

HOUSE No. 4673

The Commonwealth of Massachusetts

PRESENTED BY:

Bradford R. Hill and Bruce E. Tarr

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to the release of certain land in Rowley from operation of an agricultural covenant.

PETITION OF:

NAME:	DISTRICT/ADDRESS:
<i>Bradford R. Hill</i>	<i>4th Essex</i>
<i>Bruce E. Tarr</i>	<i>First Essex and Middlesex</i>

HOUSE No. 4673

By Representative Hill of Ipswich and Senator Tarr, a joint petition (subject to Joint Rule 12) of Bradford Hill and Bruce E. Tarr relative to the release of certain land in Rowley from operation of an agricultural covenant. Environment, Natural Resources and Agriculture.

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act relative to the release of certain land in Rowley from operation of an agricultural covenant.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. The department of agricultural resources (hereinafter the “department”)
2 holds an agricultural covenant (“AC”) recorded with the Essex South County Registry of Deeds
3 in book 29886, page 350 on land formally owned by The Herrick Farm Trust, William S.
4 Herrick, Trustee (hereinafter “H.F.T.”); which term shall include successors in title, heirs, and
5 assigns as the context shall require. Under Section 40E of Chapter 7 and Section 32 of Chapter
6 184 of the General Laws, and notwithstanding any other or general or special law to the contrary,
7 for a sum to be determined by the department of agricultural resources, the secretary of energy
8 and environmental affairs shall execute a certificate of release of a portion of the land subject to
9 the AC covering approximately 1.9 acres in general shown on a plan entitled “Plan of Land in
10 Rowley, MA, Property of The Herrick Farm Trust and Paul D. & Cynthia H. Lucia,” Scale 1” –
11 4 0’, dated March 30, 2017 prepared by Donohoe Survey Inc., 363 Boston St., Topsfield, MA

12 and recorded at the Essex South County Registry of Deeds being more particularly described as
13 follows:

14 PARCEL A

15 Plan Book 459 Plan 24

16 A parcel of land on the southeasterly side of Dodge Road in Rowley, Massachusetts
17 bounded and described as follows:

18 Beginning at the northeast corner of the parcel at Dodge Road; thence

19 $S00^{\circ}03'20''E$ by Lot 1 a distance of four hundred (400.00) feet; thence

20 $N89^{\circ}05'59''W$ by Lot 2 a distance of forty one (41.00) feet; thence

21 $N01^{\circ}47'37''W$ by Lot 2 a distance of one hundred fifty (150.00) feet; thence

22 $N04^{\circ}59'38''E$ by Lot 2 a distance of two hundred twenty (220.00) feet to Dodge Road;

23 thence

24 $N40^{\circ}49'41''E$ by Dodge Road a distance of forty (40.00) feet to the point of beginning.

25 The above described parcel contains an area of 14,756 square feet and is more
26 particularly shown as Parcel A on a plan entitled: "Plan of Land in Rowley, MA, Property of The
27 Herrick Farm Trust and Paul D. & Cynthia H. Lucia; Scale 1"=40', March 30, 2017", recorded
28 as Plan Book 459 Plan 24.

29 LOT 2

30 Plan Book 459 Plan 24

31 A parcel of land on the southeasterly side of Dodge Road in Rowley, Massachusetts
32 bounded and described as follows:

33 Beginning at the northeasterly corner of the parcel at Dodge Road; thence
34 $S04^{\circ}59'38''W$ by Parcel A a distance of two hundred twenty (220.00) feet; thence
35 $S01^{\circ}47'37''E$ by Parcel A a distance of one hundred fifty (150.00) feet; thence
36 $S89^{\circ}05'59''E$ by Parcel A a distance of forty one (41.00) feet; thence
37 $S63^{\circ}21'39''E$ by Lot 1 a distance of two hundred thirty eight and $94/100$ (238.94) feet;
38 thence
39 $S63^{\circ}17'00''W$ a distance of one hundred forty four and $53/100$ (144.53) feet; thence
40 $N70^{\circ}39'25''W$ a distance of one hundred forty eight and $69/100$ (148.69) feet; thence
41 $N41^{\circ}05'25''W$ a distance of two hundred four (204.00) feet; thence
42 $N02^{\circ}47'45''E$ a distance of one hundred forty four (144.00) feet to Dodge Road, the
43 previous four courses being by land of The Herrick Farm Trust; thence
44 $N35^{\circ}07'46''E$ by Dodge Road a distance of one hundred ninety five and $32/100$ (195.32)
45 feet; thence
46 $N40^{\circ}49'41''E$ by Dodge Road a distance of fifty four and $68/100$ (54.68) feet to the point
47 of beginning.

