

870 County Rd.
7 (Ex 8) 24204-C 8 24204-D

7 WHEREAS, in 1998 Barnstable County committed to placing approximately 50 acres of the Barnstable County Hospital property under a conservation restriction; and,

WHEREAS, on February 20, 2003, the Cape Cod Commission approved the Assisted Living Senior residence project as a Development of regional Impact (Project #TR-02051), which required, *inter alia*, in Condition NR/OS .1, that at least 37 upland acres located on the project site be preserved as permanent open space through a conservation restriction consistent with M.G.L. Chapter 184, sections 31-33; and,

WHEREAS, accordingly, the premises possesses significant open, natural and scenic values (collectively, "conservation values") of great importance to the Grantee and the people of Bourne and the Commonwealth of Massachusetts; and,

N O T

O F F I C I A L

O F F I C I A L

A N

O F F I C I A L

O F F I C I A L

-3-

N O T

N O T

C. Access. The Conservation restriction hereby conveyed grants to the Grantee, and the public generally, the right to enter upon the Premises under the following conditions:

C O P Y

C O P Y

- 1) a) Subject to the provisions of Massachusetts General law, Chapter 21, Section 17C, public access is limited to walking, running and jogging, cross country skiing, and horseback riding;
- b) No camping is allowed; access must take place only between the hours of sunrise and sunset; no fires are allowed;
- c) Visitors may be ejected at any time by the Grantor or Grantee for unseemly or loud activities, or failure to abide by the above conditions; and,
- d) No public access via motorized vehicles is allowed
- e) The Conservation Commission shall have discretion to set reasonable hours of operation for the public access upon the Premises.

A N

C O P Y

D. Legal Remedies of the Grantee. In the event that a breach of these restrictions by the Grantor or by a third party comes to the attention of the Grantee, the Grantee must notify the Grantor in writing of such a breach. The Grantor shall have thirty (30) days after receipt of such notice to undertake actions including restoration of the premises that are reasonably calculated to correct the conditions constituting the breach. If the Grantor fails to take such corrective action, the Grantee, at its discretion, shall undertake such actions, including appropriate legal proceedings, as are reasonably necessary to effect such corrections. The cost of such corrections, including the Grantee's expenses, court costs and reasonable legal fees shall be paid by the Grantor, provided the Grantor is determined to be responsible for the breach by a court of competent jurisdiction or has agreed to said breach.

Enforcement of the terms of this Conservation Restriction shall be at the discretion of the Grantee, and any forbearance by the Grantee to exercise its rights under this Conservation Restriction shall not be deemed or construed to be a waiver. If any provision of this Conservation restriction shall to any extent be held invalid, the remainder shall not be affected.

Nothing herein shall be construed or interpreted to preclude or limit in any way the jurisdiction of the Town of Bourne Police or Fire Departments from exercising their jurisdiction and authority on and within the premises.

E. Acts Beyond Grantor's Control. Nothing contained in this Conservation Restriction shall be construed to entitle the Grantee to bring any action against the Grantor for any injury to or change in the Premises resulting from causes beyond the Grantor's control, including, but not limited to, fire, road drainage, flood, storm, natural erosion, public recreation, and acts caused by trespass on the Premises not contributed to by acts or omissions of the Grantor, or from any prudent action taken by the Grantor to prevent, abate, or mitigate significant injury to the Premises resulting from such causes.

N O T

N O T

F. Duration and Assignability. The burdens of this Conservation Restriction shall run with the Premises in PERPETUITY and shall be enforceable against the Grantor and the successors and assigns of the Grantor holding any interest in the Premises. The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction. Without limiting the forgoing, the Grantor and their successors and assigns agree themselves to execute any such instrument upon request.

O F F I C I A L

O F F I C I A L

G. Effective Date. Grantor and Grantee intend that the restrictions arising hereunder take effect on the day and year this Conservation restriction deed is recorded in the official records of the Barnstable County Registry of Deeds, after all signatures required by Massachusetts General Laws Chapter 184, Section 32 have been affixed hereto.

