

MILLER, MANNIX, SCHACHNER & HAFNER, LLC
ATTORNEYS AT LAW
451 GLEN STREET

P.O. BOX 765
GLEN FALLS, NEW YORK 12801
(518) 793-6611

Mark Schachner
Robert H. Hafner
Cathi L. Radner
Michael J. Hill
Leah Everhart
Jacquelyn E. Poulos

✧ Also Admitted in Massachusetts
✧ Also Admitted in Maryland and Pennsylvania

John W. Miller (1908-1968)
John C. Mannix (1981-2006)

Facsimile: (518) 793-6690
Toll Free: 1-800-421-6166

E-Mail: mail@mmshlaw.com
Web Site: millermannix.com

March 15, 2011

Hon. David B. Krogmann
Supreme Court Chambers
1340 State Route 9
Lake George, New York 12845

Re: Richard and Smith v. The Town of Cambridge, et. al.
Index No. 16168 – RJI No. 57-1-2009-0669

Dear Judge Krogmann:

We wish to respond to Respondent's Motion to Renew and Reargue. Pursuant to CPLR Rule 2221(e) a Motion for Leave to Renew must be based upon new facts not offered on the prior motion that would change the prior determination or demonstrate that there has been a change in law that would change the prior determination and must contain reasonable justification for the failure to present such facts on the prior motion. Here, Respondent Town is the municipal entity responsible for the determination which is the subject of the Article 78 Petition. All documents relative to the Town's determination are within the Town's control. Respondents Hall and Whitney were parties to the real property transfers at issue here. All documents relevant to the real property transfers are within their control. There has been no change in the law and there is no new fact previously unavailable.

Similarly, pursuant to CPLR 2221(d) a Motion to Reargue must identify facts overlooked or misapprehended by the Court. Here, there has been no such showing.

Respondents again assert that the Court should have determined that the Petition was untimely. That argument was fully submitted. There was no fact which was overlooked or misapprehended by the Court on the prior motion and no justification to renew.

As set forth in previous submissions to this Court, it remains the position of Petitioners that in this summary proceeding, Petitioners are entitled to have the Court determine the issues on the merits. There is no reason to further delay such determination.

Hon. David B. Krogmann
Re: Richard and Smith v. The Town of Cambridge, et. al.
March 15, 2011
Page 2 of 2

Petitioners respectfully request that the Court deny the Motion to Renew and/or Reargue and proceed with the hearing previously scheduled by the Court.

Very truly yours,
MILLER, MANNIX, SCHACHNER & HAFNER, LLC



Cathi L. Radner

cc: Mary Anne Richard and Daniel Smith
John R. Winn, Esq.
Alexander Powhida, Esq.
John V. Imhof, Esq

G:\CORR\SMITH AND RICHARDS\Court ltr - 31511.doc

Received
County Clerks Office
Jul 18, 2011 04:13P
Washington County
Dona J. Crandall