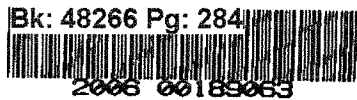


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K14

### GRANT OF CONSERVATION RESTRICTION TO TOWN OF READING

YMCA of Greater Boston, Inc. a Massachusetts corporation, with a place of business at 36 Arthur B. Lord Drive, Reading, the owner of the land at 36 Arthur B. Lord Drive, Reading, Middlesex County (hereinafter referred to as the "Grantor"), acting pursuant to Sections 31, 32 and 33 of Chapter 184 of the General Laws of Massachusetts, do hereby grant, with Quitclaim Covenants, to the TOWN OF READING, acting through its Conservation Commission, a duly constituted municipal corporation having its usual place of business at 16 Lowell Street, Reading, Massachusetts 01867, and its successors and assigns (hereinafter referred to as the "Grantee"), in perpetuity and exclusively for conservation purposes, the following Conservation Restriction on land located in the Town of Reading, Massachusetts and described as:

The areas shown as "Conservation Restriction Area" (hereinafter referred to as the "Conservation Restriction Area") [situated on portions of Reading Assessor's Map 138, Lot 2 (Lot 2 in its entirety hereinafter referred to as the "Property")] which Conservation Restriction Area is shown on a plan of land entitled "Conservation Restriction Area; Reading YMCA; A.B. Lord Drive, Reading, Massachusetts; scale: 1" = 60'; dated October 29, 1998; prepared by Cuoco & Cormier Engineering Associates Inc.", ("Plan") which is attached hereto at Exhibit B, said Conservation Restriction Area containing 70,374 square feet, more or less, according to said Plan and more particularly described as set forth in Exhibit "A" attached hereto and incorporated herein by reference. The portions of the Property outside the Conservation Restriction Area are excluded from and not controlled by this Conservation Restriction.

The boundaries of the Conservation Restriction Area have been staked with stone or concrete bounds as delineated in the above-referenced Plan. For Grantor's Title, see Book 12,480, Page 115 as recorded in the Middlesex South Registry of Deeds.

#### I. PURPOSES

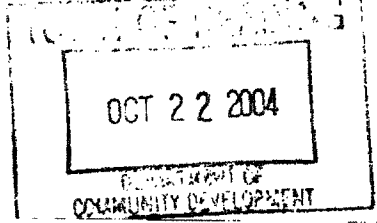
The Conservation Restriction Area contains unusual, unique, and/or outstanding qualities, including a certified vernal pool (C.V.P Number 301), the protection of which in their predominantly natural or open condition will be of benefit to the public. In perpetuity, the purpose of this Conservation Restriction is: to maintain the Conservation Restriction Area predominantly in a natural, scenic and undeveloped condition; and to prevent any use of the Conservation Restriction Area that would significantly impair or interfere with its conservation values.

The Conservation Restriction Area serves as a source of significant scenic and open space value to the residents of both the Town of Reading and the Commonwealth of Massachusetts. The Town of Reading has identified the significance of the Conservation Restriction Area as open space through an Order of Conditions issued under DEP File No. 270-304 and Reading Wetland By-Law Case No. 1998-16 a certified copy of which is recorded at the Middlesex South District Registry of Deeds at Book 29,107, Page 156. The open, scenic, and

36 Arthur B Lord Dr  
Reading

19373-531

YMCA of Greater Boston  
316 Huntington Ave  
Boston, MA 02115 CO Ed Dahlstedt



natural condition of the Conservation Restriction Area further contributes to the preservation of the Town of Reading's unique character.

The Conservation Restriction Area contains a wide variety of plant and animal species threatened by development in the Town of Reading. The Conservation Restriction Area serves as a certified vernal pool (C.V.P. Number 301) and habitat for a multitude of animals and birds and contains several different species of plant and flowers.

## **II. BINDING EFFECT, PROHIBITED ACTS AND USES, EXCEPTIONS THERETO, AND PERMITTED USES**

### **A. Binding Effect**

The Grantor covenants that the Conservation Restriction Area will at all times be held, used, and conveyed subject to and not used in violation of the following restrictions that shall run with the Property in perpetuity.