H. Controlling Law. The interpretation and performance of this Conservation Restriction shall be governed by the laws of the Commonwealth of Massachusetts.

I. Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Conservation Restriction shall be liberally construed in favor of the grant to effect the purposes of his Conservation Restriction and the policies and purposes of the Town of Bourne Conservation Commission. If any provision of this instrument is found to be ambiguous, an interpretation consistent with the purposes of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

J. Amendment. The Grantor and the Grantee may by mutual consent amend any term or provision hereof provided that this Conservation Restriction as thus amended complies with the applicable laws and requirements of the Commonwealth of Massachusetts, Barnstable County, and the Town of Bourne, and provided that any such amendment, together with any approvals necessary to its effectiveness, shall be recorded with the Barnstable County Registry of Deeds. Any amendment shall be consistent with the purposes of this Conservation Restriction and shall not affect its perpetual duration.

K. Law Enforcement. Nothing in this Conservation Restriction shall be construed to limit the access or jurisdiction of law enforcement to enforce federal, state or local laws or ordinances.

L. Access. It is the intention of the parties hereto that the general public may enter upon the restricted premises for passive, outdoor recreational and educational purposes, subject to all Bourne Conservation Commission regulations and policies applicable to land held pursuant to the provisions of M.G.L. Chapter 40, section 8C. It is also the intention of the parties that any public use which is permitted by the terms of this CONSERVATION RESTRICTION constitutes permission to use the restricted premises for purposes described in chapter 21, Section 17C of the Massachusetts General Laws, and that the parties hereto benefit from exculpation from liability to the extent provided in said section.

With advance notice to the Grantor, there is granted to the Grantee and its representatives the right to enter the restricted Premises at reasonable times and in a reasonable manner for the purpose of monitoring and enforcing this CONSERVATION RESTRICTION.

NOT AN OFFICIAL COPY

IN WITNESS WHEREOF, the duly elected Commissioners of Barnstable County have hereunto set their corporate names and seals this 16 day of June, 2004.

NOT AN OFFICIAL COPY

County of Barnstable by,
Mary J. LeClair
William Robert
Barnstable County Commissioners

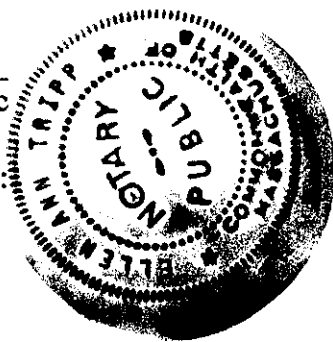
COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

6 - 16, 2004

Then personally appeared the above named Mary LeClair - Lance Lamberson and acknowledged the foregoing instrument to be his or her free act and deed, before me.

Ellen A. Tripp
Notary Public
My Commission Expires Sept 17, 2006



NOT AN OFFICIAL COPY
NOT AN OFFICIAL COPY
ACCEPTANCE OF GRANT

The above CONSERVATION RESTRICTION from Barnstable County is accepted this 1st day of April, 2004.

OFFICIAL COPY

OFFICIAL COPY

[Signature]
[Signature]
[Signature]
[Signature]
Bourne Conservation Commission

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

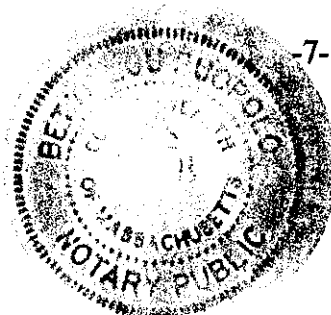
April 1, 2004

Then personally appeared the above named Nahat Jay and acknowledged the foregoing instrument to be his or her free act and deed, before me.

