

**Bob Wilbur**

---

**From:** "Gwyn Staton" <gwynstaton1@msn.com>  
**Date:** Tuesday, August 20, 2013 11:04 AM  
**To:** "Bob Wilbur" <bbwilbur@broadstripe.net>  
**Subject:** im sending see number 4

**RCW 23B.08.080****Removal of directors by shareholders.**

(1) The shareholders may remove one or more directors with or without cause unless the articles of incorporation provide that directors may be removed only for cause.

(2) If a director is elected by holders of one or more authorized classes or series of shares, only the holders of those classes or series of shares may participate in the vote to remove the director.

(3) If cumulative voting is authorized, and if less than the entire board is to be removed, no director may be removed if the number of votes sufficient to elect the director under cumulative voting is voted against the director's removal. If cumulative voting is not authorized, a director may be removed only if the number of votes cast to remove the director exceeds the number of votes cast not to remove the director.

(4) A director may be removed by the shareholders only at a special meeting called for the purpose of removing the director and the meeting notice must state that the purpose, or one of the purposes, of the meeting is removal of the director.

[1995 c 47 § 7; 1989 c 165 § 87.]

Gwyn Staton  
7506 34th Ave NW  
Seattle, Wa. 98117  
206-784-6044

CONFIDENTIALITY NOTICE: This e-mail message (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure dissemination, copying, forwarding or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

---

From: bbwilbur@broadstripe.net  
To: gwynstaton1@msn.com  
Subject: Re: PRIVILEGED. How do they not need a permit see number 6 "filling"  
Date: Tue, 20 Aug 2013 11:00:51 -0700

can do later today or tomorrow AM. Out the door momentarily...bob

**From:** [Gwyn Staton](#)  
**Sent:** Tuesday, August 20, 2013 10:39 AM  
**To:** [Bob Wilbur](#)  
**Subject:** RE: PRIVILEGED. How do they not need a permit see number 6 "filling"

do you want to go to my house and pull file with statutes?

Gwyn Staton  
7506 34th Ave NW  
Seattle, Wa. 98117  
206-784-6044

CONFIDENTIALITY NOTICE: This e-mail message (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure dissemination, copying, forwarding or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.

---

From: bbwilbur@broadstripe.net  
To: whshed@live.com; suzypalmer1@me.com; caroldchina5@yahoo.com; gwynstaton1@msn.com; pheffy@aol.com; hendrickcj@gmail.com; dustin@local519.org; smriggins@earthlink.net  
Subject: Re: PRIVILEGED. How do they not need a permit see number 6 "filling"  
Date: Tue, 20 Aug 2013 08:50:48 -0700

I tend to think the meeting call should be as generic and milk toast as possible, so as to dampen emotions and motivation on the anti-pool side to attend. We can send the specifics out to our group separately.

Suggest grievances have to be attended to the revote demand and part of the motion to remove. I think we need to send something along the lines below to our pro-pool group asking them to attend or

sign a proxy. We also need, asap, the legal statutory authority to remove the directors in a separate mailing (Gwyn?), since our bylaws indicate a major vote of the Board is needed to remove Directors.

We need a date that gives us enough time – if a weekend, might have to be Labor day weekend or maybe the 7th, but they may have the \$\$ and dozers in place by then (albeit maybe we have an injunction before Sept 1?)....bob

In an August 9 email to the ACBC Board of Directors significant mistakes and omissions in their May/June Pool Assessment ballot and related procedures were delineated and a demand was made to correct those shortcomings by taking a proper vote consistent with the motion unanimously approved at the annual membership meeting October 2012. That letter just below for your information along with an attendant email to the Board from Dustin Frederick.

The Board could have avoided dragging the ACBC members into a lawsuit by simply instigating a proper re-vote, nor did they even opt to discuss the matter.

Instead, the Board chose to ignore that demand, preferring instead the lawsuit. On August 14 the Board sent out assessment notices to all ACBC members demanding payment by August 31, which clearly violated the bylaws requiring a payment deadline of 30 days past the mailing date. In addition, the billing date was falsely labeled as August 1, making it 2 weeks before the actual mailing date.