### **B. Prohibited Acts and Uses**

Subject to the exceptions set forth in subparagraph C below, the following acts and uses are prohibited on the Conservation Restriction Area:

- (1) Mining, excavating, dredging, cutting, destroying, or removing from the Conservation Restriction Area soil, loam, peat, gravel, sand, rock, or other mineral resource or natural deposit;
- (2) Constructing or placing of any structures, including but not limited to tennis courts, swimming pools, greenhouses, landing strips, mobile homes, skating rinks, asphalt, stormwater treatment structures, concrete or other forms of impervious pavement, antennae and dishes, signs, billboards or other advertising displays, utility poles, towers, conduits, lines, or other temporary or permanent structure or facilities on, below, through, or above the Conservation Restriction Area;
- (3) Installing underground storage tanks or placing, filling, storing, or dumping on the Conservation Restriction Area soil, refuse, trash, yardwaste such as lawn clippings, leaves, branches, etc. (other than those naturally deposited in the area), vehicle bodies or parts, rubbish, debris, junk, waste, or any other substance or material whatsoever, whether or not generated on the Property;
- (4) Cutting, removing, or otherwise destroying trees, grasses, shrubs, brush, or other vegetation;
- (5) Conducting activities detrimental to drainage, flood control, water conservation, water quality, erosion control, soil conservation, plants, or wildlife habitat;

- (6) Using the Conservation Restriction Area for residential, commercial, or industrial purposes;
- (7) Except for vehicles authorized for permitted uses and for emergency vehicles, using motorized vehicles such as skimobiles or all-terrain vehicles (ATV's);
- (8) Subdividing the Conservation Restriction Area;
- (9) Using herbicides and pesticides, or using other chemicals or mechanical means which may have an adverse impact upon the plant life or wildlife within the restricted area, except as may be permitted, in writing, by the Grantee for the control of noxious or invasive species;
- (10) Conducting any other use of the Conservation Restriction Area or activity which, in the reasonable opinion of the Grantee, is or may become inconsistent with the intent of this Conservation Restriction, that is the preservation and protection of the Conservation Restriction Area in its natural and scenic condition.

**C. Exceptions to Otherwise Prohibited Acts and Uses**

Notwithstanding any of the Prohibited Acts and Uses in subparagraph B above, the following acts and uses are permitted to the Grantor and thereafter the successors and assigns of the Grantor, but only if such acts and uses do not materially impair significant conservation interests and if such acts and uses have been expressly permitted by the Grantee in writing where required below:

- (1) Selective pruning and cutting of trees and the shrub understory for fire prevention or to remove hazards and disease. Provided, however, that said activities shall be undertaken only with the consent and approval of the Grantee, which consent and approval shall not be unreasonably withheld, delayed or conditioned;
- (2) Walking, strolling, hiking, skiing, horseback riding, or other similarly passive, non-motorized, and non-mechanized recreational activities in the Conservation Restriction Area not inconsistent with the intent of this Conservation Restriction, which is the preservation and protection of the Conservation Restriction Area in its natural, scenic, and undeveloped condition and the prevention of any use of the Conservation Restriction Area that would significantly impair or interfere with its conservation values;
- (3) Creating, marking with signs, and maintaining additional narrow unpaved walkways and paths in the Conservation Restriction Area, subject to the reasonable approval of the Grantee.
- (4) Maintaining existing stone walls in the Conservation Restriction Area, if any.

- (5) The flow of surface water from portions of the property outside the Conservation Restriction Area, provided that such flow is natural or flows through a stormwater management system that complies with applicable regulations and policies established by Federal, State, and Town law, and that no part of said stormwater management system shall be physically located within the Conservation Restriction Area.

The Grantor and thereafter the successors and assigns of the Grantor, shall notify the Grantee in writing not less than thirty (30) days before the date the Grantor intends to undertake any of the activities described in this section with the exception of those described in paragraph (s) II. C. (2) and (4) above. The notice shall describe the nature, scope, design, location, timetable, or any other material aspect of the proposed activity in sufficient detail to permit the Grantee to make an informed judgment as to the activity's consistency with the purposes of this Conservation Restriction. Upon receipt of such notice from the Grantor and thereafter the successors and assigns of the Grantor, the Grantee may perform an inspection of the Conservation Restriction Area between 9:00 A.M. and 8:00 P.M., Monday through Saturday, upon 48-hour notice to the Grantor, its successors or assigns. Grantee must explicitly allow or deny Grantor's request to undertake said activities in Conservation Restriction Area within 30 days of Grantor's notice, if not sooner. Grantor must receive explicit permission from Grantee before undertaking said requested activity.

