Commission, dated March, 1971, by Everett M. Brooks Co., Surveyors", being MDC Accession Number 46797^x-VT to be recorded herewith. The Grantees of said easement are: (i) Julian Cohen, having a mailing address at 1330 Beacon Street, Brookline, Massachusetts 02146, his successors and assigns, said easement being for the purpose of giving access between Hammond Pond Parkway and the property presently owned by State Street Realty, Inc., near the intersection of Hammond Pond Parkway and Boylston Street (Route 9), in said Newton, which land is described in Schedule B hereto annexed and hereby made a part hereof, title to which land the said Julian Cohen is about to acquire; and (ii) Chestnut Hill Towers, Inc., its successors and assigns, said easement being for the purpose of giving access between Hammond Pond Parkway and the property presently owned by Chestnut Hill Towers, Inc., which property is described in Schedule C hereto annexed and hereby made a part hereof. The said Julian Cohen and the said Chestnut Hill Towers, Inc. will sometimes hereinafter collectively be referred to as the "Grantees".

Said easement is conveyed with and subject to the following rights, agreements, terms and conditions and with the understanding that this easement is to be used solely for the construction, repair, maintenance and replacement of and use as a right-of-way for pedestrian and vehicular traffic in common with the Grantor, it being understood that the Grantor shall use said roadway as a means of access for the proposed park lands of the Grantor in the immediate vicinity:

1. That the Grantees shall construct a driveway over said strip at their own expense with the turnouts as approved by the Metropolitan District Commission, said driveway comprised in part of two roadways approximately 24' in width, divided by a landscaped island approximately 32' in width, as shown on said plan to be recorded herewith.

2. That the Grantees shall conform and abide by all landscaping requirements as reasonably required by the Metropolitan District Commission Planning Division.

3. That the location and design of the opening of said driveway into Hammond Pond Parkway shall be approved prior to construction by the said Commission, which approval shall not be unreasonably withheld.

4. That the said Commission shall have the right to use said driveway for its employees and for the public, to the extent required as a means of access to and from Hammond Pond Parkway and the land under the jurisdiction of said Commission used for public recreational purposes.

5. That no commercial vehicles will be permitted to use said easement for ingress and egress from Hammond Pond Parkway.

6. That ingress and egress from the aforesaid easement onto Hammond Pond Parkway shall include left and right turns, with the understanding, however, that the Grantees, at Grantees' sole expense, shall provide traffic signals to be installed at the intersection of said easement and Hammond Pond Parkway for control of traffic in a manner satisfactory to the said Commission and said signalization shall be subject to modification if the Commission determines that traffic control requires such modification.

7. That the Grantees, their respective successors, assigns, tenants and invitees, shall have the right at all times hereafter to pass and re-pass upon and over said right-of-way on foot or by vehicle and to use and enjoy the same for all purposes for which ways are commonly used in the City of Newton.

8. That the Grantees shall at all times keep said right-of-way free and unobstructed for travel at all times, and forever open to light and air.

9. That the cost of installing, maintaining, repairing or replacement of or damage to the roadway and surface thereof shall be borne by the Grantees.

10. That the Grantees shall maintain the roadway and surface of said land and shall keep it free of snow and ice, all at their own expense.

11. That no overnight parking shall be permitted in the easement area, nor shall standing, stopping, or

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parking be permitted during the daytime, except for a reasonable period in connection with the loading and unloading of vehicles or the boarding or discharging of passengers therefrom.

12. That no drains, water mains and public utilities are to be installed without the prior written approval of the said Commission, and then in a manner satisfactory to and approved by the Director of Park Engineering and Chief Park Engineer of the said Commission.

13. That the Grantor, its agents, servants or employees, may enter, use and view the premises at any time for the benefit of the remaining land of the Grantor.

14. That no signs, other than directional signs, buildings, structures or parts thereof shall be erected, placed or maintained on said land.

15. That, for the purpose of indemnifying and protecting the Commonwealth of Massachusetts, the Metropolitan District Commission, and its and their agents, servants and employees, the Grantees shall maintain at their sole cost and expense, general public liability insurance against claims for personal injury or death and property damage; such liability insurance shall afford protection to the limit of not less than \$500,000 in respect of injury or death to any one person and to the limit of not less than \$1,000,000 in respect of injury or death to any number of persons arising out of any one accident; and such insurance against property damage to afford protection to the limit of not less than \$100,000 in respect of any instance of property damage. The insurance maintained as aforesaid shall name the Grantor herein and the Commonwealth of Massachusetts as parties insured.

16. That if the land ceases to be used for the purposes herein granted, said land shall revert to the Commonwealth.

This conveyance is made subject to all restrictions and easements of record insofar as they are in force and applicable to the parcels hereinabove conveyed.

The agreements, rights and obligations set forth herein shall run with the land described in Schedules B and C hereto annexed and shall be binding upon and inure to the benefit of the Grantor and the Grantees and their respective successors in interest.

IN WITNESS WHEREOF, the Commonwealth of Massachusetts has caused these presents to be executed in its name and behalf by a majority of its said Metropolitan District Commission, including the Commissioner, who do,

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therefore, hereunto set their hands and seals, without,
however, incurring any personal liability by reason of
the execution hereof or of anything herein contained,
this 10th day of March, 1971.

COMMONWEALTH OF MASSACHUSETTS

By John W. Sears Commissioner

John J. Haggerty
Vincent J. Green Associate
Commissioners

Being a majority of the
Metropolitan District Commission

COMMONWEALTH OF MASSACHUSETTS

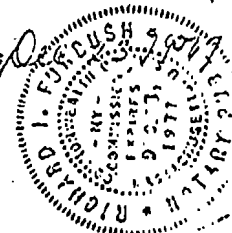
Suffolk, ss.

March 10, 1971

Then personally appeared the above-named JOHN W.
SEARS, Commissioner as aforesaid, and acknowledged the
foregoing instrument to be his free act and deed and the
free act and deed of the Commonwealth of Massachusetts;
before me,

Richard J. Turbush
Notary Public

My commission expires:



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2023 1023

In Metropolitan District Commission

Boston, *March 10,* 1971.

VOTED: To convey to Julian Cohen of Brookline, County of Norfolk and Commonwealth of Massachusetts, and Chestnut Hill Towers, Inc. of Newton, County of Middlesex and said Commonwealth, an easement for a right of way to be used in common with the Commonwealth of Massachusetts, over a parcel of land situated in Newton in the County of Middlesex and Commonwealth of Massachusetts and shown on a plan entitled " Plan of Land in Newton, Mass. Showing Access Easements to be granted to Julian Cohen and Chestnut Hill Towers, Inc. by the Metropolitan District Commission, dated March, 1971, by Everett M. Brooks Co., Surveyors", being plan accession number 46797x-V.T. to be recorded herewith, and to execute a deed accordingly.

A true copy,

ATTEST:

Richard J. Tarkenton
Secretary, Metropolitan District Commission

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SCHEDULE A

Being a Tract of Land in Newton, Middlesex County,
Commonwealth of Massachusetts, and more particularly
described by metes and bounds as follows:

Beginning at a point on the Northerly side of Boylston Street distant 139.83 feet easterly (on the arc of a curve whose radius is 1955 feet) from the point of compound curvature of a curve whose radius is 20 feet and a curve whose radius is 1955 feet respectively, said 20 foot curve being the northeasterly intersection of Moody Street and Boylston Street; continuing North 58 degrees 50 minutes 19 seconds West along the land of the City of Newton 59.00 feet; continuing North 29 degrees 13 minutes 20 seconds East along the land now or formerly of Annese & Tourasi and Pierce 185.28 feet; continuing North 60 degrees 35 minutes 10 seconds West along the land now or formerly of Pierce 59.45 feet; continuing North 21 degrees 13 minutes 30 seconds East along the land now or formerly of Pierce, Bluc, Ritchie, Tibbetts, George, Annese & Tourasi and Mattola 606.65 feet; continuing South 83 degrees 16 minutes 30 seconds West by land now or formerly of Mattola, Moody Street, and Chestnut Hill Towers, Inc. 202.30 feet; continuing North 26 degrees 15 minutes 58 seconds East by land now or formerly of Chestnut Hill Towers, Inc. 164.70 feet; continuing by land now or formerly of Chestnut Hill Towers, Inc. in a Northwesterly direction with the arc of a curve whose radius is 388.50 feet and whose central angle is 8 degrees 37 minutes 7 seconds an arc distance of 58.44 feet; continuing North 67 degrees 50 minutes 24 seconds West by Land now or formerly of Chestnut Hill Towers, Inc. 34.67 feet which point is the point of beginning of the Access Easement;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Northeasterly direction with the arc of a curve whose radius is 1,000 feet and whose central angle is 10 degrees 31 minutes 35 seconds an arc distance of 183.72 feet;

THENCE North 2 degrees 0 minutes 0 seconds West by land now or formerly of the Commonwealth of Massachusetts 187.68 feet;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Northerly direction with the arc of a curve whose radius is 950.00 feet and whose central angle is 12 degrees 4 minutes 19 seconds an arc distance of 200.16 feet;

THENCE in a Northeasterly direction by the land now or formerly of the Commonwealth of Massachusetts with the arc of a curve whose radius is 50.00 feet and whose central angle is 90 degrees 57 minutes 18 seconds, an arc distance of 79.37 feet;

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THENCE South 78 degrees 58 minutes 23 seconds East by land now or formerly of the Commonwealth of Massachusetts 326.31 feet to the Westerly side of Hammond Pond Parkway;

THENCE in a Northeasterly direction by the Westerly side of Hammond Pond Parkway with the arc of a curve whose radius is 559.00 feet and whose central angle is 8 degrees 12 minutes 24 seconds an arc distance of 80.07 feet;

THENCE North 78 degrees 58 minutes 23 seconds West by land now or formerly of the Commonwealth of Massachusetts 426.44 feet;

THENCE South 11 degrees 1 minute 37 seconds West by land now or formerly of the Commonwealth of Massachusetts 115.00 feet;

THENCE by the land now or formerly of the Commonwealth of Massachusetts in a Southerly direction with the arc of a curve whose radius is 1000.00 feet and whose central angle is 13 degrees 1 minute 37 seconds an arc distance of 227.36 feet;

THENCE South 2 degrees 0 minutes 0 seconds East by land now or formerly of the Commonwealth of Massachusetts 187.68 feet;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Southwesterly direction with the arc of a curve whose radius is 950.00 feet and whose central angle is 9 degrees 44 minutes 18 seconds an arc distance of 161.47 feet;

THENCE by land now or formerly of Chestnut Hill Towers, Inc. in a Southeasterly direction with the arc of a curve whose radius is 374.98 feet and whose central angle is 3 degrees 57 minutes 2 seconds an arc distance of 25.85 feet;

THENCE South 67 degrees 50 minutes 24 seconds East by land now or formerly of Chestnut Hill Towers, Inc. 25.92 to the point of beginning of the Access Easement.

