



CITY OF SALEM CONSERVATION COMMISSION

May 29, 2012

Eric Palm
Den II Realty Trust
61-Rear Jefferson Avenue
Salem, MA 01970

Dear Mr. Palm:

Please find the attached enforcement order addressing the wetlands violation at 185 Jefferson Avenue in Salem. The Massachusetts Wetlands Protection Act (M.G.L.ch.131§40), its associated regulations (310 CMR 10.00), and Salem's Wetland Protection and Conservation Ordinance (ch. 50) state that wetlands may not be altered, dredged, filled, or removed without a valid order of conditions from the local Conservation Commission. Any violation of the act or the ordinance may result in enforcement action including up to a \$200 fine per day, per violation. Furthermore, the responsible party may be required to restore any unlawfully altered wetlands.

This enforcement order follows the previous enforcement order issued by the Salem Conservation Commission on April 13, 2012.

REQUIRED ACTIONS

As noted in the attached order, the following actions are required:

1. The resource area must be restored based on the restoration plan presented to the Salem Conservation Commission on April 26, 2012 by John Dick of Hancock Associates. Restoration must be completed no later than June 29, 2012.
2. An after-the-fact notice of intent must be filed with the commission no later than June 29, 2012, detailing the post-1997 unauthorized fill and required restoration. Actual restoration work is permitted by this enforcement order and therefore does not require an order of conditions in order to commence.
3. Two (2) monitoring reports must be submitted to the commission, one in the spring of 2013 and one in the spring of 2014. Each report must document vegetation and foreign material present. Reports are to be submitted no later than June 20 of each year.

Please do not hesitate to contact me with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Tom Devine".

Tom Devine
Conservation Agent/ Staff Planner

Enclosure

CC:

Mass DEP Northeast Regional Office

John Dick, Hancock Associates

Beth Rennard, City Solicitor

Attorney Joseph Correnti

Tina Boudreau, National Grid



Massachusetts Department of Environmental Protection
 Bureau of Resource Protection - Wetlands
WPA Form 9 – Enforcement Order
 Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

DEP File Number: _____

A. Violation Information

Important:
 When filling out forms on the computer, use only the tab key to move your cursor - do not use the return key.



This Enforcement Order is issued by:

Salem
 Conservation Commission (Issuing Authority)

5-29-2012
 Date

To:

Eric and Darren Palm, DEN II Realty Trust
 Name of Violator
61 R Jefferson Avenue, Salem, MA
 Address

1. Location of Violation:

National Grid
 Property Owner (if different)
185 Jefferson Avenue
 Street Address
Salem, MA
 City/Town
24
 Assessors Map/Plat Number

01970
 Zip Code
116
 Parcel/Lot Number

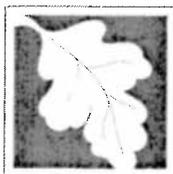
2. Extent and Type of Activity (if more space is required, please attach a separate sheet):

Approximately 9,700 square feet of fill placed within riverfront area at 185 Jefferson Avenue where it abuts 61 R Jefferson Avenue.

B. Findings

The Issuing Authority has determined that the activity described above is in a resource area and/or buffer zone and is in violation of the Wetlands Protection Act (M.G.L. c. 131, § 40) and its Regulations (310 CMR 10.00), because:

- the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone without approval from the issuing authority (i.e., a valid Order of Conditions or Negative Determination).



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B. Findings (cont.)

the activity has been/is being conducted in an area subject to protection under c. 131, § 40 or the buffer zone in violation of an issuing authority approval (i.e., valid Order of Conditions or Negative Determination of Applicability) issued to:

Name _____ Dated _____

File Number _____ Condition number(s) _____

The Order of Conditions expired on (date): _____ Date _____

The activity violates provisions of the Certificate of Compliance.

The activity is outside the areas subject to protection under MGL c.131 s.40 and the buffer zone, but has altered an area subject to MGL c.131 s.40.

Other (specify):

C. Order

The issuing authority hereby orders the following (check all that apply):

The property owner, his agents, permittees, and all others shall immediately cease and desist from any activity affecting the Buffer Zone and/or resource areas.

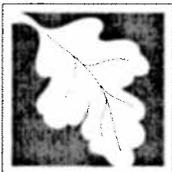
Resource area alterations resulting from said activity shall be corrected and the resource areas returned to their original condition.

A restoration plan shall be filed with the issuing authority on or before _____ Date _____

for the following:

Resource area must be restored based on restoration plan presented to the Salem Conservation Commission on April 26, 2012 by John Dick of Hancock Associates. Restoration must be completed no later than June 29, 2012.

The restoration shall be completed in accordance with the conditions and timetable established by the issuing authority.



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C. Order (cont.)

- Complete the attached Notice of Intent (NOI). The NOI shall be filed with the Issuing Authority on or before:

6-29-2012

Date

for the following:

Implementation of the restoration plan is permitted by this enforcement order. However, an after-the-fact notice of intent must document the post-1997 unauthorized fill and the restoration of subject area.

No further work shall be performed until a public hearing has been held and an Order of Conditions has been issued to regulate said work.

- The following action(s) are required (e.g., erosion/sedimentation controls) to prevent further violations of the Act:

Two (2) monitoring reports must be submitted to the commission, one in the spring of 2013 and one in the spring of 2014. Each report must document vegetation and foreign material present. Reports are to be submitted no later than June 20 of each year.

Failure to comply with this Order may constitute grounds for additional legal action. Massachusetts General Laws Chapter 131, Section 40 provides: "Whoever violates any provision of this section (a) shall be punished by a fine of not more than twenty-five thousand dollars or by imprisonment for not more than two years, or both, such fine and imprisonment; or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation". Each day or portion thereof of continuing violation shall constitute a separate offense.

D. Appeals/Signatures

An Enforcement Order issued by a Conservation Commission cannot be appealed to the Department of Environmental Protection, but may be filed in Superior Court.

Questions regarding this Enforcement Order should be directed to:

Tom Devine

Name

978-619-5685

Phone Number

Monday-Wednesday 8am to 4pm; Thursday 8am to 7pm; Friday 8am to 12 noon

Hours/Days Available

Issued by:

Salem

Conservation Commission

Conservation Commission signatures required on following page.



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Massachusetts Wetlands Protection Act M.G.L. c. 131, §40

D. Appeals/Signatures (cont.)

In a situation regarding immediate action, an Enforcement Order may be signed by a single member or agent of the Commission and ratified by majority of the members at the next scheduled meeting of the Commission.

Signatures:

7010 2780 0002 0162 1652
Signature of delivery person or certified mail number