

STATE OF NEW YORK
COUNTY OF WASHINGTON SUPREME COURT

MARY ANNE RICHARD and
DANIEL SMITH,

Petitioners,

-against-

THE TOWN OF CAMBRIDGE,
THE CAMBRIDGE TOWN BOARD,
AUDREY B. HALL,
SALLY J. WHITNEY, and
TERRY E. WHITNEY, SR.,

Respondents.

AFFIRMATION

Index No.: 16168
RJI No. 57-1-2009-0669

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

ALEXANDER POWHIDA, an attorney duly admitted to practice law in the State of New York, affirms the following to be true under penalties of perjury, pursuant to CPLR 2106:

1. I am an attorney duly admitted and in good standing to practice law before the Courts of the State of New York. I am associated with the law firm of Deily, Mooney & Glastetter, LLP, attorneys for Respondents, The Town of Cambridge and The Cambridge Town Board (herein, "Cambridge Respondents"). Based upon my representation of the Cambridge Respondents and a review of the file maintained in this action, I am fully familiar with the facts and circumstances of this action.

2. I make this affirmation in support of the Cambridge Respondents motion for leave to appeal to the Appellate Division, Third Department, from the Decision and Order, dated

November 10, 2010, of this Court, a copy of which is attached to the Affidavit of John R. Winn, dated February 23, 2011.

3. I respectfully submit this affirmation for the sole purpose of joining in the motion for leave to appeal submitted by counsel for Respondent Audrey Hall. Specifically, the Cambridge Respondents join in that portion of the motion, which seeks leave to appeal that portion of the Decision and Order, which determined that affirmative defense based upon the four-month statute of limitations applicable to Article 78 proceedings was dismissed or resolved.

4. It is respectfully submitted that with respect to that portion of the Decision and Order of this Court, Respondent Audrey Hall and the Cambridge Respondents share the same bases for appeal.

5. The Decision and Order with Notice of Entry was served by mail by counsel for the Petitioners on January 27, 2011. As a result, this motion is made within thirty (30) days after service, plus five (5) days for mailing, as allowed by CPLR 2103 (b) 2.

6. For all of the good faith reasons set forth in the Affidavit of John Winn, dated February 23, 2011, with respect to the defense of the statute of limitations, I submit that those reasons also apply and support a basis for granting leave to appeal to the Cambridge Respondents.

7. No prior application for the relief sought herein has previously been made.

WHEREFORE, your affirmant respectfully requests that the Court grant the motion for leave to appeal of the Cambridge Respondents, together with such other and further relief as to the Court seems just.

Dated: March 3, 2011


ALEXANDER POWHIDA

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

STATE OF NEW YORK
SUPREME COURT COUNTY OF WASHINGTON

MARY ANNE RICHARD and DANIEL SMITH,

Petitioners,

-against-

THE TOWN OF CAMBRIDGE, THE CAMBRIDGE
TOWN BOARD, AUDREY B. HALL, SALLY J.
WHITNEY, and TERRY E. WHITNEY, SR.,

Respondents.

STATE OF NEW YORK)
)ss.:
COUNTY OF ALBANY)

Alexander Powhida, being duly sworn, deposes and says that he is over the age of 18 years, is not a party to this action and resides in Albany, New York.

That on the 3rd day of March, 2011, he served a NOTICE OF MOTION and AFFIRMATION upon the following individuals at the following places in the following manner:

Miller, Mannix, Schachner & Hafner LLC	John R. Winn, Esq.
P.O. Box 765	13 North Street
Glens Falls, New York 12801-0765	Granville, New York 12832

John V. Imhof, Esq.
49 West Main Street
Cambridge, New York 12816

By depositing a true and correct copy of the same properly enclosed in post-paid wrapper in the Official depository maintained and exclusively controlled by the United States at Albany, New York directed to said individual, respectively, at said addresses within the State and/or County designed for the purpose upon the last papers served in this action or the place where the above then resided or kept offices, according to the best information which can be conveniently obtained.



Alexander Powhida

Sworn to before me this
3rd day of March, 2011



Notary Public-State of New York

JENNIFER SETFORD
Notary Public, State of New York
Qual. in Albany Co. No. 01SE6153380
Commission Expires Oct. 02, 2014

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Jul 18 2011 04:13P
Washington County
Dana J. Crandall