

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.

4. Upon filing of the Notice of Intent contemplated in paragraph 3 above, Delapa may apply for a building permit for the construction of a single family dwelling on the Property.
5. Should the Order of Conditions for the Dam Repair Work be appealed by any third party, Delapa or his successors and assigns shall be solely responsible for all fees and costs, including attorneys' fees and costs, associated with defending the same; the Dam Repair Work shall commence and proceed to completion promptly following the date an Order of Conditions permitting that work and a building permit for the house both have become final after expiration of all appeal periods or of a final decision or judgment on appeal; and this condition shall remain enforceable by the Commission against Delapa and his successors and assigns and shall remain in effect following dismissal of this litigation.
6. The interpretation and performance of this Agreement shall be governed by the laws of the Commonwealth of Massachusetts.
7. The Parties agree to stipulate to a dismissal of the Litigation with prejudice upon submission of the Notice of Intent for Dam Repair Work.

[Signature Pages Follow]

Signed under seal as of this 36 day of October, 2022.

Joanne Delapa, Trustee of the Delapa Realty Trust

Joanne Delapa
By: Joanne Delapa, Trustee


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


Town of Westwood Conservation Commission

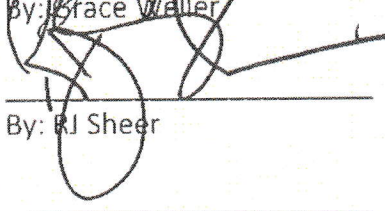
By: Stephen David

By: Todd Sullivan

By: Vesna Maneva


By: Debra Odeh


By: Grace Weller


By: RJ Sheer

By: Elias Fares