

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

VIA FEDERAL EXPRESS
Tracking # 7904 2993 2203

Thursday, February 17, 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:

On February 1, 2005, I met with the Board of Selectmen to discuss the above referenced settlement. The Selectmen recommended that I meet with each board individually to address any potential concerns related to the settlement.

Therefore, on behalf of Gorda Realty Trust, I respectfully request a hearing to decide whether the Aquinnah Conservation Commission will agree to "toll"¹ the effective time period of the permit issued under the Aquinnah Wetlands/Water Resource Protection By-Law (the Wetland By-Law).

Gorda released all claims against the Town on December 23, 2002 that related to Set-Off Lot 232. The release was based in large part upon the issuance of a permit under the Wetland By-Law.

The purpose of the request is that Gorda has been unable to utilize the permit due to an appeal taken by Joann and Jack Fruchtman, Jr. (Matter of Maria A. Kitras; DEP Docket No. 2001-114). The Fruchtman's filed their appeal after the Southeast Regional office of the Massachusetts Department of Environmental Protection issued a Superseding Order of Conditions to Gorda on July 12, 2001 to construct a driveway, bridge, house, septic system and well within areas regulated under the Massachusetts Wetlands Protection Act.

The vote we are seeking is to determine whether the Wetland By-Law permit issued to Gorda should be tolled until all appeals related to DEP Docket No. 2001-114 are resolved.

¹ The term "toll" is defined at "dictionary.law.com" as follows:

v. 1) to delay, suspend or hold off the effect of a statute. Examples: a) a minor is injured in an accident when he is 14 years old, and the state law (statute of limitations) allows a person hurt by negligence two years to file suit for damages. But for a minor the statute is "tolled" until he/she becomes 18 and decides whether or not to sue. Thus the minor has two years after 18 to file suit. b) state law allows 10 years to collect a judgment, but if the judgment debtor (party who owes the judgment amount) leaves the state, the time is "tolled," so the judgment creditor (party to whom judgment is owed) will have extra time to enforce the judgment equal to the time the debtor was out of state. 2) a charge to pass over land, use a toll road or turnpike, cross a bridge or take passage on a ferry.

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I will contact you next week to confirm receipt of this letter and to discuss the availability of a hearing date. Please feel free to contact me if you have any questions or need additional information. 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, Co-Trustee
Gorda Realty Trust
jamesj@decoulos.com

cc: Carl M. Widdiss, Chairman, Aquinnah Board of Selectmen