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SUPERIOR COURT OF WASHINGTON FOR THE COUNTY OF ISLAND

ROBERT WILBUR,
Plaintiff,
vs.
ADMIRAL'S COVE BEACH CLUB, a
Washington non-profit corporation,
Defendant.

NO. 13-2-00741-4
DECLARATION OF CHRISTOPHER J.
NYE IN SUPPORT OF ADMIRAL'S
COVE BEACH CLUB'S REPLY IN
SUPPORT OF MOTION FOR
SUMMARY JUDGMENT RE:
VALIDITY OF 2013 BALLOT TO
DECOMMISSION POOL

SUE CORLISS,
Intervenor,
vs.
DUSTIN FREDERICK, ROBERT WILBUR,
ADMIRAL'S COVE BEACH CLUB, a
Washington non-profit corporation, and its
BOARD OF DIRECTORS,
Defendants.

I, Christopher J. Nye, declare and state as follows:

1. I am counsel of record for Defendant Admiral's Cove Beach Club ("ACBC").

I am over the age of 18 and competent to testify to the matters herein.

2. Attached hereto as Exhibit "D" is a true and correct copy of excerpts from the transcript of this Court's March 27, 2015 oral ruling on Plaintiff's Motion for Summary Judgment.

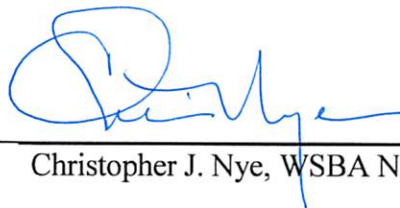
1 3. On two separate occasions prior to ACBC's 2016 vote regarding the proposed
2 special assessments to fund pool repairs, counsel for Intervenor called me to ask if it was true
3 that ACBC intended to proceed with a proposed special assessment ballot to fund pool repairs.
4 He also informed that if it was true, in the event the proposed ballot did not contain a "no"
5 option by which the members could vote down a proposed assessment, he would likely seek a
6 temporary injunction enjoining ACBC from proceeding with the vote.

7 4. When this court made its oral ruling on Plaintiff's Motion for Summary
8 Judgment on March 27, 2015, there were several "anti-pool" club members present in the court
9 room.

10
11 **I declare, under penalty of perjury under the laws of the State of Washington, that**
12 **the foregoing is true and correct.**

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14 DATED this 27 day of August, 2017, at Seattle, Washington.

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Christopher J. Nye, WSBA No. 29690

NYE EXHIBIT D

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF ISLAND

ROBERT WILBUR and DUSTIN
FREDERICK,

Plaintiffs,

vs.

Cause No: 13-2-00741-4

ADMIRAL'S COVE BEACH CLUB, a
Washington non-profit
Corporation; and JEAN SALLS,
MARIA CHAMBERLAIN, KAREN
SHAAK, ROBERT PEETZ, ELSA
PALMER, ED DELAHANTY AND DAN
JONES, individuals,

Defendants.

SUE CORLISS,

Intervenor,

vs.

DUSTIN FREDERICK, ROBERT
WILBUR, ADMIRAL'S COVE BEACH
CLUB, a Washington non-profit
corporation, and its BOARD OF
DIRECTORS,

Defendants.

Verbatim Report of Court's Oral Ruling

BE IT REMEMBERED, that on Friday, March 27,
2015, the above-named and numbered cause came on
regularly for hearing before the HONORABLE ALAN R.

1 HANCOCK, sitting as judge in the above-entitled court,
2 at the Island County Courthouse, in the town of
3 Coupeville, state of Washington.

4 The plaintiffs appeared through their
5 attorney, Criston C. Skinner;

6 The defendant Admiral's Cove Beach Club
7 appeared through its attorney, Christopher J. Nye;

8 The intervenor appeared through her
9 attorney, Jay Carlson.

10 WHEREUPON, the following proceedings were
11 had, to-wit:

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1 regular business meeting or at a special meeting called
2 for that purpose.

3 Special assessments proposed by the Board or
4 by members must be presented to the membership at least
5 30 days prior to a meeting called in accordance with
6 Article IV of the Bylaws and requires approval by a
7 majority vote as required by Article V, Sections 2 or 4
8 of the Bylaws.

9 The Court in no way intends to suggest that
10 it can make any changes in the Bylaws or other governing
11 documents by court order, whether expressly or
12 impliedly, or in any way override votes made by the
13 membership consistent with the governing documents of
14 the Club or override properly passed actions of the
15 Board or the membership.

16 Note that I said votes that are consistent
17 with the governing documents and properly passed
18 actions. Any such votes and actions must, as I have
19 said, be made consistent with the governing documents of
20 the Club.

21 Thus, as I have ruled, any vote by the
22 membership to decommission the pool would be invalid as
23 contrary to the governing documents of the Club unless
24 the governing documents were changed to allow this to
25 happen.

1 On the other hand, there would appear to be
2 nothing to prevent the membership from voting down any
3 motion to pass assessments to repair and refurbish the
4 pool. In that scenario, anti-pool forces might be able
5 to achieve through the back door what they cannot
6 achieve through the front door, as it were.

7 Turning to the issue of whether the
8 injunctive relief sought by the plaintiff should be
9 entered, the Court declines to enter any such injunctive
10 relief. This is because of one simple fact, the Board
11 of Directors of the Club is now controlled by pro-pool
12 directors. The Club has taken no position on the merits
13 of the legal arguments of either the plaintiff or the
14 intervenor. The Court has no reason to believe that the
15 Board will not follow the declarations made by this
16 court and take action in accordance with these
17 declarations.

18 That being the case, Mr. Wilbur has not
19 proven that he has a well-grounded fear of imminent
20 invasion of his rights by the Board. Therefore, he has
21 not met his burden of proof with regard to the
22 injunctive relief that he is seeking.

23 For much the same reason, the Court does not
24 find it appropriate to retain continuing jurisdiction
25 over this case. The Court has made its decision and