SCHEDULE B

A certain parcel of land on Moody Street, Boylston Street (also known as Worcester Turnpike) and Hammond Pond Parkway, shown as Lots A, B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, and B-11, and a lot shown as containing 12.68 acres more or less, all on a plan entitled "Plan of Land in Newton, Mass." dated October 11, 1956, Everett M. Brooks Co., Civil Engineers, further described as follows:

Beginning at land of the City of Newton, at Boylston Street, thence running Westerly by said land, fifty-nine (59) feet, more or less;

Thence running Northeasterly by land now or formerly of Annese & Taurasi, Lazarus and Pierce, one hundred and eighty-five (185) feet, more or less;

Thence running Northwesterly by land now or formerly of said Pierce, fifty-nine and 45/100 (59.45) feet;

Thence running Northerly by land now or formerly of Pierce, Blue, Ritchie, Tibbetts, George, Annese & Taurasi, and Mottola, six hundred six and 65/100 (606.65) feet;

Thence running Southwesterly by land now or formerly of Mottola, by Moddy Street and by land now or formerly of Annese & Taurasi, two hundred two and 30/100 (202.30) feet;

Thence running Northeasterly by land now or formerly of Gabriel D'Annunzio Club of Newton, one hundred sixty-four and 65/100 (164.65) feet and continuing in a Northeasterly direction;

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Thence North $26^{\circ}22'07''$ East, ninety-eight and 31/100 (98.31) feet, to a point;

Thence North $24^{\circ}21'08''$ East, one hundred thirty-four and 23/100 (134.23) feet, to a point;

Thence North $32^{\circ}36'06''$ East, two hundred thirty and 53/100 (230.53) feet to a drill hole in ledge;

Thence South $50^{\circ}29'19''$ East, one hundred sixty-eight (168) feet more or less to a point;

Thence in a Southeasterly direction by a line curving to the left with a radius of five hundred fifty-nine and 00/100 (559.00) feet, eight hundred forty-four (844) feet more or less to a point;

Thence Southeasterly, fifteen (15) feet more or less to a point;

Thence in a Southeasterly direction by a line curving to the right with a radius of two hundred fifty-four (254) feet more or less, three hundred eighty-eight (388) feet more or less to a point;

Thence in a Southeasterly, Southerly and Southwesterly direction by a line curving to the right with a radius of sixty (60) feet more or less, eighty-five (85) feet more or less to a point;

Thence Southwesterly, six hundred (600) feet more or less;

Thence in a Southerly and Southwesterly direction by a line with a radius of 37.01 feet, sixty-five and 33/100 (65.33) feet, to Boylston Street, also known as Worcester Turnpike;

Thence by said Boylston Street, also known as Worcester Turnpike, by three lines, one hundred thirty-

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five and 24/100 (135.24) feet, four hundred fifteen and 86/100 (415.86) feet, and four hundred nine (409) feet, more or less to the point of beginning.

Being the premises conveyed to State Street Realty, Inc. by deed of Arthur Shactman et al by deed recorded with Middlesex South District Deeds, Book 8838, Page 270.

And a certain parcel of land situate in said Newton, bounded and described as follows:

- NORTHWESTERLY by Moody Street, sixty-four and 81/100 feet;
- NORTHERLY by land now or formerly of Patrick O'Loughlin, et al, ninety-eight and 26/100 feet;
- SOUTHEASTERLY by land of said Patrick O'Loughlin, et al, one hundred and 26/100 feet;
- SOUTHWESTERLY by lot 19 as shown on plan herein-after mentioned, eighty-six and 23/100 feet;

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South District of Middlesex County in Registration Book 233, Page 453 with Certificate No. 34936. Said parcel is shown as Lot 20 on said plan. Being the property described in Certificate of Title No. 102081 issued by said Registry District.

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SCHEDULE C

FIRST PARCEL:

A parcel of land being shown as Lots A, C and the greater portion of Lot B on a plan entitled "Compiled Plan Of Land In Newton, Mass." dated May 2, 1961, Barnes Engineering Co. Inc., Civil Engineers. Said parcel of land being bounded and described according to said plan as follows:

- SOUTHWESTERLY by Boylston Street by two bounds, three hundred forty-one and 50/100 (341.50) feet and one hundred four (104) feet more or less respectively;
- NORTHWESTERLY by land of Sun Oil Company, ninety (90) feet more or less;
- SOUTHWESTERLY by land of Sun Oil Company, ninety-five (95) feet more or less;
- NORTHWESTERLY by a stone wall and by the remains of the stone wall by three bounds, one thousand one hundred forty-five (1,145) feet more or less, one hundred thirty-four and 94/100 (134.94), and ninety and 71/100 (90.71) feet respectively;
- NORTHEASTERLY by land of the Commonwealth of Massachusetts by three bounds, four hundred forty-four and 57/100 (444.57) feet, one hundred forty and 81/100 (140.81) feet, and ninety and 09/100 (90.09) feet respectively;
- NORTHEASTERLY by Lot D, fifty and 48/100 (50.48) feet;
- NORTHEASTERLY by land of the Commonwealth of Massachusetts by two bounds, thirty-five and 11/100 (35.11) feet and fifty-eight and 44/100 (58.44) feet respectively;
- SOUTHEASTERLY by land of State Street Realty Inc., one hundred seventy-six and 21/100 (176.21) feet;
- SOUTHEASTERLY by the second parcel hereinafter described (said bound not being shown on said plan but being ninety and 27/100 (90.27) feet in length); and
- SOUTHEASTERLY by land of C. H. Lowell, trustee et al, by three bounds, twenty-five and 22/100 (25.22) feet, sixty-four (64) feet and six hundred (600) feet respectively.

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Said premises containing according to said plan 772,859 square feet including the area covered by the second parcel hereinafter described.

Said parcels A and the larger portion of B were conveyed to Chestnut Hill Towers, Inc. by two deeds of Natale Sostilio, both dated June 9, 1959 and duly recorded with Middlesex South District Deeds, Book 9394, Pages 130 and 131 respectively.

Said parcel C was conveyed to Chestnut Hill Towers, Inc. by deed of Chestnut Hill Farm Association dated July 10, 1961 duly recorded with Middlesex South District Deeds in Book 9847, Page 189.

SECOND PARCEL:

A parcel of land in said Newton being shown as Lot 10 on a subdivision plan as approved by the Court, filed in the Registration Office, a copy of a portion of which is filed in the Middlesex South Registry District in Book 233, Page 453 with Certificate of Title No. 34936 and is bounded and described according to said plan as follows:

SOUTHWESTERLY	by the NORTHEASTERLY line of Moody Street one hundred twenty-five and 75/100 (125.75) feet;
SOUTHWESTERLY	by lot 9 eighty-one and 69/100 (81.69) feet;
NORTHWESTERLY	by land now or formerly of Gabriele d'Annunzio ninety and 27/100 (90.27) feet; and
NORTHERLY	by land now or formerly of Patrick O'Loughlin seventy-eight and 68/100 (78.68) feet.

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BK 11995 PG 259

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SEE FILE IN RECORD BOOK 11995 PAGE 259

The Commonwealth of Massachusetts, acting through its Metropolitan District Commission ("Grantor"), grants to JULIAN COHEN, having a mailing address at 1330 Beacon Street, Brookline, Massachusetts 02146, his successors and assigns, and those from time to time claiming by, through or under him or them (hereinafter referred to as the "Grantee"), the perpetual right and easement to use the parcel or tract of land bounded and described as set forth in Schedule A hereto annexed and hereby made a part hereof, and shown on a plan entitled "Plan of Land in Newton, Mass. Showing Parking Easements to be granted to Julian Cohen by the Metropolitan District Commission, dated March, 1971, by Everett M. Brooks Co. Surveyors", being MDC Accession Number 46798-XVT to be recorded herewith; such easement to be limited solely for the purpose of parking of vehicles (and roadways incident thereto) as follows: (i) for public recreational purposes and more particularly, as parking areas for the proposed park lands of the Grantor in the immediate vicinity; and (ii) by the Grantee in connection with the property presently owned by State Street Realty, Inc. near the intersection of Hammond Pond Parkway and Boylston Street (Route 9) in said Newton, which land is described in Schedule B hereto annexed and hereby made a part hereof, title to which land the said Grantee is about to acquire.

Said easement is conveyed with and subject to the following rights, agreements, terms and conditions, and with the understanding that this easement is to be used solely for parking (and roadways incident thereto) by the Grantor for public recreational purposes as aforesaid, and by the Grantee as aforesaid:

1. That the Grantee shall, at Grantee's sole cost and expense, bring said parcel or tract of land set forth in Schedule A hereto annexed (hereinafter referred to, for convenience, as the "MDC Parking Parcel") up to a suitable grade, consistent with the grade to be established on the tract of land described in Schedule B hereto annexed (which for purposes of convenience will hereinafter be referred to as the "Shopping Center Tract"), and in addition, shall pave and stripe the same in a manner suitable for parking, and shall install such lighting thereon as the Grantee shall determine necessary or advisable.

