



November 17, 2008

Mr. John Dwelley  
The Nature Conservancy  
4245 North Fairfax Drive  
Suite 100  
Arlington, VA 22203

Dear Mr. Dwelley,

The Advocates for Herring Bay appreciate the Nature Conservancy's (TNC) commitment to preserving and protecting the ecological assets of the Old Colony Cove Farm. This 311-acre property, which has been bequeathed to TNC by Mrs. Virginia Quigley, is among the few intact natural habitats along the shores of the Chesapeake Bay in Anne Arundel County. In our June 27, 2008 letter, we asked TNC to take a fresh look at the existing environmental covenants on the property and to make any changes necessary to protect those habitats in perpetuity, consistent with Mrs. Quigley's desire that TNC preserve the property as "one or more nature sanctuaries" if possible. We are writing today to provide additional information that may assist you in that effort.

As noted in our June letter, the terminology in the existing easement regarding "private recreational uses" could be construed in ways that conflict with Mrs. Quigley's vision for the property. That language currently reads: "*Activities other than Agriculture (as that term is defined below) and residential and private recreational uses, are prohibited on the Property...*" (see Article II, A). Unless the covenants define what is meant by "private recreational use," we believe that future owners—and possibly the courts—could interpret that term as allowing Old Colony Cove Farm to be developed for recreational use by "private" membership clubs or similar quasi-commercial entities. Such uses would likely degrade the property's shoreline and forest habitats far more than any personal recreational use by the families who occupy the dwellings on the property.

Since expressing those concerns in June, we have learned that Mrs. Quigley clearly intended to prohibit any recreational use by commercial entities. According to staff at the Maryland Environmental Trust, their records show that Mrs. Quigley expressly removed the following language from the draft covenant:

*Any commercial recreation not prohibited by the preceding sentence shall be limited to a de minimis amount.*

We asked Mrs. Quigley’s lawyer, Mr. Arthur Elgin, whether he was aware of her rationale for deleting that phrase. He told us that he recalled that she struck that provision because she did not want *any* commercial use. In an anecdotal aside, he remembered that she even nixed the idea of having a vegetable stand on the property.<sup>1</sup> Thus, it appears that Mrs. Quigley effectively had a “zero tolerance” for any commercial recreational use of Old Colony Cove Farm.

Based on that information, the Advocates for Herring Bay urge TNC to close the potential loophole in the existing covenants by adding a definition of “private recreational uses” that hews to Mrs. Quigley’s intent and advances TNC’s mission of preserving ecologically significant properties. In our view, that new definition should limit “private recreational use” to incidental recreational use by the occupants of the single-family dwellings on the property and clearly prohibit recreational activities by commercial entities, private membership clubs or associations, or for income-generating activities, public events, or other similar activities.

Once again, thank you for taking our recommendations into consideration. If we can be of any assistance, please do not hesitate to contact us.

Sincerely,

Kathleen Gramp  
President

Cc:  
Jon Chapman, Maryland Environmental Trust  
Arthur C. Elgin, Jackson and Campbell, P.C.  
Ren Serey, Critical Area Commission

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<sup>1</sup> Sources: Email from Mr. Jon Chapman, Maryland Environmental Trust to Kathleen Gramp on October 10, 2008 and telephone conversation between Mr. Elgin and Kathleen Gramp on October 15, 2008.