

Sovereign Nation

For the Wampanoag Tribe of Gay Head (Aquinnah) the road to federal recognition was long and difficult, and today the Wampanoags are a sovereign nation in this community.

They have developed successful programs, including the shellfish hatchery on Menemsha Pond which markets its signature Tomahawk oysters around the country. They have built housing for tribal members. They are good citizens who have worked to preserve their own rich history and culture.

But the tribe went down the wrong road when it built a small shed and a dock on the Cook Lands without obtaining a building permit from the town.

Claiming sovereignty and therefore a government-to-government relationship with the town, the tribe asserted that it did not need a permit. However, in 1983 the town of Gay Head, the tribe and the Gay Head Taxpayers Association had all signed the historic Indian land claims settlement agreement, which later led to federal recognition for the tribe, and which expressly stated that the Wampanoags would abide by state and local zoning laws.

Now faded in many memories, the heated land claims dispute by its nature set the town against itself, because the members of the tribe were also members of the town. Painstakingly crafted, the settlement agreement laid out a detailed prescription for the town and the tribe to coexist.

When the tribe built the shed, it not only ignored the zoning laws but also threatened to break the stout thread of trust that had been used to bind the settlement agreement.

The recent court case ultimately tested the strength of the agreement. The tribe won the first round at the superior court level, and last week the Massachusetts Supreme Judicial Court overturned the ruling, finding that the Wampanoags waived sovereignty on the subject of land use laws when they signed the settlement agreement and agreed to follow zoning laws.

This is a good court decision that will likely take its place in history as a landmark ruling. At its heart the sovereignty case is about living up to an agreement that was signed in good faith after many long years of misunderstandings, anger and confusion in this tiny town that sits in the westernmost reaches of the Vineyard.

The tribe may try to take its case to the United States Supreme Court, but that would be the wrong road again.

Judicial guidance was needed on the subject of sovereignty for the Wampanoags, and the Massachusetts Supreme Judicial Court has provided the direction, in clear and unequivocal terms.

Now all eyes turn to the Aquinnah selectmen, whose job is to make certain that town zoning laws are enforced.