2. That the Grantee shall, at Grantee's sole cost and expense, install a so-called "border" on the westerly

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portion of the MDC Parking Parcel, which shall be landscaped in conformity with the reasonable requirements of the Metropolitan District Commission Planning Division.

3. That with respect to the land owned by the Grantor immediately northerly of the MDC Parking Parcel, the Grantee will, insofar as is feasible, preserve said land in its present state; but to the extent that the same must be brought up to a suitable grade, the Grantee shall install thereon such landscaping as may be required to bring said land back to its present state, or as otherwise may be reasonably required by the Metropolitan District Commission Planning Division.

4. That the Grantee, but not the Grantor, shall have the right from time to time to erect reasonable barricades separating, in whole or in part, the MDC Parking Parcel from the Shopping Center Tract.

5. That the Grantee shall at all times keep said MDC Parking Parcel free and unobstructed for travel at all times, and forever open to light and air.

6. That the cost of installing, maintaining, repairing or replacement of or damage to the said MDC Parking Parcel and surface thereof, shall be borne by the Grantee for such period of time as the Grantee shall make use of said MDC Parking Parcel.

7. That the Grantee shall maintain the roadways and the surface of said MDC Parking Parcel and shall keep the same free of snow and ice, all at Grantee's own expense, so long as the Grantee shall make use of said MDC Parking Parcel.

8. That no drains, water mains, and public utilities are to be installed in said MDC Parking Parcel without the prior written approval of the Grantor, and then in a manner satisfactory to and approved by the Director of Park Engineering and Chief Park Engineer of the said Grantor.

9. That the Grantor, its agents, servants or employees, may enter, use and view the premises at any time for the benefit of remaining land of the Grantor.

10. That no signs, other than directional signs, buildings, structures, or parts thereof, shall be erected, placed or maintained on said land.

11. That, for the purpose of indemnifying and protecting the Commonwealth of Massachusetts, the Metropolitan District Commission, and its and their agents, servants and employees, the Grantee shall maintain, at his sole cost and expense, general public liability insurance against claims for personal injury or death and property damage; such liability insurance shall afford protection to the limit of not less than \$500,000 in

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respect of injury or death to any one person and to the limit of not less than \$1,000,000 in respect of injury or death to any number of persons arising out of any one accident; and such insurance against property damage to afford protection to the limit of not less than \$100,000 in respect of any instance of property damage. The insurance maintained as aforesaid shall name the Grantor herein and the Commonwealth of Massachusetts as parties insured.

12. That if the land ceases to be used for the purposes herein granted, said land shall revert to the Commonwealth.

This conveyance is made subject to all restrictions and easements of record insofar as they are in force and applicable to the parcel hereinabove conveyed.

The agreements, rights, and obligations set forth herein shall run with the land described in Schedule B hereto annexed and shall be binding upon and inure to the benefit of the Grantor and the Grantee and their respective successors in interest.

IN WITNESS WHEREOF, the Commonwealth of Massachusetts has caused these presents to be executed in its name and behalf by a majority of its said Metropolitan District Commission, including the Commissioner, who do, therefore, hereunto set their hands and seals, without, however, incurring any personal liability by reason of the execution hereof or of anything herein contained, this 10th day of March, 1971.

COMMONWEALTH OF MASSACHUSETTS

By *John W. Sears* Commissioner
John J. Haggerty
Quentin J. O'Brien } Associate

_____ } Commissioners

Being a majority of the
Metropolitan District Commission

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COMMONWEALTH OF MASSACHUSETTS

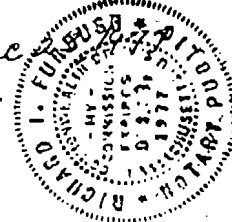
Suffolk, ss.

March 10, 1971

Then personally appeared the above-named, JOHN W. SEARS, Commissioner as aforesaid, and acknowledged the foregoing instrument to be his free act and deed and the free act and deed of the Commonwealth of Massachusetts; before me,

Richard J. Furush
Notary Public

My commission expires: *Dec*



BK11995 PG263

In Metropolitan District Commission.

Boston, *March 10*, 1971

VOTED: To convey to Julian Cohen of Brookline, County of
Norfolk and Commonwealth of Massachusetts, the right and easement
to use for parking purposes in common with the Commonwealth of
Massachusetts, a certain parcel of land situated in Newton in the
County of Middlesex and Commonwealth of Massachusetts as shown on
a plan entitled "Plan of Land in Newton, Mass. Showing Parking
Easements to be granted to Julian Cohen by the Metropolitan District
Commission, dated March, 1971, by Everett M. Brooks Co., Surveyors",
being plan accession number 46798x-V.T. to be recorded herewith,
and to execute a deed accordingly.

A true copy,

ATTEST:

Richard L. Durlish
Secretary, Metropolitan District Commission

BK11995 PG264

SCHEDULE A

Being a 2.272 acre Tract of Land in Newton, Middlesex County, Massachusetts and being more particularly described by metes and bounds as follows:

Beginning at a point on the Northerly side of Boylston Street distant 139.83 feet easterly (on the arc of a curve whose radius is 1955 feet) from the point of compound curvature of a curve whose radius is 20 feet and a curve whose radius is 1955 feet respectively, said 20 foot curve being the northeasterly intersection of Moody Street and Boylston Street; continuing North 58 degrees 50 minutes 19 seconds West along the land of the City of Newton 59.00 feet; continuing North 29 degrees 13 minutes 20 seconds East along the land now or formerly of Annese & Tourasi and Pierce 185.28 feet; continuing North 60 degrees 35 minutes 10 seconds West along the land now or formerly of Pierce 59.45 feet; continuing North 21 degrees 13 minutes 30 seconds East along the land now or formerly of Pierce, Blue, Ritchie, Tibbetts, George, Annese & Tourasi and Mattola 606.65 feet; continuing South 83 degrees 16 minutes 30 seconds West by land now or formerly of Mattola, Moody Street, and Chestnut Hill Towers, Inc. 202.30 feet; continuing North 26 degrees 15 minutes 58 seconds East 164.70 feet, which point is the point of beginning of the M.D.C. Parking Parcel;

THENCE by land now or formerly of Chestnut Hill Towers, Inc. in a Northwesterly direction with the arc of a curve whose radius is 388.50 feet and whose central angle is 8 degrees 37 minutes 7 seconds an arc distance of 58.44 feet;

THENCE North 67 degrees 50 minutes 24 seconds West by Land now or formerly of Chestnut Hill Towers, Inc. 34.67 feet;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Northeasterly direction with the arc of a curve whose radius is 1,000 feet and whose central angle is 10 degrees 31 minutes 35 seconds an arc distance of 183.72 feet;

THENCE North 2 degrees 0 minutes 0 seconds West by land now or formerly of the Commonwealth of Massachusetts 187.68 feet;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Northerly direction with the arc of a curve whose radius is 950.00 feet and whose central angle is 9 degrees 35 minutes 59 seconds an arc distance of 159.17 feet;

THENCE by land now or formerly of the Commonwealth of Massachusetts in a Southeasterly direction with the arc of a curve whose radius is 30.00 feet and whose central angle is 86 degrees 34 minutes 22 seconds an arc distance of 45.33 feet;

THENCE South 78 degrees 58 minutes 23 seconds East by land now or formerly of the Commonwealth of Massachusetts 101.28 feet;

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THENCE by land now or formerly of the Commonwealth of Massachusetts in a Southeasterly direction with the arc of a curve whose radius is 200.00 feet and whose central angle is 28 degrees 21 minutes 28 seconds an arc distance of 98.99 feet;

THENCE South 50 degrees 36 minutes 55 seconds East by land now or formerly of the Commonwealth of Massachusetts 107.76 feet; which point is 170.88 feet from the Westerly side of Hammond Pond Parkway on the same bearing of South 50 degrees 36 minutes 55 seconds East;

THENCE South 32 degrees 27 minutes 6 seconds West by land now or formerly of State Street Realty, Inc. 231.26 feet;

THENCE South 24 degrees 13 minutes 32 seconds West by land now or formerly of State Street Realty, Inc. 134.23 feet;

THENCE South 26 degrees 14 minutes 31 seconds West by land now or formerly of State Street Realty, Inc. 98.31 feet to the point of beginning of the M.D.C. Parking Parcel.

