



2008 00005463

Bk: 5509 Pg: 64 Doc: REST FC
Page: 1 of 5 05/29/2008 10:51 AM**NORTH LEVERETT SAWMILL PRESERVATION RESTRICTION**

THIS PRESERVATION RESTRICTION AGREEMENT, made this 22nd day of May, 2008, by and between the **TAK TRUST, LANCE KIRLEY, TRUSTEE and FRANCINE KIRLEY** (collectively, hereinafter referred to as the "Grantor") and the **LEVERETT HISTORICAL COMMISSION** (hereinafter referred to the "Commission"). (See Chapter 184, sections 31 thru 33, of the Massachusetts General Laws as amended, and hereinafter referred to as the "Act")

WITNESSETH:

WHEREAS, the Grantor is owner in fee simple of certain real property, comprising 1/2 acre, more or less, known as the North Leverett Sawmill, (hereinafter the "Sawmill") located at 63 North Leverett Road, Leverett, Franklin County, Massachusetts as described in a deed dated September 29, 1997 from one William Pearson, recorded in the Franklin County Registry of Deeds, Greenfield, MA in Book 3267, Page 118. ✓

WHEREAS, the Sawmill is a unique and irreplaceable historic resource with the extant building dating from ca 1774 and 1871; it is the last of approximately 15 water powered mills still standing that once operated on the Sawmill River in Leverett.

WHEREAS, the Sawmill is representative of the technical experience of the owners of water powered mills on small streams which was an essential part of the state and national industrial "explosion" after the Civil War.

WHEREAS, the Sawmill was used to saw timbers for many decades up to and including World War II for ship keels, masts and ribs. It was the only sawmill that could hold logs approximately 40 feet long with very large diameters.

WHEREAS, the Sawmill is a picturesque vista widely appreciated and used by both professional and amateur photographers and artists in published and broadcast materials.

WHEREAS, the property's preservation values are documented in reports, drawings and photographs (hereinafter the "Baseline Documents") which the parties agree provide an accurate representation of the Sawmill prior to its collapse in 2003, and to which appearance the exterior will be restored. The Baseline Documents shall be used for purposes of reference and for assistance in review.

The Baseline Documents consist of the following:

- Property description and plot plan, and
- Photographs of the Mill both current and previous to the recent roof collapse.

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WHEREAS, the Grantor wishes to impose certain restrictions, obligations and duties on it as owner of the Sawmill and on the successors to its right, title and interest, with respect to maintenance, protection and preservation in order to protect the historical heritage and to serve the public interest consistent with the purpose of M.G.L., chapter 184, section 32.

WHEREAS, the Commission is a government body organized under the laws of the Commonwealth of Massachusetts and is authorized to accept these Preservation Restrictions under the Act.

NOW, THEREFORE, for good and valuable consideration in the amount of \$115,000.00 (one hundred and fifteen thousand dollars) paid, the Grantor conveys to the Commission the following Preservation Restrictions that shall apply to the Sawmill in perpetuity.

PURPOSE:

1. Purpose:

It is the Purpose of this Restriction to assure that the architectural, historic and cultural features of the Sawmill will be retained and maintained forever substantially in their historic condition for preservation purposes, and to prevent any exterior change or modification of the Sawmill that will significantly impair or interfere with the Sawmill's preservation values.

GRANTOR'S COVENANTS:

2. Maintenance of Sawmill:

Grantor agrees to assume the total cost of continued maintenance, repair and administration of the Sawmill, so that its historic character will be maintained and preserved in a manner satisfactory to the Commission according to the Secretary of the Interior's "Standards for the Treatment of Historic Properties," and as otherwise agreed to herein. The Grantor also agrees to maintain the land surrounding the Sawmill in its current configuration.

2.1 Prohibited Activities:

The following acts or uses are expressly forbidden on, over or under the Sawmill:

(a) the Sawmill shall not be demolished, removed or razed except as provided in paragraphs 6, 7 and 8 below,

(b) nothing shall be erected or allowed to grow on the property which would impair the visibility of the Sawmill from North Leverett Road or Cave Hill Road,

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(c) the dumping or any unsightly materials not associated with mill operations is prohibited, and

(d) no above ground utility transmission lines, except those necessary for the operation of the Sawmill, may be installed.

GRANTOR'S RIGHTS:

3.1 Conditional Rights Requiring Approval of Commission:

Without the prior express written approval of the Commission, Grantor shall not make any exterior alterations that are inconsistent with the purpose of this Restriction.

3.2 Grantor's Rights not Requiring Approval by Commission:

Subject to the provisions of paragraphs 2.1, 2.2, and 3.1, the following rights, uses and activities of or by Grantor on, over, or under the Property are permitted by this Restriction and by Commission without further approval by Commission:

(a) the right to engage in all those acts connected with the design, architectural, milling and/or construction business of the Grantor that are not inconsistent with the purpose of this restriction, and

(b) the right to maintain and repair the Sawmill according to the Secretary's Standard, pursuant to the provisions in paragraph 2.1 herein..