### **III. LEGAL REMEDIES OF THE GRANTEE**

#### **A. Legal and Injunctive Relief**

The rights hereby granted shall include the right in the Grantee to enforce this Conservation Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, without limitation, relief requiring restoration of the Conservation Restriction Area to its condition before the occurrence of the violation (it being agreed that the Grantee may have no adequate remedy at law). The rights hereby granted shall be in addition to and not a limitation of any other rights and remedies available to the Grantee for the enforcement of this Conservation Restriction.

#### **B. Costs of Enforcement**

The Grantor and thereafter the successors and assigns of the Grantor agree to bear the costs and expenses (including without limitation counsel fees) incurred in enforcing this Conservation Restriction or in remedying or abating any violation thereof, provided that the Grantor has been found to be in violation by a court of competent jurisdiction or agrees to the violation.

#### **C. Grantee Disclaimer of Liability**

By the Grantee's acceptance of this Conservation Restriction, the Grantee does not undertake any liability or obligation relating to the condition of the Property, including the Conservation Restriction Area.

**D. Non-Waiver**

Any election by the Grantee as to the manner and timing of the Grantee's right to enforce this Conservation Restriction or otherwise exercise the Grantee's rights hereunder shall not be deemed or construed to be a waiver of any such rights.

**IV. ACCESS:**

The Conservation Restriction hereby conveyed does not grant to the Grantee, to the general public, or to any other person any right to enter upon the Property, except as follows:

The Grantor grants to the Grantee, or the Grantee's duly authorized agents or representatives, an easement of access to enter the Conservation Restriction Area at reasonable times between Monday through Saturday between the hours of 9:00 A.M. and 8:00 P.M. and in a reasonable manner for the purpose of inspecting the Conservation Restriction Area to determine compliance herewith, enforcing the restrictions herein, remedying any violation thereof.

The Grantor grants to the Reading Public Schools the right to have up to 30 properly supervised people at one time in the Conservation Restriction Area for the purposes of education so long as the Reading Public Schools, at least forty-eight hours in advance, give Grantor, Grantor's successors or assigns, written notice as well as provide Grantor, Grantor's successors and assigns, a certificate of insurance of public liability insurance in an amount to be determined by the Grantor, Grantor's successors or assigns, but not less than of \$1,000,000.00, issued by responsible insurance companies qualified to do business in Massachusetts and in good standing therein.

The Grantor grants such access to the Grantee, the Reading Public Schools and its' employees, volunteers and students so long as Grantor, its successors and assigns liability is limited in accordance with M.G.L. c. 21 §17C.

**V. COSTS, LIABILITIES, TAXES**

The Grantor shall pay, before delinquent, all taxes, assessments, fees, and charges levied on or assessed against the Property by a competent authority, and, except for such charges as may be imposed by the Town of Reading, shall furnish the Grantee with satisfactory evidence of payment upon request.

**VI. ASSIGNABILITY**

**A. Running of the Burden**

The burdens of this Conservation Restriction shall run with the Property in perpetuity, and shall be enforceable against the Grantor and the successors and assigns of the Grantor while holding any interest in the Property.

**B. Execution of Instruments**

The Grantee is authorized to record or file any notices or instruments appropriate to assuring the perpetual enforceability of this Conservation Restriction; the Grantor on behalf of the Grantor and the Grantor's successors and assigns appoints the Grantee as the Grantor's attorney-in-fact to execute, acknowledge, and deliver any such instruments on the Grantor's behalf. Without limiting the foregoing, the Grantor and the Grantor's successors and assigns agree to execute any such instruments upon request.