Four members of the Board have shared responsibility for these actions and inactions to the extent that their actions frequently excluded notice or input of the two or three other Directors.

Given those members highly inappropriate and inept actions as Directors and their refusal to conduct the affairs of ACBC in a manner compliant with our clubs governing documents, we do hereby find it necessary to ask the members of ACBC to consider their removal. If your vote to remove is successful, not only will these individuals be ineligible for 24 months, but you will be saving ACBC from becoming entangled in yet another lawsuit that in all likelihood cannot be won.

## POOL BALLOT---REVOTE DEMAND

Board members,

The following has been prepared by a group of ACBC members intent on ensuring that the rights of all members of the club have been heard and that any actions taken by the Board comply with all the attendant laws and protocols governing the operation of ACBC. It is our hope that this will preclude need for a lawsuit. Our group requests that it

be posted on the Admirals Cove official website and be added to the agenda for the August 10 Board meeting.

**TO: The Board of Admirals Cove Beach Club (ACBC) and members**

The recent ballot regarding the pool was not an assessment ballot, but was instead a vote on whether to retain or remove the pool. As explained in the bases below, a vote to remove the pool would alter the purpose of ACBC and would therefore require a 2/3 majority vote at a meeting. Accordingly, the mail ballot, while advisory, did not give ACBC any authority to decommission or remove the pool. We therefore demand the Board and ACBC not take any steps towards decommissioning or removing the pool.

The advisory vote lacked checks and balances and controls. Safeguards to preclude vote tampering were grossly insufficient. The vote of 166 fell well short of a 2/3 vote.

If the Board intends to pursue any action other than maintaining the pool and facilities, it must comply with RCW 24.03.215, the Articles of Incorporation, the Bylaws, and Robert's Rules of Order, as explained in the bases below.

Our intent is to ensure that the Board proceed with developing a valid pool assessment ballot compliant with the Motion unanimously approved by the membership at the annual meeting in October 2012. That motion required that the Pool Operations and Maintenance and Long Range Planning committees and Board work together to prepare the assessment ballot. If this assessment ballot fails to secure a majority vote, then the question of decommissioning could be raised, but not before.

This request and the supporting bases below have been developed with legal counsel, and a large number of club members are prepared to seek an injunction and proceed as necessary and appropriate to ensure that all laws and protocols have been properly followed to ensure the viable continuation of ACBC per its charter. Although we hope with this letter to avoid a lawsuit, if a suit becomes necessary, it may include personal claims against individual members of the Board that cannot be tendered to ACBC's insurance.

**Bases for this Request:**

1) Bylaws V.4.c indicates that special assessments must be conducted by mail-in ballot. The by-laws do not address how mail ballots should be conducted, hence Roberts Rules are to be followed. That is, bylaws XV.1 requires the club to follow Roberts wherever they are not inconsistent with the bylaws and AOI. Roberts outlines the process to be used for mail-in ballots, stating, "Voting by mail cannot be a secret ballot, as it is necessary for the tellers to know by whom each vote is cast." The process used did not

follow Roberts and left the vote readily open to manipulation and vote tampering. Especially in this situation, as controversial and important as it is to the community, the voting process must be free of any question of illegitimate votes.

2) Bylaws VIII.9 indicates that any unusual expense exceeding \$4000 requires authorization by a majority vote of the members present at a meeting called for that purpose. It does not speak of being approved by mail-in ballot, just in a meeting. This seems to conflict or obfuscate #3 below.

3) Bylaws XIV.3, however, indicates the special assessment *proposals* “must be presented to the membership at least 30 days prior to [a duly called meeting]...and shall require by approval by a majority vote” of the members at the meeting, provided a quorum (10%) was present. *If* the *proposal* passed those meeting requirements, the proposal would then be submitted to the membership as a mail ballot consistent with sections V.2 or V.4 of the bylaws.

4) AOI Article V, sec 1 states that the purpose of the club is to construct and maintain athletic and recreational facilities for the members.

