

May 12, 2018

Clifton Park & Lagoon Lot Owners,

On May 1, 2018, a new complaint regarding the Clifton Park Trust was filed in Cuyahoga County Probate Court. This is the same Court that presided over the 2012 lawsuit. The new complaint was filed by Arthur Dueck, Paul Bjorn, Nancy Binder and William Keller (Plaintiffs). The Trustees had hoped that the Appellate Court's ruling and Judge Russo's final Judgment Entry had resolved the legal issues stemming from the 2012 lawsuit.

In the spirit of brevity, we will not go through a lengthy legal discussion of the Appellate Court's ruling here. Those discussions have been a part of past updates. However, we feel it is important to reference the following paragraph from the Appellate Court's opinion:

Paragraph #67 - <sup>a</sup> We conclude that the trial court correctly determined that the Club Members have a "right" to use the Beach. However, in response to the declaration explicitly requested by appellants, we find that the Club Members have no legal right of access as Beneficiaries. Access by the Club Members is by permission and regulation of the Trustees.<sup>o</sup>

Plaintiffs' new complaint alleges that the Trustees cannot grant Clifton Club Members access to the Beach, that the manner in which the Trustees currently administer Clifton Club Members' beach access is improper, and that any access to the beach by Clifton Club Members requires unanimous consent of all Lot Owners.

Additionally, on May 11, 2018, Plaintiffs filed a Motion for Temporary Restraining Order and Preliminary Injunction asking the Court to prevent the Trustees from granting beach access to Clifton Club Members for the 2018 season without lot owner consent. The Plaintiffs' Complaint and Motion are available for review on the Clifton Park Trustees website ([link](#)), and we will regularly post further Court documents and filings as the case proceeds.

The Clifton Park Trustees believe that the Courts have ruled that the Trustees have the ability to grant and regulate the beach access of the non-lot owning Club Members. On that basis the Trustees formulated the rules associated with 2018 beach access, which include access for non-lot owning Club Members.

It is the Trustees' duty to administer and protect the interests of all Beneficiaries impartially and with due regard to the interest of each Beneficiary. Although Arthur Dueck, Paul Bjorn, Nancy Binder and William Keller have the right to make a claim, if that claim conflicts with other Beneficiary interests, and if those conflicting interests are unresolvable, the Court will need to resolve those differences.

As always, the Trustees are open to ideas, discussions, and engaging with the Beneficiaries. While we do not view the Court as the most efficient forum for discussion and issue resolution, the Trustees will represent the Trust and its Beneficiaries in the new lawsuit.

The Trustees will hold the annual town hall meeting to update Beneficiaries on beach operations and other matters relating to Clifton Park next Tuesday, May 15<sup>th</sup> at 7:00 PM. We encourage everyone to join us.

Looking to the future, as stated in our last update, we will be creating a 2018 Rules Review Committee consisting of six 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 for the years 2019 and onward. More information on this Rules Review Committee will be forthcoming.

Best regards,

Clifton Park Trustees

Joe Kerrigan

Warren Coleman

Mary Ellen Fraser

Rob Frost

Ryan Meany