**C. Running of the Benefit**

The benefits of this Conservation Restriction shall not be assignable by the Grantee, except where:

- (1) As a condition of any assignment, the Grantee shall require that the purpose of this Conservation Restriction continue to be carried out;
- (2) The person or entity to whom the Grantee intends to assign the Conservation Restriction, at the time of the assignment, shall qualify under Section 170(h) of the Internal Revenue Code of 1986, as amended or any successor statute, and applicable regulations thereunder, and under Section 32 of Chapter 184 of the Massachusetts General Laws, as amended or any successor statute, as an eligible donee to receive this Conservation Restriction directly; and
- (3) Grantee complies with the provisions of Article XCVII (97) of the Amendments to the Constitution of the Commonwealth of Massachusetts.

**VII. SUBSEQUENT TRANSFERS**

The Grantor shall incorporate by reference the terms of this Conservation Restriction in any deed or other legal instrument by which the Grantor divests any interest in all or a portion of the Property. The Grantor shall notify the Grantee in writing if the Grantor conveys the Property or any part thereof or interest therein (including a lease).

**VIII. ESTOPPEL CERTIFICATES**

Upon request by the Grantor, the Grantee shall within twenty (20) days execute and deliver to the Grantor any document, including an estoppel certificate, that certifies the Grantor's compliance with any obligation of the Grantor contained in this Conservation Restriction.

**IX. EFFECTIVE DATE**

This Conservation Restriction shall be effective when the administrative approvals required by Section 32 of Chapter 184 of the Massachusetts General Laws have been obtained and Grantor and the Grantee have executed the Conservation Restriction deed and the

Conservation Restriction deed has been recorded, or if registered land, has been registered in the Middlesex County Registry of Deeds.

**X. NOTICES**

Any notice, demand, request, consent, approval, or communication that either the Grantor or the Grantee desires or is required to give to the other shall be in writing and either served personally or sent by first-class mail, postage pre-paid, addressed as follows:

To Grantor: YMCA of Greater Boston, Inc.  
36 Arthur B. Lord Drive  
Reading, MA 01867

And

Christopher Latham  
Latham, Latham & Lamond, P.C.  
643 Main Street  
Reading, MA 01867

To Grantee: Town of Reading Conservation Commission  
16 Lowell Street  
Reading, Massachusetts 01867

or such other address as either the Grantor or the Grantee from time to time shall designate by written notice to the other.

**XI. GENERAL PROVISIONS**

**A. Controlling Law**

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

**B. Liberal Construction**

Notwithstanding any general rule of construction to the contrary, this Conservation Restriction shall be liberally construed to effectuate the purpose of this Conservation Restriction and the policies and purposes of the Grantee. If any provision in this instrument is found to be ambiguous, an interpretation consistent with the purpose of this Conservation Restriction that would render the provision valid shall be favored over any interpretation that would render it invalid.

**C. Severability**

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

**D. Entire Agreement**

This instrument sets forth the entire agreement between the Grantor and the Grantee with respect to the Conservation Restriction and Conservation Restriction Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

**XII. RECORDATION**

The Grantee shall record this instrument within thirty (30) days of its execution in the Middlesex South District Registry of Deeds and/or Registry District of the Land Court.

IN WITNESS WHEREOF, YMCA OF GREATER BOSTON, INC., has caused this instrument to be executed, sealed and delivered on its behalf by John M. Ferrall, its President and \_\_\_\_\_, its Treasurer duly authorized this 18<sup>th</sup> day of October, 2004.

YMCA OF GREATER BOSTON, INC.

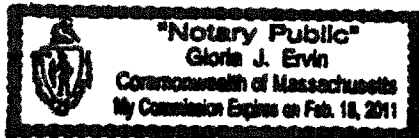
John M. Ferrall  
Print Name: John M. Ferrall,  
As President and not individually.

[Signature]  
Print Name: \_\_\_\_\_,  
As Treasurer and not individually.

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss. \_\_\_\_\_

On this 18 day of October, 2004, before me, the undersigned notary public, personally appeared John M. Ferrall, proved to me through satisfactory evidence of identification, which were driver's license, to be person whose name is signed above or on the preceding or attached document, and acknowledged to me that he / she signed it voluntarily for stated purpose.



Gloria J. Ervin  
NOTARY PUBLIC  
Print Name: Gloria J. Ervin  
My Commission Expires: Feb. 18, 2011

**C. Severability**

If any provision of this Conservation Restriction or the application thereof to any person or circumstance is found to be invalid, the remainder of the provisions of this Conservation Restriction shall not be affected thereby.