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SCHEDULE B

A certain parcel of land on Moody Street, Boylston Street (also known as Worcester Turnpike) and Hammond Pond Parkway, shown as Lots A, B-1, B-2, B-3, B-4, B-5, B-6, B-7, B-8, B-9, B-10, and B-11, and a lot shown as containing 12.68 acres more or less, all on a plan entitled "Plan of Land in Newton, Mass." dated October 11, 1956, Everett M. Brooks Co., Civil Engineers, further described as follows:

Beginning at land of the City of Newton, at Boylston Street, thence running Westerly by said land, fifty-nine (59) feet, more or less;

Thence running Northeasterly by land now or formerly of Annese & Taurasi, Lazarus and Pierce, one hundred and eighty-five (185) feet, more or less;

Thence running Northwesterly by land now or formerly of said Pierce, fifty-nine and 45/100 (59.45) feet;

Thence running Northerly by land now or formerly of Pierce, Blue, Ritchie, Tibbetts, George, Annese & Taurasi, and Mottola, six hundred six and 65/100 (606.65) feet;

Thence running Southwesterly by land now or formerly of Mottola, by Moody Street and by land now or formerly of Annese & Taurasi, two hundred two and 30/100 (202.30) feet;

Thence running Northeasterly by land now or formerly of Gabriel D'Annunzio Club of Newton, one hundred sixty-four and 65/100 (164.65) feet and continuing in a Northeasterly direction;

Thence North 26°22'07" East, ninety-eight and 31/100 (98.31) feet, to a point;

Thence North 24°21'08" East, one hundred thirty-four and 23/100 (134.23) feet, to a point;

Thence North 32°36'06" East, two hundred thirty and 53/100 (230.53) feet to a drill hole in ledge;

Thence South 50°29'19" East, one hundred sixty-eight (168) feet more or less to a point;

Thence in a Southeasterly direction by a line curving to the left with a radius of five hundred fifty-nine and 00/100 (559.00) feet, eight hundred forty-four (844) feet more or less to a point;

Thence Southeasterly, fifteen (15) feet more or less to a point;

Thence in a Southeasterly direction by a line curving to the right with a radius of two hundred fifty-four (254) feet more or less, three hundred eighty-eight (388) feet more or less to a point;

Thence in a Southeasterly, Southerly and Southwesterly direction by a line curving to the right with a radius of sixty (60) feet more or less, eighty-five (85) feet more or less to a point;

Thence Southwesterly, six hundred (600) feet more or less;

Thence in a Southerly and Southwesterly direction by a line with a radius of 37.01 feet, sixty-five and 33/100 (65.33) feet, to Boylston Street, also known as Worcester Turnpike;

Thence by said Boylston Street, also known as Worcester Turnpike, by three lines, one hundred thirty-

BK11995 PG268

five and 24/100 (135.24) feet, four hundred fifteen and 86/100 (415.86) feet, and four hundred nine (409) feet, more or less to the point of beginning.

Being the premises conveyed to State Street Realty, Inc. by deed of Arthur Shactman et al by deed recorded with Middlesex South District Deeds, Book 8838, Page 270.

And a certain parcel of land situate in said Newton, bounded and described as follows:

NORTHWESTERLY	by Moody Street, sixty-four and 81/100 feet;
NORTHERLY	by land now or formerly of Patrick O'Loughlin, et al, ninety-eight and 26/100 feet;
SOUTHEASTERLY	by land of said Patrick O'Loughlin, et al, one hundred and 26/100 feet;
SOUTHWESTERLY	by lot 19 as shown on plan herein-after mentioned, eighty-six and 23/100 feet;

All of said boundaries are determined by the Court to be located as shown on a subdivision plan, as approved by the Court, filed in the Land Registration Office, a copy of which is filed in the Registry of Deeds for the South District of Middlesex County in Registration Book 233, Page 453 with Certificate No. 34936. Said parcel is shown as Lot 20 on said plan. Being the property described in Certificate of Title No. 102081 issued by said Registry District.

EXHIBIT 8

BK12084 PG096

SP 30-71 PM 1256 288X***72



7.20
The Commonwealth of Massachusetts

NO. J-14792

DEPARTMENT OF PUBLIC WORKS

PERMIT NEWTON

Subject to all of the terms, conditions and restrictions printed or written below, and on the reverse side hereof, permission is hereby granted to STATE STREET REALTY INC.,

of Brookline, to enter upon the State Highway in the City of Newton, known as Route 9 or Boylston Street for the purpose of constructing driveway approaches to their property on the northerly side of the highway between Stations 137+34 and 138+72 and Stations 138+23 and 138+74 and Stations 148+80 and 149+14 at the northerly location line and flaring between Stations 135+00 at the existing northerly curblines and Station 139+53 at the proposed northerly curblines and Stations 148+83 and 149+46 at the northerly ramp curblines as shown on the attached sketch, also, to widen the westerly roadway to thirty-six (36) feet from the driveway flare at Station 139+53 easterly to Station 145+43. A radius curve of six hundred (600) feet from Station 145+43 at the proposed northerly curblines to Station 147+13 at the northerly ramp curblines shall be utilized to establish the proposed northerly curblines.

The driveway approaches shall be constructed on a down grade from the proposed northerly curblines to the northerly location line.

The Grantee shall provide for proper drainage facilities within the limits of their property so that no surface water shall be outletted to the State Highway location lines.

An island shall be constructed between the driveways. The island and adjacent areas shall be graded six inches above the grade of the driveways and edged with Bit. Conc. Berm.

In the event that a snow or ice condition exists during the progress of this work, the Grantee shall keep the highway well sanded to a point not less than two hundred feet beyond the limits of the lights and barriers.

All materials and construction methods employed in construction of the

(SEE OTHER SIDE FOR ADDITIONAL CONDITIONS) (con't.)

~~No work shall be done under this permit until the Grantee shall have communicated with and received instructions from the District Highway Engineer of the Department of Public Works, at~~

~~This permit shall be void unless the work herein contemplated shall have been completed before~~

~~Dated at this day of
Department of Public Works,
By~~

HMD-602

BK12084 PG097

Conditions Relating Particularly to Permits for the Laying of Pipes, Conduits, etc.

After any pipes, conduits, drains or other underground structures are laid, or any excavation is made in the roadway, the trenches or openings shall be properly back-filled with suitable material, the back-filling shall be thoroughly tamped, and the surface of the road over said structures shall be left even with the adjoining ground. If the work is done in cold weather no frozen material shall be used for back-filling.

Whenever the hardened surface of the roadway, gutters, or any part of the surface of the highway is disturbed it shall be replaced in as good condition as before it was disturbed, and if new materials are required they shall correspond with those already in place on the road.

Where service pipes are to cross the highway the connections shall be made without disturbing the hardened surface of the roadway, by driving the pipes under the roadway, or the service pipes shall be carried under and across the road in a larger pipe, unless otherwise ordered by the Engineer.

The Grantee shall maintain the surface of the roadway over said structures as long as the Department may deem necessary, until all signs of the trenches shall have been eliminated.

Conditions Relating Particularly to Permits for the Erection of Poles, Wires, and Overhead Structures, and the Cutting and Trimming of Trees

In the erection of pole lines, unless otherwise herein provided, no trees located within the limits of the State highway shall be cut or trimmed. No guy wires shall be attached to trees without a special permit from the Department, and in no event shall they be so attached as to strike the trees or in any way interfere with their growth. The wires shall be so protected at all times and places that they shall not interfere with or injure the trees either inside or outside the location of the highway.

Where the cutting or trimming of trees is authorized by this permit, only such cutting and trimming shall be done as may be designated by the Engineer.

In the construction or reconstruction of pole lines no guy wires shall be erected nearer to the surface of the ground than six feet; provided, however, that the owners of such lines may maintain such guy wires at a lower elevation than six feet from the ground until such time as the Department shall notify them to remove said wires or to raise them to the elevation first stated.

In order to protect the trees through which any wires may pass, said wires shall be insulated and such other tree guards, used as may be directed by the Engineer.

Where high tension wires are erected under this permit, they shall be so located that, under conditions of maximum severity as regards a coating of ice or snow, they shall be a space of at least eight feet between such high tension wires and other wires.

The Grantee shall, within sixty days from the date of completion of the work, file in the office of the Department a plan showing the location of each pole erected in accordance with the permit, said plan to be of such size and in such form as the Department may direct.

General and Additional Conditions

Whenever the word "Department" is used herein it shall mean the Department of Public Works of the Commonwealth of Massachusetts. Whenever the word "Engineer" is used herein it shall mean the District Highway Engineer or other authorized representative of the Department.

Whenever the word "Grantee" is used herein it shall mean the person or persons, corporation or municipality to whom this permit is granted, or their legal representative.

During the progress of the work all structures under ground and above ground shall be properly protected from damage or injury; such barriers shall be erected and maintained as may be necessary for the protection of the traveling public; the same shall be properly lighted at night; and the Grantee shall be responsible for all damages to persons or property due to or resulting from any work done under this permit.

Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highways in such a manner as to interfere with the travel over said road.

If any grading or sidewalk work done under this permit interferes with the drainage of the State highway in any way, such catch-basins and outlets shall be constructed as may be necessary. In the opinion of the Engineer, to take proper care of said drainage.

Whenever the hardened surface of the roadway is disturbed and the Engineer may consider it necessary or advisable to do so, said surface will be restored by the employees of the Department, at such time as the Department may direct, and the expense thereof shall be borne by the Grantee, who shall purchase and deliver on the road the materials necessary for said work if, and when directed by the Engineer. All payments to intermediaries and to laborers, inspectors, etc., employed by the Department for or on account of the work herein contemplated shall be made by said Grantee forthwith on the receipt of written orders, pay rolls, or vouchers approved by the Department.

IF THE GRANTEE DOES ANY WORK CONTRARY TO THE ORDERS OF THE ENGINEER, AND, AFTER DUE NOTICE, FAILS TO CORRECT SUCH WORK OR TO REMOVE STRUCTURES OR MATERIALS ORDERED TO BE REMOVED, OR FAILS TO COMPLETE WITHIN THE SPECIFIED TIME THE WORK AUTHORIZED BY THIS PERMIT, THE DEPARTMENT MAY, WITH OR WITHOUT NOTICE, CORRECT OR COMPLETE SUCH WORK IN WHOLE OR IN PART, OR REMOVE SUCH STRUCTURES OR MATERIALS, AND THE GRANTEE SHALL REIMBURSE THE COMMONWEALTH FOR ANY EXPENSE INCURRED IN CORRECTING AND/OR COMPLETING THE WORK OR REMOVING THE STRUCTURES OR MATERIALS.

ALL OF THE WORK HEREIN CONTEMPLATED SHALL BE DONE UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE DEPARTMENT OF PUBLIC WORKS, AND THE ENTIRE EXPENSE THEREOF SHALL BE BORNE BY THE GRANTEE.

On the completion of the work herein contemplated all rubbish and debris shall be removed and the roadway and roadides shall be left neat and presentable and satisfactory to the Engineer.

The Department hereby reserves the right to order the change of location or the removal of any structure or structures authorized by this permit at any time, said change or removal to be made by and at the expense of the Grantee or its successors or assigns.

