

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this ___ day of _____, 2022, between Joanne Delapa, Trustee of the Delapa Realty Trust ("Delapa"), with a mailing address of P.O. Box 277, Norwood, Massachusetts 02062, and the Town of Westwood Conservation Commission ("Commission"), with a mailing address of 50 Carby Street, Westwood, Massachusetts 02090 (collectively, the "Parties"), for the purposes of resolving the dispute between the Parties concerning the property known as 42 Mill Street, Westwood, Massachusetts, which dispute is the subject of the Superior Court matter known as *Joanne Delapa, of Delapa Realty Trust v. Town of Westwood Conservation Commission*, Civil Action No. 2282CV00038 (the "Litigation"). In order to resolve their disputes and without any admissions of liability, the Parties to this Settlement Agreement hereby agree as follows.

WHEREAS, Delapa is the owner in fee simple of the property known as 42 Mill Street, Westwood, Massachusetts (the "Property"); and

WHEREAS, the Commission is the municipal agency charged with the protection of Westwood's natural resources pursuant to the Wetlands Protection Act, G.L. c. 131, § 40 ("WPA"), and the Town of Westwood's Wetlands Bylaw, c. 392 ("Bylaw"); and

WHEREAS, Delapa filed a Notice of Intent ("NOI") application with the Commission on or about May 11, 2020 seeking authorization to make certain changes to the Property in areas within the Commission's jurisdiction; and

WHEREAS, on or about November 18, 2021 the Commission determined that an Order of Conditions should be denied under the WPA and the Bylaw ("Decision"); and

WHEREAS, Delapa appealed the Decision to the Massachusetts Department of Environmental Protection ("DEP"), which appeal resulted in the issuance of Superseding Order of Conditions # 338-0706, issued May 6, 2022, and filed a certiorari action in the Superior Court resulting in the Litigation; and

WHEREAS, the Parties have agreed to resolve the Litigation by mutual agreement;

NOW, THEREFORE, the Parties agree to the following:

1. The Commission agrees to accept the Superseding Order of Conditions #338-0706 as the Commission's decision on the NOI.
2. Delapa agrees to repair the existing dam on the Property pursuant to the terms of a letter dated September 12, 2022 from Goddard Consulting, LLC to the Commission concerning DEP #438-0706 ("Dam Repair Work"), with a not to exceed expense for that work of \$25,000.
3. Delapa will prepare and submit a complete, new Notice of Intent to the Commission seeking an Order of Conditions for the Dam Repair Work.

Signed under seal as of this _____ day of _____, 2022.

Town of Westwood Conservation Commission

By: Stephen David

By: Todd Sullivan

By: Vesna Maneva

By: Debra Odeh

By: Grace Weller

By: RJ Sheer

By: Elias Fares