[Signature]
Notary Public

My Commission Expires:

BETTE LOU PUPOLO
Notary Public
Commonwealth of Massachusetts
My Commission Expires
July 9, 2010



18

C O P Y

Joseph M. Ruern
 J. L. Johnson
 Edward E. Loring
 Lane A. Philp

Board of Selectmen

COMMONWEALTH OF MASSACHUSETTS

May 25, 2004

1 Linda M. Zuercher

~~Notary Public~~

N O T
A N
O F F I C I A L
C O P Y

N O T
A N
O F F I C I A L
C O P Y

APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS
COMMONWEALTH OF MASSACHUSETTS
O F F I C I A L O F F I C I A L

The undersigned, Secretary of the Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Bourne has been approved in the public interest pursuant to M.G.L. Chapter 184, Section 32.

Date: 8-24, 2004

Ellen Roy Henne
Secretary of Environmental Affairs

COMMONWEALTH OF MASSACHUSETTS

_____, ss.

August 24, 2004

Then personally appeared before me the above-named Ellen Roy Henne proved to me through satisfactory evidence of identification, which was (personal knowledge of identity) (a current driver's license) (a current U.S. passport), to be the person whose name is signed on the document and acknowledged to me that he/she signed it voluntarily as Secretary of Environmental Affairs for the Commonwealth of Massachusetts, for its stated purpose.

Nancy Gabriel Sackie

Notary Public

My Commission expires: 11-25-05



ATTACHMENT A¹

The boundaries of the Conservation Restriction shall be as follows:

Commencing at a point on the westerly side of County Road, on the south easterly corner of the abutting property, N/F Dept. of Mental Health, and the north easterly corner of the subject property, thence S 71° 07' 20" W a distance of 834.32 feet; thence N 32° 36' 10" W a distance of 277.23 feet; thence S 48° 27' 35" W a distance of 541.73 feet; thence S 28° 01' 10" E a distance of 138.92 feet; thence S 62° 47' 30" W a distance of 240.99 feet; thence S 59° 56' 40" W a distance of 92.65 feet; thence S 55° 28' 50" W a distance of 89.67 feet; thence S 00° 48' 10" W a distance of 128.00 feet; thence S 18° 04' 40" W a distance of 128.00 feet; thence S 39° 48' 00" W a distance of 127.26 feet; thence S 02° 50' 00" E a distance of 196.80 feet; thence S 81° 04' 10" a distance of 636.82 feet; thence S 05° 19' 00" a distance of 103.12 feet; thence S 78° 43' 00" E a distance of 349.23 feet; thence S 13° 48' 30" W a distance of 218.79 feet; thence S 63° 22' 40" E a distance of 227.74 feet; thence S 15° 50' 40" W a distance of 219.71 feet; thence S 63° 14' 00" E a distance of 442.56 feet; thence N 26° 47' 50" E a distance of 217.40 feet; thence S 63° 20' 50" E a distance of 235.72 feet; thence N 15° 19' 40" E a distance of 111.35 feet; thence N 22° 33' 00" E a distance of 522.10 feet; thence northerly along the westerly side of Old County Road along an arc of 860.00 feet a distance of 138.72 feet; thence N 79° 30' 57" W a distance of 305.31 feet; thence N 57° 02' 17" W a distance of 275.00 feet; thence N 57° 02' 17" W a distance of 575.51 feet; thence S 05° 13' 10" W a distance of 299.61 feet; thence N 62° 38' 12" E a distance of 283.11 feet; thence S 82° 58' 21" E a distance of 359.55 feet; thence N 79° 52' 07" E a distance of 248.75 feet; thence S 19° 30' 20" E a distance of 127.88 feet; thence N 08° 20' 00" w a distance of 131.20 feet; thence N 16° 00' 00" w a distance of 268.80 feet to the point of beginning.

All as shown on a plan entitled "Conservation Restriction Plan Pocasset Assisted Living Scale 1" = 100' Bourne, Massachusetts April 16, 2003" prepared by Coastal Engineering Co., recorded with the Barnstable County Registry of Deeds.

For grantor's title, see Certificate of Title number 18176 recorded with the Barnstable County Land Court.

BARNSTABLE REGISTRY OF DEEDS