

Clifton Park Trustees Update

Clifton Park & Lagoon Lot Owners,

We hope everyone is looking forward to a wonderful 2018 season. As your Clifton Park Trustees, we would like to take this opportunity to update all beneficiaries regarding several matters. A COPY OF THIS EMAIL WILL ALSO BE SENT VIA U.S. MAIL.

BEACH CLEANING

Saturday, May 12th is set for beach cleaning. Bring your neighbor and come down to help with beautification projects. Once again, we are blessed to have both Kathy Weiss and Tony leading the charge.

TOWN HALL MEETING

The Clifton Park Trustees are hosting an annual Town Hall Meeting on Tuesday, May 15th at 6:30pm at the Beach House. We encourage all to attend. This is an opportunity to learn about everything related to the Beach and its operations.

LEGAL UPDATE

Below is a summary of recent legal events pertaining to the 2012 lawsuit.

- *August 10, 2017* - 8th District Appeals Court issued its opinion, reversing Judge Russo's 2015 grant of Summary Judgment.
- *October 10, 2017* - Cuyahoga County Probate Court issued a Judgment Entry putting into effect the 8th District Appeals Court Opinion. This Judgment Entry was stayed pending the requests to the Ohio Supreme Court to exercise discretionary jurisdiction and review the 8th District Opinion.
- *February 28, 2018* - Ohio Supreme Court declined to exercise discretionary jurisdiction.

- *March 19, 2018* the Probate Court lifted the stay and the substantive portions of the October 10, 2017 Judgment Entry were put into effect.
- *Currently* - The Probate Court will conduct an evidentiary hearing to determine the reasonable amount of attorney fees, costs and expense owed by the defendant Clifton Park Trustees to the Plaintiff-appellants.

Judge Russo of the Cuyahoga County Probate Court adopted the Appellate Court's language in his [Judgment Entry](#). Please take a moment to read as this is the final determination of the court with regard to Clifton Club Member access to the Beach. Additional information and related documents, can be reviewed on our website.

<http://www.cliftonparktrustees.org/trustee-communications/>

WHAT DOES ALL THIS MEAN?

The 2012 lawsuit has produced final language to the contested matters regarding the determination of non-lot owning Clifton Club Member access to the Beach. Clifton Club Members are not beneficiaries of the Clifton Park Trust ("Trust") and therefore have no legal right to use the Beach. However, Clifton Club Members are not simply the general public, but rather are members of an entity that is a beneficiary of the Trust. As such, and as specifically stated in the Court's ruling, "Club Members have a permissive right to access the Beach, as regulated by the Trustees pursuant to the Trust Deed." The Trust Deed affords the Clifton Park Trustees the authority to regulate use of the trust property.

RE-EXAMINING CLUB MEMBER ACCESS AFTER SUPREME COURT DECLINES JURISDICTION

In December, 2017, The Clifton Park Trustees reviewed the Appellate Court ruling, and the requests to the Ohio Supreme Court made by Defendant Trustees and the Clifton Club. While waiting to hear if the Ohio Supreme Court would accept jurisdiction, we increased the Clifton Club's assessment to 45% of the annual budget and maintained the

same number of Club Members to access the Beach as in the previous five years, for the calendar year 2018. We did not feel it was appropriate to take actions or make modifications that could conflict with a ruling from the Ohio Supreme Court.

On February 28, 2018, the Ohio Supreme Court declined jurisdiction, and on March 19, 2018, the Probate Court lifted the stay of the Judgment Entry. With this final outcome, we felt it was our duty to re-examine our December 2017 decisions. The outcome of our re-examination is as follows:

2018 Assessment & Club Member Access Review – 2018 assessments will remain the same. Assessment letters were sent to all Lot Owners including the Clifton Club on or before March 1st. Any significant changes to assessments after the calendar year has begun present administrative challenges and potential financial burden to Lot Owner Beneficiaries. For example, if \$127,000 (the Clifton Club's assessment) was to be re-assigned to Lot Owner Beneficiaries other than the Clifton Club for only a portion of 2018, administrative and substantive challenges occur for the following reasons:

1. Lot Owner Beneficiaries are preparing and transmitting payments.
2. Clifton Park Trustees have received and processed payments.
3. Assessment amounts to Lot Owner Beneficiaries would increase significantly and may represent an unanticipated financial burden to Lot Owner Beneficiaries.

For the last several years, 224 Clifton Club families have been granted access to the Beach. This will continue in 2018, as previously decided. Clifton Park Trustees conduct an annual review to determine Clifton Club Member access. For the year 2019, we have already begun our review, with specific attention toward the Court's decisions made in March of this year.

Regulation Review – The Clifton Park Trustees recognize the distinctions between the rights of Clifton Club Members and Lot Owners. For the year 2018, we will be issuing car stickers that are different for Park Lot Owners, Lagoon Lot Owners and Clifton Club Members. This will assist us in usage monitoring and it will begin laying the foundation for new regulations in the future.

The Clifton Beach Rules have been modified with regard to table reservations and occupancy. These changes better reflect the intention of the rules and the assignment of rights in light of the Court's decision. A copy of the Clifton Beach Rules for 2018 is available at this [link](#).

The Clifton Park Trustees are organizing a Rules Review Committee in 2018, consisting of six Lot Owner Beneficiaries and two Clifton Park Trustees. The task of the 2018 Rules Review Committee is to make recommendations to the Clifton Park Trustees regarding any changes to regulations that may be necessary as a result of the Court's decision for the years 2019 and onward. More information on the Rules Review Committee will be forthcoming.

2018 Operating Expense Review – We expect legal expenses to triple from the original budget of \$20,000. This is a direct result of (i) the Clifton Park Trustees seeking legal counsel to interpret and administer the Trust following the Court's decision, and (ii) inquiries from Beneficiaries and Plaintiff Appellants that carry legal ramifications to the Trust and all Beneficiaries (primarily regarding the interpretation of the Court's decisions). As a result of the past litigation, the current Trustees felt it prudent to use legal counsel on matters in order to appropriately carry out our duties, as well as hopefully avoid future litigation involving the Trust. It is our duty to protect the interests of all Trust Beneficiaries impartially and with due regard to the interest of each Beneficiary.

It is our responsibility to continuously report the financial condition of the Trust. We are delaying certain projects originally planned for the 2018 to accommodate the increased legal expenses. These projects include the replacement of the boardwalk and associated lighting. We are still planning to repair the Beach House chimney.

FINAL REMINDERS

Please attend Beach Beautification Day and the Town Hall meeting.

Please visit our website for information about the administration of the Trust. Meeting minutes, financial information, contact information, legal documents, and other pertinent updates are shared for all Beneficiaries.

Thank you and have a wonderful Spring.

Warren Coleman

Mary Ellen Fraser

Robert Frost

Joseph Kerrigan

Ryan Meany

Clifton Park Trustees