

Bob Wilbur

From: <bbwilbur@frontier.com>
Date: Saturday, February 15, 2014 5:31 PM
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Cc: "Carol Del" <caroldchina5@yahoo.com>; "Dustin Frederick" <dustin@local519.org>; "Gwyn Staton" <gwynstaton1@msn.com>
Attach: Concurrence.docx; Declaratory statement straw man B4.docx
Subject: Basic premise misunderstood?

Hi Kurt,

Just talked with Ed and it appears (?) the basic premise underlying plaintiff's proposal (the two docs attached) was not understood. We were not suggesting that the judge would arrive at the conclusion, but rather that **plaintiff and defendant** (current board), after examining all the governing documents and Judge Hancock's TRO, **agree** on both the concurrence and declaratory documents and thereby petition the judge to effect. In essence we would be asking the judge to sign-off. That is, the judge says., "Okay, if the two parties agree, and it looks in order, so be it and signed.

We do believe, and AOIs and the deeds and the related documents of 1969/1970 stipulate that the pool be maintained and that failures to do so by prior boards and to enforce collection of fees, are errors of the past that require correction today. We do **not** think the bylaws, as subservient to the AOI and deeds, etc., can be modified to demolish the pool. And because maintenance **is** required by the AOI, it follows that assessments for maintenance are not vote-able, whereas, yes, enhancements would be.

The focus on the inept bylaws, without their proper attention and deference to the AOI and deeds, etc., is what has taken the Club to this point and caused such tremendous problems, and we cannot let this opportunity slip away. If we simply go back to a re-do of the Oct 2012 motion, all our efforts to fix the problems of the past go back into the cauldron, and the clarity offered by the judge is wasted. What we need to do is fix the problem which has basically been allowing a broken tail – the bylaws – to wag the dog.

What we proposed for the judge's declaratory is not inconsistent with the current bylaws and is consistent with the AOI and deeds, etc. I am not in the least interested, having invested this much energy, to simply have a rerun of 2012 as the product. That would just reopen all of us to the same old battles. So no, if it comes to that, I would not support more community disruption and discord and would have to back out entirely.

Thanks and hope this helps move this effort forward rather than backward,
Bob