5) AOI Article VII says, “The purpose for which this corporation is created...may be altered, modified, enlarged, or diminished by a vote of two-thirds of all the members at a meeting duly called for such purpose.” Removal of the athletic centerpiece --the pool, around which the club was constructed and is the only athletic component except for a rarely used basketball court--would represent a de facto alteration of the purpose of the club, unless replaced with a facility of equal or greater athletic use potential. So, to make a change in the club's purposes, per this Article, requires a 2/3 vote at a meeting. This is supported further by RCW 24.03.215.

6) The original deeds address owner’s membership: “Together with one family membership in Admiral’s Cove Beach Club, Inc., a Washington non-profit corporation, which will own and maintain certain beach rights, recreational areas, swimming pool, and other tracts...” The language is noteworthy: that ACBC “will own and maintain...[a] swimming pool.” That indicates both the pool’s prominence as an asset and profiles ACBC’s duty to maintain, consistent with the AOI purpose (Article V, sec 1), and it reinforces the minimum requirement of a 2/3 vote to remove that asset.

7) The ballot the board sent out can only be viewed as advisory in nature because it was fatally flawed by failing to focus on a single assessment question: pool repairs--yes or no? Instead there were two questions asked yet only one vote was possible. For example, if someone favored decommissioning the pool, they did **not** have a choice to vote yes or no on the decommissioning assessment. Likewise, those wanting to retain the pool had to approve the assessment or vote to decommission. Neither assessment question presented voters a choice to accept or reject that assessment. Had the ballot simply been, “Do you approve the stated assessment to repair the pool: yes/no” there would have been 319

votes on that question instead of 153 and the tally may have been quite different because a member may want to retain the pool but not favor the particulars of the assessment. They are two separate questions on a similar subject and, as such, each needs a separate response. Yet the ballot allowed but one vote: check pool repair assessment (YES) *or* check pool decommissioning assessment (YES). Without a “no” vote on both questions, the voter’s choice is disenfranchised. Phrased another way, of the 153 members voting on the pool repair question, all (100%) approved the assessment, so the pool assessment passed unanimously, hence rendering the pool decommission question moot.

8) Finally, the Motion unanimously approved by the membership at last October’s annual meeting (quorum present) required that the Board work with the Pool Operations and Maintenance and Long Range Planning committees to investigate funding options (which would include loans) for pool repairs and together develop an assessment ballot. Instead, the Board blocked the committee’s efforts, refusing their participation in funding considerations, discussions with local banks, and crafting the ballot, which the Board did in total seclusion, even excluding input of two or three board members supporting the pool. Their actions violated the members’ trust and obstructed the Motion-ordered process, which specifically required the two committees’ direct and complete involvement in ballot development. In wresting control, the Board usurped the committees’ role and function in certain disregard of the membership’s Motion-approved instructions and clear wishes. We have hundreds of pages of documentation to support this illegal action by the Board.

---

Based on the above rationale we further demand that until a proper vote is taken the ACBC board take immediate steps to preserve and maintain the pool from further degradation by filling it with water, maintaining the chemical balance and covering the pool as required by state law.

---

**From:** Dustin Frederick

**Sent:** Friday, August 09, 2013 12:56 PM

**To:** Dan Jones (dan\_serv@hotmail.com); Ed Delahanty; Elsa Palmer; Jean Salls; karen shaak; Maria Chamberlain; rapeetz@gmail.com

**Subject:** Advice to the board re the Pool Ballot-Revote Demand

Board members:

Our group was advised to give the ACBC board the opportunity to conduct a revote prior to taking further action. This gives the ACBC Board the option to do the right thing---now that you have notice of the flaws in the

voting process. If you choose not to conduct a revote ---after due notice ---you are intentionally refusing to allow the full democratic process to be exercised and thus denying members their rights under the governing documents. Whether you agree with the 2/3rds requirement or not----the voting process was flawed and should be redone. Prior to a revote you should thoroughly investigate the 2/3rds claim and make sure you are on solid legal ground if you do not apply it in the next vote.

