



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

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Lieutenant Governor

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Secretary

Martin Suuberg
Commissioner

October 27, 2020

In the Matter of:
Maria A. Kitras, Trustee, Bear Realty Trust

OADR Docket No. 1999-058
DEP File #27-212
Aquinnah

FINAL DECISION

Martin Suuberg, the Commissioner of the Massachusetts Department of Environmental Protection (“MassDEP” or “the Department”) has designated me as the Final Decision Maker in this appeal.

The Petitioners, Maria A. Kitras, Trustee of Bear Realty Trust and Bear II Realty Trust, and James J. Decoulos, Trustee of Bear II Realty Trust (collectively “Petitioners”) filed this wetland permit appeal on April 20, 1999. The appeal has been stayed for many years while the Petitioners unsuccessfully pursued various remedies in state and federal courts that might have allowed them access to their landlocked parcel for development.

On August 26, 2020, the Petitioners filed a motion to dismiss their appeal, stating that they were withdrawing the appeal “without prejudice”. On August 28, 2020, the Aquinnah Conservation Commission filed a response to the motion to dismiss, stating that they had no objection to the motion, but asserting that the dismissal should be “with prejudice”, based on the

passage of time since the appeal was filed and a decision from the Supreme Judicial Court definitively deciding that the Petitioner has no present legal access to the parcel at issue. See Kitras v. Town of Aquinnah, 474 Mass. 132, cert. denied, 137 S. Ct. 506 (2016).

The Petitioners' voluntary withdrawal of their appeal constitutes a waiver by the Petitioners to any further administrative review before the Department as well as appeal to court of the Superseding Order of Conditions that was at issue in this appeal. Accordingly, the Department issues this Final Decision which allows the Petitioners' withdrawal and dismisses this appeal.

A handwritten signature in cursive script, reading "Salvatore M. Giorlandino".

Salvatore M. Giorlandino
Chief Presiding Officer

SERVICE LIST

**IN THE MATTER OF:
DOCKET NO. 99-058**

Maria A. Kitras, Trustee, Bear Realty Trust

REPRESENTATIVE

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