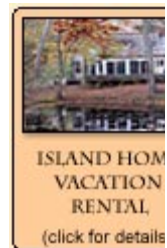


Vineyard Haven, MA
 34 °F / 1 °C
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Editorial *An Important Question*

The distressing failure of the Aquinnah selectmen to join the appeal from a Superior Court decision that prevents the town from enforcing its zoning rules against the Wampanoag tribe means that Island selectmen need to get busy.

Of course, this lower court decision has profound implications for residents of Aquinnah, but it also compromises the rules for growth and development, whether municipal or regional, that Islanders in every Vineyard town have counted on till now.




The decision, should it stand, does not merely overturn an agreement, reached after long and difficult negotiations between the Wampanoags and the voters and non-resident taxpayers of what was then Gay Head. It dismantles the mutually accepted legal basis for the modern community that is now Aquinnah. By the 1983 Settlement Agreement, the tribe gained certain rights, and the non-Wampanoag residents of Aquinnah, the rest of the Vineyard, and even the state gained substantial protections. On the basis of this deal, the Wampanoag tribe won federal recognition, and the non-Indian residents of Aquinnah were assured of a say in shaping their town's future.

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As Larry Hohlt, president of the Aquinnah/Gay Head Community Association Inc. commented following Monday's meeting at which the three Aquinnah selectmen agreed that they would not appeal the Superior Court's wrong-headed decision, "Some have lost sight of the fact that the core issues in this appeal relate to whether the terms, conditions and agreements struck among the town, the tribal council, the Commonwealth and the Gay Head Taxpayers Association in the 1983 Settlement Agreement are going to be enforced or whether a lower court's decision that the now tribe didn't waive its immunity to suit to enforce that agreement is correct.... [E]ach of the parties to the 1983 Settlement Agreement derived great benefits from it and made the compromises and agreed to the terms and conditions they each deemed appropriate to obtain those benefits.... A lower court decision by a sole judge on whether there was or was not a waiver of sovereign immunity to suit is one that 'begs' for an appeal."

Indeed it does, and if the Aquinnah selectmen have elected to dodge their municipal responsibilities, well, the selectmen in the other five towns must pick up the slack. The selectmen and the Martha's Vineyard Commission, which has already and correctly

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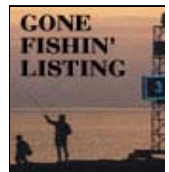
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taken steps to join the appeal, must press to be allowed to support the appeal by the community association. And, they must urge the Massachusetts attorney general to do the same.

This is an important question that needs an authoritative answer, one that will settle the terms on which Islanders and their Wampanoag neighbors will go forward from here.





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