**D. Entire Agreement**

This instrument sets forth the entire agreement between the Grantor and the Grantee with respect to the Conservation Restriction and Conservation Restriction Area and supersedes all prior discussions, negotiations, understandings, or agreements relating to the Conservation Restriction, all of which are merged herein.

**XII. RECORDATION**

The Grantee shall record this instrument within thirty (30) days of its execution in the Middlesex South District Registry of Deeds and/or Registry District of the Land Court.

IN WITNESS WHEREOF, YMCA OF GREATER BOSTON, INC., has caused this instrument to be executed, sealed and delivered on its behalf by \_\_\_\_\_, its President and GARY R. MAGNUSON, its Treasurer duly authorized this 19<sup>th</sup> day of October, 2004.

YMCA OF GREATER BOSTON, INC.

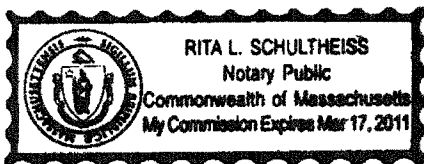
\_\_\_\_\_  
Print Name: \_\_\_\_\_,  
As President and not individually.

Gary R. Magnuson  
\_\_\_\_\_  
Print Name: GARY R. MAGNUSON,  
As Treasurer and not individually.

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss. \_\_\_\_\_

On this 19<sup>th</sup> day of October, 2004, before me, the undersigned notary public, personally appeared Gary R. Magnuson, proved to me through satisfactory evidence of identification, which were DRIVERS LICEN SO, to be person whose name is signed above or on the preceding or attached document, and acknowledged to me that he / ~~she~~ signed it voluntarily for stated purpose.



Rita L. Schultheiss  
NOTARY PUBLIC Rita L. Schultheiss  
Print Name: March 17, 2011  
My Commission Expires:

**ACCEPTANCE OF GRANT BY CONSERVATION COMMISSION**

We, the undersigned, being a majority of the Conservation Commission of the Town of Reading, Middlesex County, Massachusetts, hereby certify that at a meeting duly held on October 27, 2004 the Conservation Commission voted to accept the foregoing Conservation Restriction pursuant to Massachusetts General Laws, Chapter 40, Section 8C, and agree to be bound by its terms.

Dated: 10-27-04

Rebecca G. Gentry  
Commissioner

Dated: 10-27-04

Douglas A. Baer  
Commissioner

Dated: 10/27/04

[Signature]  
Commissioner

Dated: 10/27/04

William O. Felt  
Commissioner

Dated: 10/27/04

[Signature]  
Commissioner

Dated:

\_\_\_\_\_  
Commissioner

Dated:

\_\_\_\_\_  
Commissioner

COMMONWEALTH OF MASSACHUSETTS

Middlesex, ss.

October 27, 2004

On this 27<sup>th</sup> day of October, 2004, before me, the undersigned notary public,  
 personally appeared Rebecca Longley Douglas N. Greene, Wm. Hecht,  
William O. Finch, and James Naughan  
 \_\_\_\_\_, proved to me through satisfactory evidence of  
 identification, which were  
personally known to me, to be person whose  
 name is signed above or on the preceding or attached document, and acknowledged to me they  
 signed it voluntarily for stated purpose and that the foregoing affidavit to be their free act and  
 deed.

Frances M. Frink  
 NOTARY PUBLIC  
 Print Name: Frances M. Frink  
 My Commission Expires: August 7, 2009

**APPROVAL OF GRANT BY BOARD OF SELECTMEN**

We, the undersigned, being a majority of the Selectmen of the Town of Reading, Middlesex County, Massachusetts, hereby certify that at a meeting duly held on MARCH 15, 2005, the Selectmen voted to approve the foregoing Conservation Restriction pursuant to Massachusetts General Laws, Chapter 40, Section 8C.