Conducting a revote does not deny any member their rights---but refusing to conduct a revote does.

Therefore, I suggest you do the following as part of your due diligence:

1. Take immediate action to preserve the pool as requested.
2. Obtain at least two legal reviews of our demand letter to assess the legitimacy of our claims
3. Conduct a secret ballot revote using a security envelope and mailing envelope that requires the signature of the member for validation to avoid vote tampering
4. Announce your intent to do the above at the board meeting tomorrow august 10<sup>th</sup>.

I know---you are going to argue that you do not have to do this---it is another delay---it will cost money to conduct the revote---the community has spoken, etc. While these concerns may be genuine---they are minute compared to the cost of litigating this matter. Therefore---ACBC is well served if the Board does everything it can do to demonstrate that you are not biased, do not have an agenda to close the pool and are just wanting to insure the community has every opportunity to exercise their voting rights now that a question has been raised.

I strongly urge you to put yourself in the place of a third party reviewer who will ask----why did you object to a revote on a **matter of this significance?**

\*\*\*\*\*

**From:** [Gwyn Staton](#)

**Sent:** Tuesday, August 20, 2013 1:37 AM

**To:** [whshed@live.com](mailto:whshed@live.com) ; [Elsa Palmer](#) ; [caroldchina5@yahoo.com](mailto:caroldchina5@yahoo.com) ; [Gwyn Staton](#) ; [Fred Salmon](#) ; [hendrickcj@gmail.com](mailto:hendrickcj@gmail.com) ; [Dustin Frederick](#) ; [Bob Wilbur](#)

**Subject:** PRIVILEGED. How do they not need a permit see number 6 "filling"

Chris and Mike Hendrickson say we must have a permit.  
Chris, please pass this on to others interested if you can.

No agency filings  
affecting this  
section since  
2003

## **Please add this to the meeting notice issues ED AND SUZY**

- requirement of permit and liability of club for failing to obtain one. When can you get this meeting called?? It has to be asap. I have a trial sept 8th It has got to be before the 14th and much sooner if you think they are going for it before they collect the money.

If you write this meeting notice and include these issues, i think it will help to get the member votes. We need to list the grievances/problems. Who is

going to do this please?

You can take my list and cut and paste but you have to add the rest of the exclusionary actions.

Will you two please do this task?? And how soon can you do this? I'd like it by wed because I will be there (I hope) and can discuss if needed end of week

## **WAC 173-27-030**

### **Definitions.**

The following definitions shall apply:

- (1) "Act" means chapter [90.58](#) RCW, the Shoreline Management Act of 1971, as amended;
- (2) "Applicable master program" means the master program approved or adopted by the department pursuant to RCW [90.58.090](#)(6) or [90.58.190](#)(4) prior to acceptance of a complete application by local government;
- (3) "Average grade level" means the average of the natural or existing topography of the portion of the lot, parcel, or tract of real property which will be directly under the proposed building or structure: In the case of structures to be built over water, average grade level shall be the elevation of the ordinary high water mark. Calculation of the average grade level shall be made by averaging the ground elevations at the midpoint of all exterior walls of the proposed building or structure;
- (4) "Conditional use" means a use, development, or substantial development which is classified as a conditional use or is not classified within the applicable master program;
- (5) "Department" means the department of ecology;
- (6) "Development" means a use consisting of the construction or exterior alteration of structures; dredging; drilling; dumping; filling; removal of any sand, gravel, or minerals; bulkheading; driving of piling; placing of obstructions; or any project of a permanent or temporary nature which interferes with the normal public use of the surface of the waters overlying lands subject to the act at any stage of water level;

Gwyn Staton  
7506 34th Ave NW  
Seattle, Wa. 98117  
206-784-6044

CONFIDENTIALITY NOTICE: This e-mail message (including attachments) is covered by the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and is intended only for the person or entity to which it is addressed and may contain confidential and/or privileged material. Any unauthorized review, use, disclosure dissemination, copying, forwarding or distribution is prohibited. If you are not the intended recipient, please contact the sender by reply e-mail and destroy all copies of the original message.