This permit may be modified or revoked at any time by the Department without rendering said Department or the Commonwealth of Massachusetts liable in any way.

The Grantee shall pay the salary, subsistence and traveling expenses of any Inspector appointed by the Department to supervise the work herein contemplated.

All of the above conditions shall be applicable to the work herein authorized, unless the same are inconsistent with the conditions on the face of the permit, in which case the conditions written or printed on the face of the permit shall apply.

The acceptance of this permit or the doing of any work thereunder shall constitute an agreement by the Grantee to comply with all of the conditions and restrictions printed or written herein.

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NEWTON CONT.

-2-

Permit No. J-14792

widening and restriction shall be in strict conformance with the Mass. Department of Public Works, Standards and Specifications (Highways) - 1967 Edition and as amended.

Material that is excavated shall be disposed of as directed by the Engineer assigned to supervise this project.

The existing curbing shall be removed and stacked in a convenient location and reused upon acceptance by the above Engineer.

All phases of construction performed under this permit shall be construed to be of a permanent nature.

The Grantee shall be responsible for all costs necessary for the completion of this work.

The existing utility poles within the limits of construction shall be relocated prior to construction.

Two (2) catchbasins with granite curb inlets shall be constructed at Stations 140+30+ and 142+17+ with interconnecting twelve (12) inch R. C. drain pipe to the existing catchbasins as shown on the attached sketch. The existing C.B.C.I.'s shall be converted to manholes. The existing curb inlets and catch basin frames and grates may be utilized in the above phase of construction upon acceptance by the Engineer.

Prior to the removal of the tree located within the proposed widening, the Grantee shall submit to the District Highway Engineer a bona fide order, placed with a recognized established nursery for one (1) Norway Maple (Acer Platanoides), eight (8) to ten (10) feet in height. The replacement tree shall have a minimum caliper of one and one quarter (1 1/4) and must be balled and burlapped.

The tree removal shall be done under the supervision of a qualified tree surgeon and the tree stump and debris resulting from the work shall be removed from the State Highway location.

Standard regulatory one-way arrow (R6-1) and "No Left Turn" (R3-2) and hazard markers (E1-2) and "Yield" (R1-2) signs shall be installed at the locations indicated on the attached sketch.

All of said work shall be done as directed by and to the satisfaction of the Engineer.

(SEE OTHER SIDE FOR ADDITIONAL CONDITIONS) (con't.)

~~No work shall be done under this permit until the Grantee shall have communicated with and received instructions from the District Highway Engineer of the Department of Public Works, at~~

~~This permit shall be void unless the work herein contemplated shall have been completed before~~

~~Dated at this day of
Department of Public Works,
By~~

HMD-604

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Conditions Relating Particularly to Permits for the Moving of Vehicles

No wedge, bar or spike shall be driven into the surface of the State highway, and no tree shall be cut, trimmed or in any way interfered with.

The building shall not be moved until the owner or mover shall have secured from the municipal authorities a permit containing such conditions or restrictions as they may see fit to impose.

No building shall be allowed to remain on any State highway on Sundays or holidays or on any days immediately preceding or following Sundays or holidays.

Said owner or mover shall also comply with such conditions as may be imposed by any public service corporation whose property may be interfered with in the moving of the building in question.

The loaded vehicle referred to in this permit, if equipped with iron or steel tires or treads, shall not be on the highway between sunrise and sunset, and, unless equipped with rubber-tired wheels, it shall be moved only in the presence and under the supervision of a representative of the Department, provided the Engineer so directs.

This permit does not relieve owners of motor vehicles or trailers employed on this work from their obligations to properly register the same in accordance with the motor vehicle and public utility laws and regulations.

General and Additional Conditions

Whenever the word "Department" is used herein it shall mean the Department of Public Works of the Commonwealth of Massachusetts.

Whenever the word "Engineer" is used herein it shall mean the District Highway Engineer or other authorized representative of the Department.

Whenever the word "Grantee" is used herein it shall mean the person or persons, corporation or municipality to whom this permit is granted, or their legal representatives.

During the progress of the work all structures under ground and above ground shall be properly protected from damage or injury; such barriers shall be erected and maintained as may be necessary for the protection of the traveling public; the same shall be properly lighted at night; and the Grantee shall be responsible for all damages to persons or property due to or resulting from any work done under this permit.

Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highway in such a manner as to interfere unnecessarily with the travel over said road.

Whenever the hardened surface of the roadway is disturbed and the Engineer may consider it necessary or advisable to do so, said surface will be restored by the employees of the Department, at such time as the Department may direct, and the expense thereof shall be borne by the Grantee, who shall purchase and deliver on the road the materials necessary for said work if and when directed by the Engineer. All payments to materialmen and to laborers, inspectors, etc., employed by the Department for or on account of the work herein contemplated shall be made by said Grantee forthwith on the receipt of written orders, pay rolls or vouchers approved by the Department.

If the Grantee does any work contrary to the orders of the Engineer, and, after due notice, fails to correct such work or to remove structures or materials ordered to be removed, or fails to complete within the specified time the work authorized by this permit, the Department may, with or without notice, correct or complete such work in whole or in part, or remove such structures or materials, and the Grantee shall reimburse the Commonwealth for any expense incurred in correcting and/or completing the work or removing the structures or materials.

All of the work herein contemplated shall be done under the supervision and to the satisfaction of the Department of Public Works, and the entire expense thereof shall be borne by the Grantee.

On the completion of the work herein contemplated all rubbish and debris shall be removed and the roadway and roadside shall be left neat and presentable and satisfactory to the Engineer.

This permit may be modified or revoked at any time by the Department without rendering said Department or the Commonwealth of Massachusetts liable in any way.

The Grantee shall pay the salary, subsistence and traveling expenses of any inspector appointed by the Department to supervise the work herein contemplated.

All of the above conditions shall be applicable to the work herein authorized, unless the same are inconsistent with the conditions on the face of the permit, in which case the conditions written or printed on the face of the permit shall apply.

The acceptance of this permit or the doing of any work thereunder shall constitute an agreement by the Grantee to comply with all of the conditions and restrictions printed or written herein.

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-3-

Permit No. J-14792

Uniformed Police shall be in attendance to maintain two way traffic at all times.

The Grantee shall indemnify and save harmless the Commonwealth and its Department of Public Works against all suits, claims or liability of every name and nature arising at any time out of or in consequence of the acts of the Grantee in the performance of the work covered by this permit and/or failure to comply with the terms and conditions of this permit whether by itself or its employees or subcontractors.

Grassed areas, where disturbed, shall be loamed to a depth of four inches and seeded.

No equipment, trucks, etc. shall occupy any part of the travelled way except between the hours of 9:00 A.M. and 3:30 P.M.

An Inspector may be assigned to the above project whose salary and incidental expenses shall be borne by the Grantee.

The existing hydrants shall be relocated prior to construction.

The area within the island shall be paved with two inches of Bit. Conc. Type I over a six inch gravel subgrade.

That part of the driveway located within the limits of the State Highway shall be maintained by the Grantee at his expense.

No signs shall overhang or be located within the State Highway.

After obtaining the necessary additional land the Grantee shall construct a sidewalk in compliance with the applicable provisions of the Commonwealth of Massachusetts Standard Specifications, 1967 Edition, to replace in kind the sidewalk removed as a result of the construction.

A COPY OF THIS PERMIT MUST BE ON THE JOB SITE AT ALL TIMES FOR INSPECTION. FAILURE TO HAVE THIS PERMIT AVAILABLE AT SUCH SITE WILL RESULT IN SUSPENSION OF THE RIGHTS GRANTED BY THE PERMIT.

(SEE OTHER SIDE FOR ADDITIONAL CONDITIONS)

No work shall be done under this permit until the Grantee shall have communicated with and received instructions from the District Highway Engineer of the Department of Public Works, at 519 Appleton St., Arlington 02174 Tel: 648-6100

This permit shall be void unless the work herein contemplated shall have been completed before November 6, 1971

Dated at Boston this sixth day of November, 1970
Department of Public Works, *James H. Kelley*
By Maintenance Engineer

typed in district
HMD-604

Conditions Relating Particularly to Permits for the Laying of Pipes, Conduits, etc.

After any pipes, conduits, drains or other underground structures are laid, or any excavation is made in the roadway, the trenches or openings shall be properly back-filled with suitable material. The back-filling shall be thoroughly tamped, and the surface of the road over said structures shall be left even with the adjoining ground. If the work is done in cold weather no frozen material shall be used for back-filling.

Whenever the hardened surface of the roadway, gutters, or any part of the surface of the highway is disturbed it shall be replaced in as good condition as before it was disturbed, and if new materials are required, they shall correspond with those already in place on the road.

Where service pipes are to cross the highway, the connections shall be made without disturbing the hardened surface of the roadway, by driving the pipes under the roadway, or the service pipes shall be carried under and across the road in a larger pipe, unless otherwise ordered by the Engineer.

The Grantee shall maintain the surface of the roadway over said structures as long as the Department may deem necessary, until all signs of the trenches shall have been eliminated.

Conditions Relating Particularly to Permits for the Erection of Poles, Wires, and Overhead Structures, and the Cutting and Trimming of Trees

In the erection of pole lines, unless otherwise herein provided, no trees located within the limits of the State highway shall be cut or trimmed. No guy wires shall be attached to trees without a special permit from the Department, and in no event shall they be so attached as to with or injure the trees either inside or outside the location of the highway.

Where the cutting or trimming of trees is authorized by this permit, only such cutting and trimming shall be done as may be designated by the Engineer.

In the construction or reconstruction of pole lines no guy wires shall be erected nearer to the surface of the ground than six feet, provided, however, that the owners of such lines may maintain such guy wires at a lower elevation than six feet from the ground until such time as the Department shall notify them to remove said wires or to raise them to the elevation first stated.

In order to protect the trees through which any wires may pass, said wires shall be insulated and such other tree guards used as may be directed by the Engineer.

