



The Commonwealth of Massachusetts files this Statement in support of the Town of Aquinnah's ("Town") motion for preliminary injunction (Dkt. # 124) ("Motion"), through which the Town seeks to ensure that the Wampanoag Tribe of Gay Head (Aquinnah) ("Tribe") complies with local law when performing construction activities at the Wampanoag Community Center ("Center").

The Tribe agreed in 1983 in its settlement agreement with the Commonwealth, Town, and the Taxpayers' Association of Gay Head, Inc. that its use of its lands would comply with State and local law. Congress ratified that agreement in 1987. Wampanoag Tribal Council of Gay Head, Inc., Indian Land Claims Settlement Act, Pub. L. No. 100-95, *codified at* 25 U.S.C § 1771 *et seq.* The Massachusetts Supreme Judicial Court confirmed the agreement's continuing applicability and enforceability against unlawful construction on Tribal lands in *Building Inspector and Zoning Officer of Aquinnah v. Wampanoag Aquinnah Shellfish Hatchery Corp.*, 443 Mass. 1 (2004). Therefore, the Tribe remains bound to comply with any and all local requirements when engaging in construction activities on Tribal lands.

Because enforcement of local building codes and zoning requirements are distinctly local interests, it is appropriate for the Town to enforce those interests through its Motion. The Commonwealth fully supports the Town's efforts to ensure that the Tribe complies with all local laws when engaging in construction activities at the Center. It is the general position of the Commonwealth that State and local law applies with full force and without restriction to the Tribe's lands, except in those areas that are specifically carved out in the settlement agreement and ratifying Federal Act (exceptions not implicated by the Town's motion). The Commonwealth retains all rights and waives none to enforce any and all State laws in relation to Tribal lands, now or in the future, including with respect to construction activities by the Tribe or others at the Center.

Respectfully submitted,

THE COMMONWEALTH OF MASSACHUSETTS,

By its attorney,

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ATTORNEY GENERAL

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Dated: July 15, 2015

**CERTIFICATE OF SERVICE**

I, Bryan Bertram, hereby certify that on this 15<sup>th</sup> day of July 2015, I filed the foregoing document through the Electronic Case Filing (ECF) system and thus copies of the foregoing will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF); paper copies will be sent, via first-class mail, to those indicated as non-registered participants.

*/s/ Bryan Bertram*