4. Standards for Review:

In exercising its authority to inspect the Sawmill; to review any construction, alteration, repair or maintenance, or to review casualty damage, Grantee shall apply the Secretary's Standards.

5. Public access:

Grantor shall make the Sawmill accessible to the public and to educational, professional or historical organizations with frequencies mutually agreed upon by Grantor and Commission.

CASUALTY DAMAGES OR DESTRUCTION – INSURANCE:

6. Casualty Damage or Destruction:

In the event that the Sawmill shall be damaged or destroyed by fire, flood, windstorm, hurricane, earth movement or other casualty, Grantor shall notify the Commission in writing within fourteen (14) days of the damage or destruction, such notification including what, if any, emergency work has already been completed. No repairs or reconstruction of any type, other than temporary emergency work to prevent further damage to the Sawmill and to protect public safety, shall be undertaken by Grantor without the Commission's prior written approval of the work..

Within thirty (30) days of the date of damage or destruction, Grantor, at its own expense, shall submit to the Commission a written report that shall include the following:

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- (a) an assessment of the nature and extent of the damage,
- (b) a determination of the feasibility of the restoration of the Sawmill, and
- (c) a report of such restoration/reconstruction work necessary to return the Sawmill to the condition existing prior to partial collapse in 2003 (See Baseline Documents).

7. Review After Casualty Damage or Destruction:

If, after reviewing the report provided in paragraph 6, Grantor and the Commission agree that the purpose of this Restriction will be served by such restoration/reconstruction, then Grantor and the Commission shall establish a schedule under which Grantor shall complete the restoration/reconstruction of the Sawmill in accordance with the plans and specifications consented to by the parties.

If, after reviewing the report and assessing the availability of insurance proceeds, Grantor and Commission agree that restoration/reconstruction of the Sawmill is impractical or impossible, or agree that the purpose of the Restriction would not be served by such restoration/reconstruction, then Grantor may, with the prior written consent of the Commission, alter, demolish, remove or raze the Sawmill. Grantor and the Commission may agree to extinguish this Restriction in accordance with the laws of the Commonwealth of Massachusetts and as otherwise agreed to herein. (See paragraph 8)

8. Insurance:

Grantor shall keep the Sawmill insured by an insurance company rated "A1" or better by Best's rating service for the full replacement value against loss from the perils commonly insured under standard fire and extended coverage policies and comprehensive general liability insurance against claims for personal injury, death and property damage.

It is further agreed between the parties that if the Sawmill were to be irreparably destroyed, and that the parties mutually agree that a restoration/reconstruction effort would be impractical or impossible, then the Grantor will repay the Commission, or the Town of Leverett as the law may provide, that amount paid the Grantor for this Preservation Restriction and, in return, the Commission shall extinguish this Preservation Restriction with a document, satisfactory to the Grantor, to be recorded in the Franklin County Registry of Deeds. (This sentence is also a corollary to, and interpreted with, paragraphs 6 and 7 above.)

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IN WITNESS WHEREOF, we set our hands and seals as signifying our full understanding and agreement with the terms and conditions set forth above:

On this 22 day of May, 2008,

Francine Kirley
Francine Kirley

[Signature]
Lance Kirley

Mary E. Douglas
Betsy Douglas
Betsy Douglas, Chair, Leverett Historical Commission,

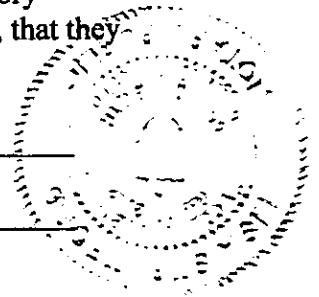
MARY E. DOUGLAS
BETSY DOUGLAS
print name

COMMONWEALTH OF MASSACHUSETTS

Franklin, ss.

On this 22 day of May, 2008, then personally appeared before me the above named persons, Francine Kirley, Lance Kirley, and (see below); they acknowledged to me their signatures above, having executed the above document voluntarily and for its stated purpose; and they did prove to me through satisfactory evidence of their identity, being personal knowledge, that they are the persons who did sign this document:

[Signature]
Notary Public
My Commission expires 2/16/12



Bermstable ss.

On this 19 day of May, 2008, then personally appeared before me the above named person, Betsy Douglas; she acknowledged to me her signature above, having executed the above document voluntarily and for its stated purpose; and she did prove to me through satisfactory evidence of her identity, being MA Lic, that she is the person who did sign this document.

[Signature]
Notary Public
My Commission expires _____

ANN MORTON, Notary Public
My Commission Expires April 24, 2009

ATTEST: FRANKLIN COUNTY, MASS. Joseph A. Gochinski Register