Where high tension wires are erected under this permit, they shall be so located that, under conditions of maximum severity as regards a coating of ice or snow, there shall be a space of at least eight feet between such high tension wires and other wires.

The Grantee shall, within sixty days from the date of completion of the work, file in the office of the Department a plan showing the location of each pole erected in accordance with the permit, said plan to be of such size and in such form as the Department may direct.

General and Additional Conditions

Whenever the word "Department" is used herein it shall mean the Department of Public Works of the Commonwealth of Massachusetts. Whenever the word "Engineer" is used herein it shall mean the District Highway Engineer or other authorized representative of the Department.

Whenever the word "Grantee" is used herein it shall mean the person or persons, corporation or municipality to whom this permit is granted, or their legal representative.

During the progress of the work all structures under ground and above ground shall be properly protected from damage or injury: such barriers shall be erected and maintained as may be necessary for the protection of the traveling public; the same shall be properly lighted at night; and the Grantee shall be responsible for all damages to persons or property due to or resulting from any work done under this permit.

Except as herein authorized, no excavation shall be made or obstacle placed within the limits of the State highways in such a manner as to interfere unnecessarily with the travel over said roads.

If any grading or sidewalk work done under this permit interferes with the drainage of the State highway in any way, such catch basins and outlets shall be constructed as may be necessary, in the opinion of the Engineer, to take proper care of said drainage.

Wherever the hardened surface of the roadway is disturbed and the Engineer may consider it necessary or advisable to do so, said surface will be restored by the employees of the Department, at such time as the Department may direct, and the expense thereof shall be borne by the Grantee, who shall purchase and deliver on the road the materials necessary for said work if, and when, directed by the Engineer. All payments to materialmen and to laborers, inspectors, etc., employed by the Department for or on account of the work herein contemplated shall be made by said Grantee for on the receipt of written orders, pay rolls, or vouchers approved by the Department.

IF THE GRANTEE DOES ANY WORK CONTRARY TO THE ORDERS OF THE ENGINEER, AND AFTER DUE NOTICE FAILS TO CORRECT SUCH WORK OR TO REMOVE STRUCTURES OR MATERIALS ORDERED TO BE REMOVED, OR FAILS TO COMPLY WITHIN THE SPECIFIED TIME THE WORK AUTHORIZED BY THIS PERMIT, THE DEPARTMENT MAY, WITH OR WITHOUT NOTICE, CORRECT OR COMPLETE SUCH WORK IN WHOLE OR IN PART, OR REMOVE SUCH STRUCTURES OR MATERIALS, AND THE GRANTEE SHALL REIMBURSE THE COMMONWEALTH FOR ANY EXPENSE INCURRED IN CORRECTING AND/OR COMPLETING THE WORK OR REMOVING THE STRUCTURES OR MATERIALS.

ALL OF THE WORK HEREIN CONTEMPLATED SHALL BE DONE UNDER THE SUPERVISION AND TO THE SATISFACTION OF THE DEPARTMENT OF PUBLIC WORKS, AND THE ENTIRE EXPENSE THEREOF SHALL BE BORNE BY THE GRANTEE.

On the completion of the work herein contemplated all rubbish and debris shall be removed and the roadway and roadways shall be left neat and presentable and satisfactory to the Engineer.

The Department hereby reserves the right to order the change of location or the removal of any structure or structures authorized by this permit at any time, said change or removal to be made by and at the expense of the Grantee or its successors or assigns.

This permit may be modified or revoked at any time by the Department without rendering said Department or the Commonwealth of Massachusetts liable in any way.

The Grantee shall pay the salary, subsistence and traveling expenses of any inspector appointed by the Department to supervise the work herein contemplated.

All of the above conditions shall be applicable to the work herein authorized, unless the same are inconsistent with the conditions on the face of the permit, in which case the conditions written or printed on the face of the permit shall apply.

The acceptance of this permit or the doing of any work thereunder shall constitute an agreement by the Grantee to comply with all of the conditions and restrictions printed or written herein.

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The Commonwealth of Massachusetts

Department of Public Works

100 Nashua Street, Boston 02114

September 22, 1971

NEWTON

State Street Realty Inc.

1330 Beacon Street

Brookline, Mass. 02146

~~xxxxxx~~

Gentlemen:

The time for completion of the work covered by Permit No.

J-14792, issued to you under date of Nov. 6, 1970 for work
done on the State Highway in the ~~Town~~/City of Newton
known as Route/~~Road~~ 9, Boylston Street is hereby extended from
November 6, 1971 to November 6, 1972.

Very truly yours,

James F. Kelley

JAMES F. KELLEY
Maintenance Engineer

Copy to District Engineer

BK12084 PG103

COMMONWEALTH OF MASSACHUSETTS)
COUNTY OF SUFFOLK)

ss. September 27, 1971

Then personally appeared the above named James F. Kelley, maintenance engineer of the Department of Public Works and acknowledged the foregoing instrument to be the free act and deed of said Department of Public Works, before me.

Steven S. Fischman
Notary Public
STEVEN S. FISCHMAN
NOTARY PUBLIC
My Commission Expires
June 18, 1976



BK12084 PG104

ANNEXED TO PERMIT #J-14792

The original copy of the sketch referred to in the foregoing permit is filed with the Permit Division of the Department of Public Works, 100 Nashua Street, Boston, Massachusetts and is filed with Permit #J-14792.

EXHIBIT 9

Exhibit F-1
MASCO Lease

Restated Lease Agreement
Congregation Mishkan Tefila

This Restated Lease Agreement ("Agreement") which is dated 3/6 2015 is by and between Congregation Mishkan Tefila (hereinafter referred to as "Congregation") located at 300 Hammond Pond Parkway, Chestnut Hill, MA 02467, and the Medical Academic and Scientific Community Organization, Inc., (hereinafter referred to as "MASCO"), a Massachusetts non-profit corporation located at 375 Longwood Avenue, Boston, MA 02215.

1. Subject to the terms and conditions set forth below, Congregation hereby grants to MASCO, its employees, servants, agents, invitees, guests, and designees, a lease to use designated portions of the premises at 300 Hammond Pond Parkway. A map of the premises and designated parking areas is appended as Attachment A to this Agreement. The designated parking areas: the Front Lot, Rear Lot and Side Lot are to be used for the parking of passenger cars only between the hours of 5:30 a.m. and 9:00 p.m., Monday through Friday, excluding the legal holidays each year of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas, and also excluding four days each year for the religious holiday of Yom Kippur and Rosh Hoshanah. The Congregation will furnish a list of the dates of the foregoing religious holidays to MASCO on or before July 1st of each year of the preceding year.
2. The parties agree that MASCO has utilized 210 Spaces prior to the date of the Restatement of this Agreement. Effective the date of this Restated Agreement, MASCO will utilize 240 spaces under the terms of this Agreement with a corresponding adjustment to the fee for spaces under Sections 8&9 of the Agreement
3. The designated premises shall include three parking lots, one located at the entrance to the Premises (hereinafter referred to as Front Lot); one located at the rear of the premises (hereinafter referred to as Rear Lot); and one located at the side of the premises (hereinafter referred to as the Side Lot), these are all further described in Attachment A to this Agreement. Shuttle buses and automobiles shall only use the route shown in Attachment A when on the premises.
4. Should Congregation and MASCO agree upon any changes to the use of the designated premises, such changes shall be addressed in a written amendment to this Agreement executed by the parties.
5. It is understood that MASCO's employees, servants, agents, invitees, guests, and designees will use the rear road, which is reached via the Front Parking Lot, and not drive through the main parking lot of the Congregation except to reach the spaces added on March 1, 2105. MASCO will coordinate traffic flow to minimize cars entering the Side Parking Lot.
6. Congregation represents that it has the right to utilize the designated premises as a parking lot. In the event that Congregation's right to use or to occupy all or part of the designated premises, as described in Attachment A, is terminated, limited or interrupted

for period of thirty (30) consecutive days or more for whatever reasons, then MASCO shall have the right to terminate this Agreement upon written notice to the Congregation.

7. The term of this Lease shall be five (5) years commencing July 1, 2012 and terminating June 30, 2017.
8. In consideration hereof, MASCO agrees to pay Congregation an annual rent of \$171,278.00, in equal monthly installments of \$14,273.17 per month for the first year. The rent for years Two through Five, inclusive, shall increase on July 15th of each year by the greater of CPI — W (All Urban Wage Earners and Clerical Workers/Boston); and be established by using the index number for the month of May prior to the anniversary of this agreement, or 2.5%. All payments hereunder shall be due on the first day of each month. MASCO shall also pay the cost of the real estate taxes for the leased property as assessed and billed by the City of Newton. The real estate taxes will be paid by MASCO on a quarterly basis.
9. The parties acknowledge that the number of parking spaces utilized by MASCO has increased from 210 in years one and two, to 240 spaces, effective the date of this Restated Lease Agreement. Therefore, while current Agreement is \$14,995.75 per month for 210 spaces; the Restated Agreement commencing on March 1, 2015 will reflect \$17,138 per month for 240 cars, and will be subject to the annual adjustments set forth above.
10. At its own expense, MASCO shall make arrangements and pay for the general operation of the parking area, and minor maintenance of the designated premises and structure(s), including security, utilities, removal of trash and debris, and the filling of small potholes and snowplowing; all such arrangements will be made to the reasonable satisfaction of Congregation.
11. MASCO shall maintain: (a) commercial general liability insurance in the amount of not Less than \$1,000,000.00 combined single limit bodily injury and property damage and (b) Garage keeper's legal liability coverage in an amount not less than \$150,000.00 written on a legal liability basis. MASCO shall furnish evidence of such insurance to the Congregation. The policy may not be canceled or materially changed except with thirty (30) days prior written notice to the Congregation. The Congregation shall be an additional insured to these policies to the extent required under Section 12 of this Agreement. Both parties waive subrogation against each other for any damages caused by perils covered under insurance so long as this waiver does not adversely affect any such party's insurance policy or the right to recover thereunder.
12. Effective the date of execution of this Agreement, MASCO hereby releases and indemnifies Congregation from any liability, claim or obligation incurred on account of personal injury or property damage suffered or incurred by Congregation or any person who may park or otherwise utilize the designated premises as a result of any negligence or misconduct of MASCO, its agents, employees or representatives. Subject to the foregoing, Congregation, its successors and assigns, hereby agrees that, it shall indemnify and hold harmless MASCO against all claims, suits and liabilities by or to third parties as

a result of any negligence or misconduct of Congregation or any of its agents, employees, or representatives. Such indemnification includes all costs and reasonable attorneys' fees in defending any action.

