

GORDA REALTY TRUST
38 Bow Road
Belmont, MA 02478
Tel: 617.489.7795

Thursday, March 24, 2005

Lealdon Langley, Director
Wetlands and Waterways Program
Department of Environmental Protection
One Winter Street
Boston, MA 02108

*RE: Matter of Maria A. Kitras (formerly Paul D. Pettegrove); DEP Docket No. 2001-114
Town of Aquinnah on the island of Martha's Vineyard*

Dear Mr. Langley:

I received your December 8, 2004 letter regarding delays in the above reference case and appreciate your time in providing a response.

Although you state that "the case is within the average range of time it takes to issue decisions", the reality of the situation is that the appeal was filed on July 12, 2001 and a decision has yet to be issued. A summary of the actual timeline versus the promised timeline in the December 29, 2000 directive from Commissioner Lauren A. Liss is as follows:

	Promised Timeline in 12/29/2000 Directive	Actual Timeline
Time for Prehearing Conference after appeal filed	3 months	6 months
Time to hold Hearing after appeal filed	7 months	31 months
Time to issue Decision after appeal filed	12 months	44 months and counting... ¹

Despite continued contact with Chief Administrative Magistrate Christopher F. Connolly of the Division of Administrative Law Appeals, a final decision has not been made. I have been in contact with Mr. Connolly since June of 2004.

Presently, three separate civil actions are tied-up in Massachusetts Courts as a result of the delays caused by this appeal. Fruchtman v. Kitras, MA Land Court Docket No. 287677; Kitras v. Thulin, Middlesex Superior Court Docket No. 04-3216; and, Kitras v. Thulin, Essex Superior Court Docket No. 02-1828A.

¹ Between June, 2000 and March, 2001, we also expended considerable time and money fighting frivolous accusations (by the same appellant) at MEPA that the threatened orchid *Arethusa bulbosa* was about to be "taken" under the MA Endangered Species Act. See EOEA #12248.

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DEP Wetlands and Waterways Program
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In the Essex Superior Court case, Gorda Realty Trust has recently been forced to file a motion to set aside our agreement for judgment, because the Aquinnah Conservation Commission refuses to "toll" the effective period of our local wetland by-law permit that we negotiated in December of 2002. At the time of settlement, it was expected that the DEP administrative appeal would be resolved in a timely fashion. Attached is a recent copy of a letter submitted to the Chairman of the Conservation Commission.

The harm that this delay has caused goes beyond the current situation. Project opponents for this case as well as other similar cases see these delays as opportunities to stop projects or negotiate burdensome conditions.

Again, I would appreciate any effort you or the Department could make to resolve this situation. Thank you.

Very truly yours,

A handwritten signature in black ink, appearing to read "James J. Decoulos". The signature is fluid and cursive, with the first name "James" and last name "Decoulos" clearly distinguishable.

James J. Decoulos
jamesj@decoulos.com

cc: Governor Mitt Romney
Eric Kriss, Secretary, Executive Office for Administration and Finance
Robert W. Golledge, Jr., Commissioner, Department of Environmental Protection
Margaret R. Stolfa, General Counsel, Department of Environmental Protection

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Belmont, MA 02478
Tel: 617.489.7795

Friday, March 18, 2005

Sarah Thulin, Chairman
Aquinnah Conservation Commission
65 State Road
Aquinnah, MA 02535

*RE: Release of the Gorda Realty Trust dated December 23, 2002;
Aquinnah Assessor Map 12, Parcel 38; Set-Off Lot 232*

Dear Chairman Thulin and members of the Commission:

I am in receipt of your letter dated March 8, 2005. On behalf of Gorda Realty Trust (the Trust), we disagree with your assertion that the toll request is not appropriate.

As a result of your unfair consideration, both the Trust and myself individually declare our release of claims against yourself, various town officials and the Town of Aquinnah dated December 23, 2002 to be null and void.

We will file a motion to set aside the agreement for judgment dated December 23, 2002 with Essex Superior Court.

Very truly yours,



James J. Decoulos, Co-Trustee
Gorda Realty Trust
jamesj@decoulos.com

cc: Governor Mitt Romney
Eric Kriss, Secretary, Executive Office for Administration and Finance
Lealdon Langley, Director, DEP Wetlands and Waterways Program



TOWN OF AQUINNAH
65 STATE RD.
AQUINNAH, MASSACHUSETTS 02535

TEL. 508 645-2300
FAX 508 645-2310

March 8, 2005

Mr. James J. Decoulos
Gorda Realty Trust
3 Electronics Avenue
Danvers, MA 01923

RE: Gorda Realty Trust, Aquinnah Assessors Map 12, Parcel 38

Dear Mr. Decoulos:

The Conservation Commission is in receipt of your letter dated February 17, 2005 requesting that it toll the effective time period of the Order of Conditions (the "permit") issued to the Gorda Realty Trust under the Aquinnah Wetlands Water Resource Protection By-law (the "By-law") under an agreement with the Town dated December 23, 2002.

Your request to toll the effective time period of that permit is not a proper request on which the Commission can act, because, as you know, the permit expired by its terms on July 12, 2004. Please feel free to submit a new Notice of Intent or a request for the Commission to reconsider its July 27, 2004 decision denying a one year extension of the permit.

AQUINNAH CONSERVATION COMMISSION

By: Sarah Thulin
Sarah Thulin

TOWN CLERK
and
ASSESSORS
645-2306

ACCOUNTANT
645-2305
BUILDING INSPECTOR
645-2307

TAX COLLECTOR
and
TREASURER
645-2303