

COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

**LAND COURT
DOCKET# 24MISC 000177**

**BLUE HILL COMMUNITY CHURCH,
PETITIONER,**

V.

**ELLEN F. STETSON, her HEIRS, DEVISES, and
LEGAL REPRESENTITIVES,
RESPONDENT.**

SECOND AMENDED COMPLAINT FOR DECLARATORY JUDGMENT

INTRODUCTION

1. This is an action for Declaratory Relief filed by the Blue Hill Community Church, (hereinafter “Blue Hill”) against Ellen F. Stetson, her heirs, devisees and legal representatives, which seeks a determination of the rights and responsibilities under a deed for the real property know as and numbered 10 Hamilton St., Hyde Park District, City of Boston, Suffolk County, Commonwealth of Massachusetts (hereinafter the “10 Hamilton”).

PARTIES

2. The Petitioner, Blue Hill, is a Massachusetts Non-Profit Corporation with a usual place of business at 215 Neponset Valley Parkway, Hyde Park District, City of Boston, Suffolk County, Commonwealth of Massachusetts.
3. The Respondent, Ellen F. Stetson, her Heirs, Devisees, and Legal Representatives was a natural person who once lived at that area of Hyde Park then known as the Readville Homestead Association and now known as Hamilton St.

4. The Defendant, Robert S. Desmond, is an individual who resides at 10 Allds Street, Nashua, NH 03060.
5. The Defendant, Robert S. Desmond Jr., is an individual who resides at 1011 West Butler Road, Greenville, SC 29607.
6. The Defendant, Elizabeth Cannavan, is an individual who resides at 3 Dixville Street, Nashua, NH 03063.
7. The Defendant, Elizabeth Norris, is an individual who resides at 1640 Ribaut Road, Apartment #112, Port Royal, SC 23935.
8. The Defendant, Edward J. Sheehan, is an individual who resides at 10 Magazine Street, Roxbury, MA 02119.

FACTS

9. On July 16, 1897, the Petitioner's predecessor in interest, the Blue Hill Evangelical Society, was deeded the real property now known as and numbered 10 Hamilton. Said deed being recorded at Norfolk County Registry of Deeds Book 791 Page 330.
10. Thereafter that area of land was incorporated into Suffolk County.¹
11. On April 10, 1991, the Petitioner Blue Hill was deeded the real property now known as and numbered 10 Hamilton. Said deed being recorded at Suffolk County Registry of Deeds Book: 16785, Page:321.
12. On December 15, 1992, a Confirmatory Deed was recorded at Suffolk County Registry of Deeds Book: 17911, Page:161.
13. The Petitioner Blue Hill has requested permission from the City of Boston to redevelop 10 Hamilton for the purpose and use of residential living.
14. Certain abutters to 10 Hamilton have objected to the request of the Petitioner Blue Hill

¹ Hyde Park annexed to Boston by act of 24 May 1911 [Mass. Acts 1911, c.469, sec. 1, p. 450 and c. 583, sec. 1, p. 600].

citing a restriction in the deed recorded at Norfolk Country Registry of Deeds Book 791 Page 330.

THE RESTRICTION CONTAINED IN THE DEED

15. The deed recorded at Norfolk Country Registry of Deeds Book 791 Page 330 states as follows:

The premises are conveyed subject to and upon the following conditions:

- a. To maintain said premises at all times in such conditions and in such manner as shall be suitable for the use of the same as and for a free and public reading room and library; To maintain upon the said premises a free and public reading room to be known as “The Phillips Brooks Memorial Reading Room” and to suffer said premises to be used for no other purpose whatsoever save as aforesaid.

16. The Petitioner Blue Hill alleges, pursuant to M.G.L. c. 184 §30, that continuation of the restriction on 10 Hamilton would impede reasonable use of the land for purposes for which it is most suitable and would contribute to the deterioration of 10 Hamilton.

17. Certain abutters of 10 Hamilton deny that a continuation of the restriction on 10 Hamilton would impede reasonable use of the land for the purposes for which it is most suitable and would contribute to the deterioration of 10 Hamilton.

18. The Petitioner, Blue Hill, is currently restrained in its ability to alienate its property and unless the rights and responsibilities of the Petitioner, Blue Hill, and the Responded, Estate of Ellen F. Stetson, her Heirs, Devises, and Legal Representatives, are determined, the Respondent will continue to enforce the restriction, and the Petitioner Blue Hill will thereby suffer irreparable harm.

CONCLUSION

WHEREFORE, the Petitioner Blue Hill demands Judgment that this Honorable Court declare the rights and responsibilities of the Petitioner Blue Hill and the Respondent, Estate of Ellen F. Stetson, her Heirs, Devises, and Legal Representatives, under the deed and adjudge that the restriction contained in the deed recorded at Norfolk Country Registry of Deeds Book 791 Page 330 is not enforceable.

Respectfully Submitted,
Blue Hill Community Church,
Petitioner,
By Its Attorney,

/s/ Jack P. Milgram
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