13. Both parties agree to communicate promptly and informally, by meeting or otherwise, about my problem, which reflects either party's failure to comply with the terms of this Agreement.
14. Congregation agrees to cooperate with MASCO in obtaining any permits or leases required by MASCO to carry out the improvements to the designated premises or to operate the designated premises as a parking lot.
15. Congregation warrants and agrees that, for so long as MASCO performs its obligation under this Agreement, MASCO shall have the right peaceably and quietly to occupy, use and enjoy the designated premises for the purposes specified above throughout the term hereof without any interference by. Congregation or anyone asserting any rights by or through Congregation.
16. MASCO shall furnish conspicuous stickers to persons and vehicles to which it wishes to make available the use of any part of the designated premises. Each such person and operator of the vehicle shall be advised by MASCO of all applicable terms and conditions of this Agreement.
17. Congregation agrees to use reasonable efforts to maintain the premises in safe and good condition. Except for responsibilities of MASCO outlined above, Congregation shall, at its own expense, make or cause to be made all necessary repairs to maintain the premises in such condition. Except in cases of emergency, Congregation shall provide MASCO with advance notice of any maintenance work, which would disrupt the normal operation of the premises.
18. In the event of any default by MASCO in the payment of monies due hereunder, continuing for five (5) days after receipt of written notice from Congregation, Congregation shall have the right to terminate this Agreement by ten (10) day prior written notice to MASCO. In the event of MASCO's default under any other term or condition to this Agreement, continuing for fifteen (15) days after receipt of prior written notice from Congregation, Congregation shall have the right to terminate this agreement by thirty (30) days' written notice to MASCO.
19. In the event of termination because of the default by MASCO, or in the event of any default by MASCO in the performance of its obligations hereunder, MASCO covenants to indemnify and hold Congregation harmless from all loss and damage sustained by virtue of the termination or default including, without limitation, all loss of fees and other monies sustained by virtue of the termination or default including, without limitation, all costs and reasonable attorney's fees incurred by Congregation in enforcing any provision hereof or in collecting any damages hereunder,

20. All notices shall be delivered in writing, and if directed to Congregation, shall be mailed or delivered to:

Joshua Blumenthal, Executive Director Congregation Mishkan Tefila
300 Hammond Pond Parkway Chestnut Hill, MA 02467

Notices directed to MASCO shall be delivered in writing mailed and if directed to MASCO shall be mailed or delivered to:

P.J. Cappadona, Vice President of Operations
MASCO Inc.
375 Longwood Ave. Boston, MA 02215

21. This Agreement sets forth the entire agreement and understanding of the parties with respect to the Lease of the designated premises hereunder. This Agreement may be amended only in writing, signed and delivered by both of the parties.

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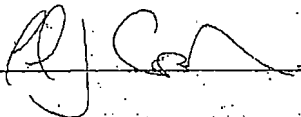
22. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto; provided, however, that except as otherwise specifically provided above, no rights, obligations, or interests under this Agreement shall be subcontracted, sublet or assigned, by either party without the written consent of the other.

Congregation Mishkin Tefila

By: 

Date: 3/6/15

MASCO, Inc.

By: 

Date: 3/6/15

Exhibit F-2
Parking Exhibit Plan

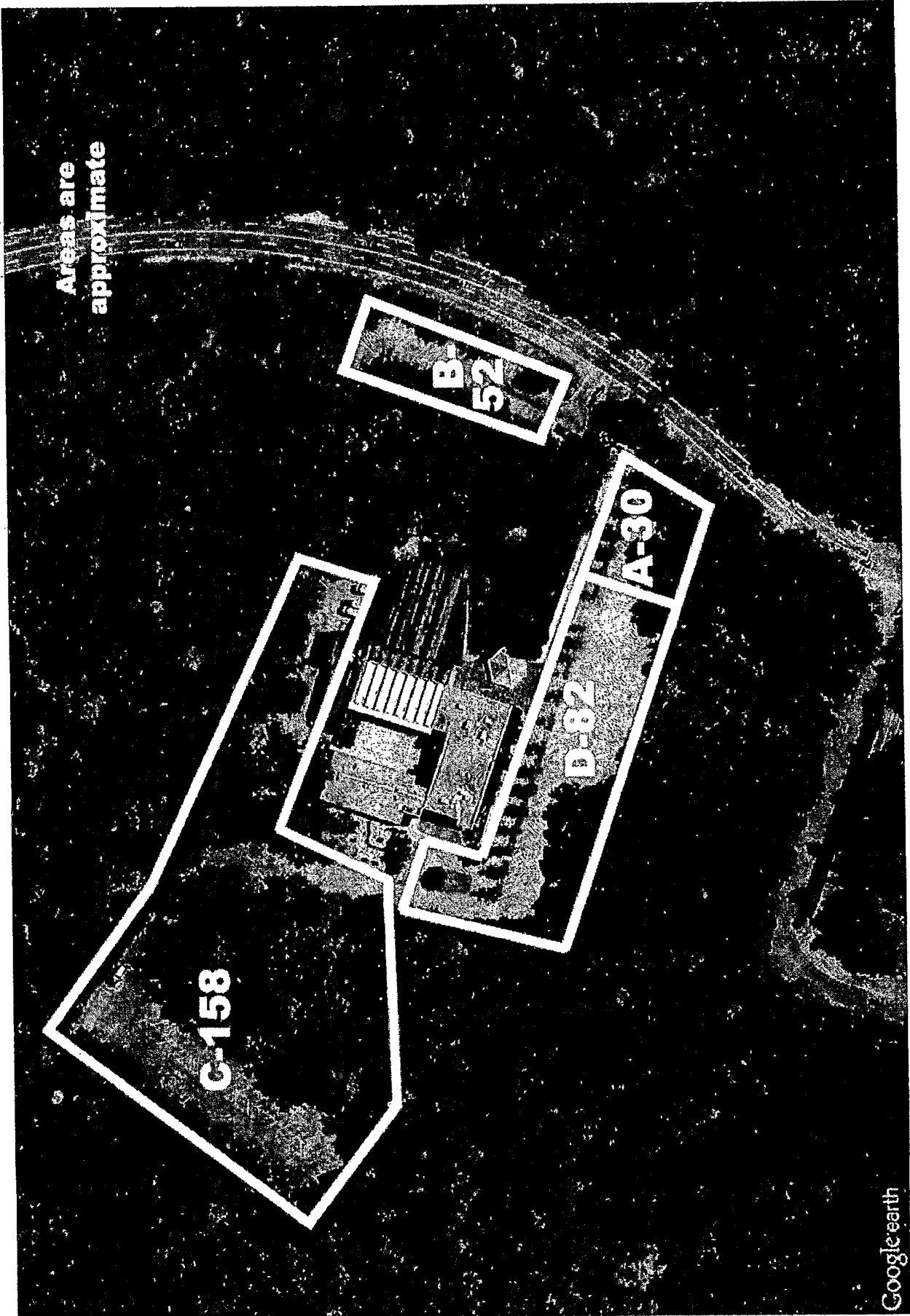


EXHIBIT 10



2023 00122027

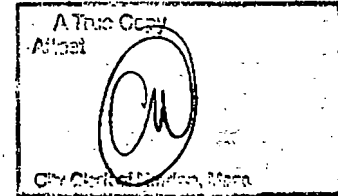
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#300-23

CITY OF NEWTON

IN CITY COUNCIL

October 2, 2023



CONFIRMATORY ORDER OF TAKING

WHEREAS, on December 24, 2019 the City of Newton recorded an Order of Taking, dated December 2, 2019, at the Middlesex South Registry of Deeds in Book 73890, Page 239, taking a parcel of land constituting a portion of a lot located at 300 Hammond Pond Parkway, Newton, Middlesex County, Massachusetts, and

WHEREAS, the description of the parcel of land taken was discovered to have contained certain errors, and

WHEREAS, the City of Newton has caused a survey to be made of the entire lot at 300 Hammond Pond Parkway, including both the portion of the lot intended to be taken as well as the remainder property not taken, and a "Taking Plan" based on such survey to be created, which "Taking Plan" is identified below, and

WHEREAS, the City of Newton desires to correct the record as to the description of the portion of said lot actually taken and the portion of the lot remaining.

NOW THEREFORE, the City of Newton, in City Council, has duly enacted the following to be hereby recorded as a CONFIRMATORY ORDER OF TAKING solely to correct the record as to the description of the land actually taken by Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239, to wit:

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 14.766 Acres more or less 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 being Taken 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,

SEE PLANNING 717 OF 2023

recorded with the Middlesex South District Registry of Deeds in Deed Book 67338, Page 386, and said Parent Parcel being shown on a plan entitled "Commonwealth of Massachusetts, Metropolitan District Commission, Park Division, Hammond Pond Parkway, Newton, Plan of Land to be conveyed to Trustees of Congregation Mishkan Tefila, scale 1"=100', date July 22, 1954, Benjamin W. Fink, Director of Park Engineering", said plan being recorded in the Middlesex South District Registry of Deeds August 3, 1954 as Plan # 1254 of 1954; and

WHEREAS, the Parcel being Taken is depicted as the lot & area labeled "Fee Taking" on a plan entitled "Taking Plan of Land", Prepared for the City of Newton, scale: 1"=80', dated: January 20, 2021, Prepared jointly by CHA Consulting Group, Inc. & The City of Newton Engineering Division, said Taking Plan to be recorded at the Middlesex South District Registry of Deeds herewith; and

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

WHEREAS, the Community Preservation Committee has determined that the 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.

