

PRESS RELEASE

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Hahn Loeser & Parks Achieves Successful Appeals Court Victory for the Residents of Clifton Park

Cleveland, Ohio – (August 16, 2017) Hahn Loeser & Parks' fiduciary litigation team led by [Dennis R. Rose](#) recently achieved a significant victory for the residents of Clifton Park, when the 8th District Court of Appeals held that members of the Clifton Club who do not reside in the Park are not legal beneficiaries of a trust that held the interest in a private beach located in the Park.

The case began in 2012, when Hahn Loeser was retained by residents of Clifton Park to bring an action to resolve a dispute with the Clifton Club over use of a private beach located in the Park. The beach had been deeded to a group of trustees over a century ago for the benefit of Clifton Park lot owners. The trust requires each lot owner to pay a portion of the cost of beach maintenance based on the tax value of the lot. Over the years, the trustees regulated the use of the beach to protect the interest of the resident lot owners while allowing Clifton Club members to use the Beach for an additional fee in a manner that did not impede on the rights of the residents.

In 2011, the historical balancing of the rights of lot owners and interests of members of the Club were turned upside down when the successor trustees took the position that members of the Clifton Club were beneficiaries of the trust and had equal rights with the lot owners. This asymmetric position would have potentially allowed all Club members to use the beach without the Club needing to pay more than its single family lot assessment.

Hahn Loeser brought a lawsuit in the spring of 2012 in Cuyahoga County Probate Court to answer the simple question of whether the Club members who did not reside in the Park were trust beneficiaries with the legal right to use the beach. The response of the trustees and the Club was aggressive and unified. The Club asked the Court to dismiss the lawsuit for failing to name all of the 209 lot owners of the Park and the trustees. The trustees took up the Club's position and argued that the Club members had equal rights to use the trust property as any other lot owner even though most Club members were not lot owners. The Court denied the request but ordered the Plaintiffs to sue all of the lot owners and the trustees.

In 2014, the Plaintiffs asked the Court to remove the trustees for breach of their duties of impartiality and to disclose trust documents and information on request of the lot owner beneficiaries. Two-thirds (138) of the lot owners in the Park supported the Plaintiffs' position. Plaintiffs also moved for attorney fees against the trustees for their breaches of fiduciary duty.

In 2015, the trustees asked the Court to enter judgment in their favor, claiming that a plain reading of the trust supports the view that the Club members were all legal beneficiaries. In doing so, the trustees relied on the Club lease and other deeds and extrinsic evidence to support their argument. The Plaintiffs opposed the request and argued that the Court must look at all the extrinsic evidence (including the historical interpretation) in deciding the issue. This evidence included a detailed history of the development of Clifton Park with deeds and documents dating as far back as 1896. The Court entered judgment in favor of the trustees in November of 2015, relying on the language of the trust deed and only the extrinsic evidence cited by the trustees. The Court also denied the motion to find the trustees breached their fiduciary duties and for attorney fees.

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Hahn Loeser filed an appeal on behalf of the lot owners and argued that the trust deed did not make the members of the Club legal beneficiaries and therefore the Court erred in granting summary judgment. The Court of Appeals agreed with our arguments and reversed the trial court's ruling. The Court held that the Club members were not legal beneficiaries and only had a permissive right to use the beach. The Court also held that the trustees breached their fiduciary duty and remanded the case for a hearing on the recovery of the costs incurred by the Plaintiffs.

Mr. Rose made the following statement. "The Plaintiffs who tirelessly pursued this case for over five years are delighted that the rights of the residents of Clifton Park have been protected. This decision gives the residents of Clifton Park, the trustees of the Trust and the Clifton Club clear direction as to the respective interests of the Clifton Park residents and the non-resident Club members as they relate to the beach. As this chapter of the long and storied history of Clifton Park closes, I am hopeful that the direction this decision provides will lead to the enjoyment of the beach for the next 100 years. I am honored to represent the Plaintiff lot owners who volunteered countless hours of time reviewing the historical record and who persevered through many setbacks to achieve this result."

Resources:

Photo: [Rose](#)

About Hahn Loeser

Hahn Loeser provides the full spectrum of legal services in one firm. With six offices and more than 100 attorneys, we represent Fortune 500 corporations, privately-held businesses, non-profit institutions, governmental entities and individuals across the country and around the world. Our attorneys have been recognized for their commitment to client service and their dedication to providing our clients with strategic solutions that help them attain their business objectives and achieve results.

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