48 The above described parcel of land contains an area of 72,364 square feet and is more
49 particularly shown as Lot 2 on a plan entitled: "Plan of Land in Rowley, MA, Property of The

50 Herrick Farm Trust and Paul D. & Cynthia H. Lucia, Scale: 1"=40', March 30, 2017", recorded
51 as Plan Book 459 Plan 24.

52 The Commonwealth however, and its agents and assigns, shall retain, as ancillary to and
53 for the benefit of the land remaining under restriction, a limited (2 years) easement and right of
54 way to pass and re-pass on foot and by vehicle on all roadways, farm roads, and bridges now
55 existing or hereafter constructed on the land herein proposed to be released, for any and all
56 purposes set forth in the original AC as hereby amended.

57 SECTION 2. As a condition precedent to the release of the 1.9 acres from the AC
58 parcel, H.F.T. and the department shall execute and cause to be recorded an amendment of the
59 existing covenant inclusive, said amendment extending for no more than two (2) years a
60 currently unrestricted parcel of 1.2504 acres, being the subject of litigation captioned "Cynthia H.
61 Lucia vs. David S. Herrick, Individually and as Trustee of the Herrick Farm Trust, Essex County
62 Docket No. 12-2353B", the farm's only source of drinking water for the dairy operation, owned
63 by H.F.T., under restriction in accordance with the terms and provisions of the original AC as
64 amended, the 1.2504 acre parcel with the dairy's water supply thereupon and thereafter to be
65 subject thereto. The 1.2504 acre parcel lies adjacent of other restricted farmland owned by
66 H.F.T. off Mill Road and Dodge Street, Rowley, Massachusetts, and is as shown on a plan of
67 land entitled "Plan of Land in Rowley, MA, Property of David S. Herrick, Trustee, The Herrick
68 Farm Trust, Scale 1" – 50', June 17, 1995" revised and recorded with the Essex South County
69 Registry of Deeds at Plan Book 301, Plan 79 and labeled as "Lot 2."

70 SECTION 3. As a condition precedent to the release of the 2 acres from the AC, H.F.T.
71 and the department shall execute and cause to be recorded an amendment to the existing

72 restriction, said amendment placing under restriction that portion of the currently unrestricted
73 1.2504 acres of land owned by H.F.T. that lies outside the boundaries of the land proposed to be
74 released under Section 1. Upon the recording thereof, this portion shall be governed by the terms
75 and provisions of the existing AC as amended, thereupon and thereafter to be subject thereto.

76 The 1.2504 acre parcel is bounded and described as follows:

77 LOT 2

78 Plan Book 301 Plan 79

79 A parcel of land on the northeasterly side of Mill Road in Rowley, Massachusetts
80 bounded and described as follows:

81 Beginning at the westerly corner of the parcel at Mill Road; thence

82 N55°21'26"E a distance of two hundred seventy nine and 24/100 (279.24) feet; thence

83 S05°01'09"E a distance of two hundred ninety (290.00) feet; thence

84 S43°59'47"W a distance of one hundred twenty five (125.00) feet to Mill Road, the
85 previous three courses being by land of The Herrick Farm Trust; thence

86 N42°50'34"W by Mill Road a distance of one hundred sixty three and 64/100 (163.64)
87 feet; thence

88 N29°39'52"W by Mill Road a distance of one hundred fifteen and 18/100 (115.18) feet to
89 the point of beginning.

90 The above described parcel of land contains an area of 1.2504 acres and is more
91 particularly shown as Lot 2 on a plan entitled: "Plan of Land in Rowley, MA, Property of David

92 S. Herrick, Trustee, The Herrick Farm Trust, Scale: 1"=80', June 17, 1995" recorded as Plan
93 Book 301 Plan 79.

94 SECTION 4. Except as amended by this act, the AC shall remain in full force and effect.