Dated: MARCH 15, 2005  
Richard W. Schabert  
Selectman

Dated: MARCH 15, 2005  
Camille W. Anthony  
Selectman

Dated: MARCH 15, 2005  
Gail F. Wood  
Selectman

Dated: MARCH 15, 2005  
Joseph G. Duffly  
Selectman

Dated: MARCH 15, 2005  
George V. Hines  
Selectman

**COMMONWEALTH OF MASSACHUSETTS**

Middlesex, ss. March 15 2005

On this 15<sup>th</sup> day of March, 2005, before me, the undersigned notary public, personally appeared Richard W. Schabert, Camille W. Anthony, Gail F. Wood, Joseph G. Duffly, and George V. Hines, proved to me through satisfactory evidence of identification, which were through me personally known, to be person whose name is signed above or on the preceding or attached document, and acknowledged to me that they signed it voluntarily for stated purpose and that the foregoing affidavit to be their free act and deed.

Cheryl A. Johnson  
NOTARY PUBLIC  
Print Name: Cheryl A. Johnson  
My Commission Expires: 2/12/10

**APPROVAL BY SECRETARY OF ENVIRONMENTAL AFFAIRS  
COMMONWEALTH OF MASSACHUSETTS**

The undersigned, Secretary of Executive Office of Environmental Affairs of the Commonwealth of Massachusetts, hereby certifies that the foregoing Conservation Restriction to the Town of Reading has been approved in the public interest pursuant to Massachusetts General Laws, Chapter 184, Section 32. Said approval is not to be construed as representing the existence or non-existence of any pre-existing rights of the public, if any, in and to the Property, and any such pre-existing rights of the public, if any, are not affected by the granting of this Conservation Restriction.

Dated: 7/21/06

Stephen R Pritchard  
Secretary of Environmental Affairs

**COMMONWEALTH OF MASSACHUSETTS**

Suffolk  
Middlesex, ss.

July 21, 2006

On this 21<sup>st</sup> day of July, 2006, before me, the undersigned notary public, personally appeared Stephen R. Pritchard, proved to me through satisfactory evidence of identification, which were personal knowledge of identity, to be person whose name is signed above or on the preceding or attached document, and acknowledged to me that (he) (she) signed it voluntarily for stated purpose and that the foregoing affidavit to be (his) (her) free act and deed.

Mark S. ...  
NOTARY PUBLIC  
Print Name: Mark S. ...  
My Commission Expires: 12/15/2011

**EXHIBIT A  
GRANT OF CONSERVATION RESTRICTION  
TO TOWN OF READING**

A portion of Land shown as "Conservation Restriction Area" on a certain plan entitled "Conservation Restriction Area; Reading YMCA; A.B. Lord Drive, Reading, Massachusetts; scale: 1" = 60'; dated October 29, 1998; prepared by Cuoco & Cormier Engineering Associates Inc.", ("Plan") which is attached hereto and recorded herewith, such Conservation Restriction Area is bounded and described as follows:

NORTHERLY	by other land of the Grantor, One Hundred Thirty-nine and ninety-seven one hundredths feet (139.97');
EASTERLY	by land of others Three Hundred Seventeen and one-hundredths feet (317.01');
SOUTHERLY	by land of others Twenty-one and four one-hundredths feet (21.04');
SOUTHEASTERLY	by land of others One Hundred Fifty-two and Eighty-four one-hundredths feet (152.84');
SOUTHEASTERLY	by land of others Two Hundred Thirty-Three and Fifty-sixth one-hundredths feet (233.56');
SOUTHWESTERLY	by other land of the Grantor One Hundred Twenty-Four and Eleven one-hundredths feet (124.11');
NORTHWESTERLY	by other land of the Grantor Sixty-One and Fifty-seven one-hundredths feet (61.57'); by
WESTERLY	by other land of the Grantor One Hundred feet (100.00');
NORTHERLY	by land of others One Hundred Twenty-Six and Ninety one-hundredths feet (126.90');
WESTERLY	by land of others Three Hundred Fourteen and Forty-six one-hundredths feet (314.46').

The Conservation Restriction Area contains 70,374 square feet according to said plan.

**PLAN EXHIBIT B  
GRANT OF CONSERVATION RESTRICTION  
TO TOWN OF READING**

See plan entitled "Conservation Restriction Area; Reading YMCA; A.B. Lord Drive, Reading, Massachusetts; scale: 1" = 60'; dated October 29, 1998; prepared by Cuoco & Cormier Engineering Associates Inc.", ("Plan") attached hereto.

