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Sent: Monday, September 11, 2023 4:37 PM
To: Deborah Burke <dburke@CITYOFMALDEN.ORG>
Cc: Ron Hogan <rhogan@CITYOFMALDEN.ORG>
Subject: RE: Malden Hospital Deed
Hi Debbie,

You have requested an opinion as to whether the restrictions included in two deeds by which the Malden Hospital acquired portions of its property are still in effect. Specifically, the 1916 deed, recorded in Book 4031, Page 218, and the 1929 deed, recorded in Book 5048, Page 58, each state that such parcels are conveyed “for hospital purposes” (which I refer to as the “Restriction”). Each deed further states that if the parcel ceases to be used “for the purpose of the Malden Hospital”, title to the parcel would revert to the original owners and/or their successors and assigns (which I refer to as the “Reverter”). I assume, for the purpose of this opinion, that the portion of the property that the City is interested in acquiring consists of land conveyed by the foregoing deeds.

In my opinion, based on the deeds and GL c. 184, §28, that the 1916 Restriction likely terminated on January 1, 1964, unless the party who created the 1916 Restriction recorded a notice of extension in the Middlesex Registry prior to that date and recorded a notice of every 20 years to the present. Similarly, it is my opinion that the 1929 Restriction likely terminated in 1979, unless a notice of extension was recorded with the Registry prior to 1979 and has been extended every 20 years since to the present. Please note that I have not researched the Registry records to determine if the notices of extension were timely recorded.

In my further opinion, the Reverter contained in the deeds will terminate when (a) the parcels cease to be used for “the purpose of the Malden Hospital” and (b) 30 year pass from the date that the use of the parcels changes and the successors and assigns of each owner who created the Reverter fail to re-take title to the parcels. GL c.184A, §7. However, since the Reverter can be exercised only if the Restriction is still in effect (and has been violated), it is my opinion that if the Restriction has expired by operation of law (that is, because of the failure to timely record the notices of extension), the Reverter is no longer valid.

As mentioned, a title search should be done to ensure that no notices of extension were timely recorded, or, if they were, that the notices have been extended every 20 years thereafter to the present.

Please let me know if you have any further questions.

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