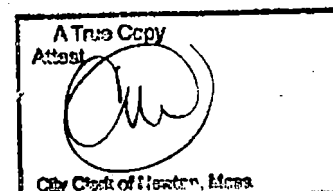
NOW THEREFORE, by vote of the City Council, acting on behalf of the City of Newton under Chapter 79 of the Massachusetts General Laws, it is hereby

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

A certain Parcel of land situated in Newton, County of Middlesex, Commonwealth of Massachusetts, lying on the southerly end of Carlisle Street being shown on a Taking Plan of Land prepared for the City of Newton, prepared by: CHA Consulting Group, Inc. and the City of Newton Engineering Division dated: January 20, 2021, bounded and described as follows:

Beginning at the "Point of Commencement", said point being a drill hole in a triangular shaped stone bound, said bound point is depicted as the historic angle point of former boundary line of the Estate of Edwin S. Webster on Plan Book 230, Plan 15 of 1915 recorded at the Middlesex South District Registry of Deeds, now or formerly land of the City of Newton, said triangular stone bound is located N62°00'27"E forty two and eighty one hundredths (42.81) feet from the northeasterly sideline of Carlisle St., thence;

"To the Point of Beginning";



S62°00'27"W forty two and eighty one hundredths (42.81) feet to an iron pin on the northeasterly sideline of said Carlisle St., said point being the "True Point of Beginning", thence;

S17°31'18"E forty and twenty hundredths (40.20) feet to a drill hole in a stone bound, thence;

Southeasterly along a tangential curve to the left having a radius of one hundred seventy and zero hundredths (170.00) feet through a central angle of 27°45'02", an arc length of eighty two and thirty four hundredths (82.34) feet, and a chord of S31°23'49"E eighty one and fifty four hundredths (81.54) feet to a stone bound, thence;

Southeasterly and northeasterly along a compound curve to the left having a radius of twenty and zero hundredths (20.00) feet through a central angle of 93°11'20", an arc length of thirty two and fifty three hundredths (32.53) feet, and a chord of N88°08'00"E twenty nine and six hundredths (29.06) feet to a stone bound, thence;

Northeasterly along a reverse curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet through a central angle of 31°33'10", an arc length of three hundred fourteen and sixty seven hundredths (314.67) feet, and a chord of N57°18'55"E three hundred ten and seventy hundredths (310.70) feet to an escutcheon pin in a lead plug in a drill hole, thence;

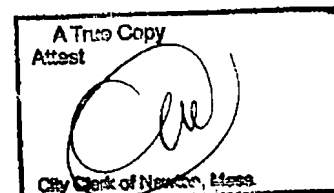
N73°05'30"E ninety one and fifty seven hundredths (91.57) feet along a tangential line to a drill hole in a stone bound, thence;

Northeasterly and southeasterly along a tangential curve to the right having a radius of five hundred thirty four and forty one hundredths (534.41) feet through a central angle of 52°40'16", an arc length of four hundred ninety one and twenty seven hundredths (491.27) feet, and a chord of S80°34'22"E four hundred seventy four and sixteen hundredths (474.16) feet to a point, thence;

S54°14'14"E one hundred thirty and forty five hundredths (130.45) feet along a tangential line to a point, thence;

Southeasterly along a non-tangential curve to the left having a radius of two thousand nine hundred thirteen and thirty hundredths (2913.30) feet through a central angle of 0°41'25", an arc length of thirty five and ten hundredths (35.10) feet, and a chord of S54°39'09"E thirty five and ten hundredths (35.10) feet to a rebar with cap set in ledge, the last eight described courses being along other land of the City of Newton, thence;

S30°03'46"W one hundred and fourteen hundredths (100.14) feet to a rebar with cap set in ledge, thence turning and running;



S58°07'13"E eighty three and thirteen hundredths (83.13) feet to a mag nail set in stone, thence turning and running;

S29°42'45"W two hundred fifty three and thirty seven hundredths (253.37) feet to a rebar with cap set in ledge, thence;

Southwesterly and southeasterly along a non-tangential curve to the left having a radius of forty three and ninety seven hundredths (43.97) feet through a central angle of 82°55'09", an arc length of sixty three and sixty three hundredths (63.63) feet, and a chord of S11°44'20"E fifty eight and twenty two hundredths (58.22) feet to a rebar with cap set in ledge, thence;

S58°42'25"E seventy nine and sixty five hundredths (79.65) feet along a non-tangential line to a rebar with cap set in ledge, thence turning and running;

N31°05'06"E three hundred fifteen and twenty four hundredths (315.24) feet to a rebar with cap set, thence turning and running;

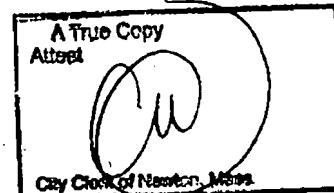
S70°47'54"E eighty seven and eighty one hundredths (87.81) feet to a rebar with cap set in ledge, thence;

Southeasterly along a tangential curve to the right having a radius of thirty and zero hundredths (30.00) feet through a central angle of 73°09'51" an arc length of thirty eight and thirty one hundredths (38.31) feet, and a chord of S34°12'58"E thirty five and seventy six hundredths (35.76) feet to a rebar with cap set in ledge, thence;

S02°21'58"W three hundred seventy and eighty two hundredths (370.82) feet along a tangential line to a rebar with cap set on the northerly boundary of land of the Commonwealth of Massachusetts Department of Conservation and Recreation, the last nine courses being along remainder land of the Trustees of Boston College, thence turning and running;

N80°40'35"W four hundred and fifty two hundredths (400.52) feet by land of said Commonwealth of Massachusetts to the remains of a drill hole found at the end of the stone wall, thence turning and running;

N73°45'38"W nine hundred forty nine and eighty six hundredths (949.86) feet by land of said Commonwealth of Massachusetts to a point on the southeasterly boundary line of other lands of the City of Newton, the last two courses being by land of the Commonwealth of Massachusetts Department of Conservation and Recreation, thence;



Northeasterly along a non-tangential curve to the right having a radius of two hundred twenty nine and ninety five hundredths (229.95) feet through a central angle of $0^{\circ}03'26''$, an arc length of twenty three hundredths (0.23) feet, and a chord of $N12^{\circ}17'09''E$ twenty three hundredths (0.23) feet to a point, thence;

Northeasterly along a compound curve to the right having a radius of five hundred seventy one and thirty nine hundredths (571.39) feet through a central angle of $14^{\circ}22'24''$, an arc length of one hundred forty three and thirty four hundredths (143.34) feet, and a chord of $N19^{\circ}30'04''E$ one hundred forty two and ninety six hundredths (142.96) feet to a point, thence;

Northeasterly along a non-tangential curve to the left having a radius of three hundred fifteen and twenty four hundredths (315.24) feet through a central angle of $2^{\circ}36'21''$, an arc length of fourteen and thirty four hundredths (14.34) feet, and a chord of $N03^{\circ}57'27''E$ fourteen and thirty four hundredths (14.34) feet to a drill hole in a stone bound, thence;

$N02^{\circ}39'16''E$ ten and fifty eight hundredths (10.58) feet along a tangential line to a drill hole in a stone bound, thence;

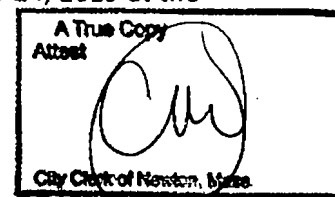
Northwesterly along a tangential curve to the left having a radius of three hundred fifteen and sixty hundredths (315.60) feet through a central angle of $20^{\circ}13'36''$, an arc length of one hundred eleven and forty one hundredths (111.41) feet, and a chord of $N07^{\circ}27'32''W$ one hundred ten and eighty four hundredths (110.84) feet to a drill hole in a stone bound, thence;

$N17^{\circ}31'18''W$ seventy nine and seven hundredths (79.07) feet along a non-tangential line to a point, the last six courses being along other lands of the City of Newton, thence turning and running;

$N62^{\circ}00'27''E$ forty and sixty eight hundredths (40.68) feet crossing said Carlisle St. to the iron pin first mentioned and said point being the point of beginning,

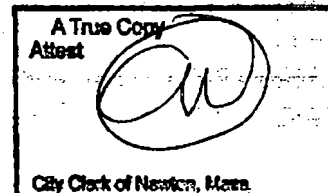
The above described parcel contains about six hundred forty three thousand two hundred and one (643,201) square feet or fourteen and seventy six tenths (14.76) acres, more or less and being shown on a plan entitled, "Taking Plan of Land", Prepared for the City of Newton, scale: $1"=80'$, dated: January 20, 2021, Prepared jointly by CHA Consulting Group, Inc. & The City of Newton Engineering Division, said Taking Plan to be recorded at the Middlesex South District Registry of Deeds herewith.

The aforesaid description of the taken land hereby supersedes and replaces the description set forth in the Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239,



In all details and respects other than as to the superseding description of the property taken as set forth in this CONFIRMATORY ORDER OF TAKING, including the award of damages made therefore, the other conditions and circumstances to which the taking is subject, and all other matters, the City of Newton hereby confirms are as set forth in the Order of Taking recorded on December 24, 2019 at the Middlesex South Registry of Deeds in Book 73890, Page 239.

Under Suspension of Rules
Readings Waived and Adopted
21 yeas 0 nays 3 absent (Councilors Krintzman, Markiewicz, and Wright)



(SGD) CAROL MOORE

City Clerk

(SGD) RUTHANNE FULLER

Mayor

Date: 10/5/2023

