

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

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

ROBERT WILBUR and DUSTIN  
FREDERICK,

Plaintiffs,

v.

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.

Case No.: 13-2-00741-4

DECLARATION OF SUE CORLISS IN  
SUPPORT OF MOTION TO  
INTERVENE

SUE CORLISS,

Intervenor,

v.

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

Defendants.

My name is Sue Corliss, I am over the age of 18 and I make this declaration  
based on my own personal knowledge.

1. I am a property owner in the development known as Admiral's Cove on  
Whidbey Island. By virtue of my property ownership, I am a Member of the

1 Admiral's Cove Beach Club (the "Club,") which is named as the defendant in this  
2 lawsuit. I have voting rights as a Member of the Club, and I may be subject to  
3 annual dues and special assessments imposed by the Club pursuant to its Bylaws  
4 and Articles of Incorporation. The Club exists to serve the interest of its Members,  
5 such as myself.

6 2. I am requesting to intervene in this suit because I have an interest in the  
7 property which is the subject of the suit, and I am so situated that the disposition of  
8 this action will impair or impede my ability to protect that interest. It is clear to me  
9 that my interest is not adequately represented by existing parties, as I explain  
10 below.

11 3. The Club includes approximately 600 active Members, all of whom own lots  
12 within the Cove development. Pursuant to the Bylaws and Articles of Incorporation  
13 of the Club, Members all have voting rights to elect Club officers and to set Club  
14 policy, particularly when it comes to dues and assessments against Members.

15 4. The Club Bylaws govern Club activities. Under our Bylaws, the Club cannot  
16 impose special assessments against lot owners/Members without a majority vote of  
17 those Members, either at a live Member's meeting or by mail ballot. Bylaws, Article  
18 14, Sec. 3. Also, the Club may not significantly increase the annual dues imposed  
19 on Members without a majority vote of the Members. Bylaws, Article 8, Sec. 7. In  
20 this way, the approximately 600 property owners in the Cove have the right,  
21 through a democratic process, to set fiscal policy for ourselves. The Club is  
22 managed by the Members, through the Bylaws.

23 5. The Cove property consists of hundreds of private, Member-owned lots, as  
24 well as certain property owned by the non-profit Admiral's Cove Beach Club.  
25 Members have rights for access and use of the Club-owned property. The most  
26 significant piece of Club owned property is the waterfront beach area, which is  
27 available for all Members to use and enjoy.

28 6. This suit, however, primarily concerns an uncovered outdoor swimming pool

1 which is also part of the property owned by the Club. Many Club members, such as  
2 myself, have no interest in using this old, dilapidated, outdoor pool facility.

3 7. In this case, a single member of the Club is suing to force all Club Members  
4 to spend hundreds of thousands of dollars to keep this pool open. This is against  
5 the wishes of the majority of Club Members, who have voted pursuant to the  
6 Bylaws to close the pool. If successful, this suit will result in large assessments  
7 being imposed upon all Members, including myself, against our will and without  
8 Member approval for such assessments as required by our Bylaws.

9 8. The uncovered, outdoor pool was built in the 1960s. It has never been  
10 refurbished. It is in a dramatic state of disrepair. As a result, it can only be used  
11 during a very small portion of the year. According to the approved Board of  
12 Director's meeting minutes from September 20, 2014, this year the pool was open on  
13 only approximately 20 days. Many Members, including myself, never use the pool.  
14 In a June, 2012 Long Range Planning Survey, 49.3% of Members disclosed that  
15 they *never* use the pool, with another 37.7% reporting that they only used it  
16 "occasionally" in the summer, meaning less than once weekly. Only a very small  
17 minority of Members reported using the pool on a regular basis.

18 9. A recent inspection and architectural review of the pool facility disclosed  
19 widespread problems with the pool, and recommended that it be very significantly  
20 rebuilt, with all major systems replaced. The estimated cost of these and associated  
21 repairs to pool facilities was \$650,000.

22 10. As the Court may recall, in May of 2013, pursuant to the Bylaws, a ballot was  
23 circulated to Club Members to determine the future of our pool. Two options were  
24 provided for Members to vote on: (1) a special assessment of \$200,000 to  
25 decommission/remove the pool, or (2) a special assessment of \$650,000 to repair the  
26 pool and bring it up to standards.

27 11. With their ballot, each Member also received a two page "Frequently Asked  
28 Questions" document. This document explained in detail the various options and

1 issues related to the pool vote. A true and correct copy of this Frequently Asked  
2 Questions document is attached as Exhibit A to this Declaration. Among other  
3 things, this document discussed the estimates for repair or removal of the pool, the  
4 various financing options, and ADA compliance.

5 12. Prior to the vote, the pool issue had been debated and discussed within the  
6 Cove community for many years. Any Club Member with an interest in the pool  
7 had ample time and opportunity, before the vote, to be fully advised about every  
8 part of the pool dispute. In other words, our Members voted with their eyes wide  
9 open.

10 13. The result of the vote was 166 Members in favor of closing the pool, 153 in  
11 favor of an assessment to keep the pool open. So a majority of the 319 voting  
12 Members chose to close the pool. I voted with the majority to close the pool.

13 14. Mr. Wilbur is now seeking to overturn the majority will of Club Members and  
14 force the Club to keep the pool open. This will result in the imposition of very large  
15 special assessments against each Club Member, without our consent as required by  
16 our Bylaws. These assessments will have a significant financial impact on me and  
17 on other similarly situated Members who are on fixed incomes and who have  
18 limited assets.

19 15. Previously in this suit, the Club, as the defendant, actively opposed Mr.  
20 Wilbur's claims. For example, the Club actively opposed Mr. Wilbur's prior request  
21 for a Temporary Restraining Order. But more recently, the attitude of Club Officers  
22 has apparently changed. As a result, the Club is no longer opposing Mr. Wilbur.  
23 The Club has apparently decided to abandon its defense of this case.

24 16. This recent change in Club's the approach has left Members such as myself  
25 with no representation in this lawsuit. This is why I am intervening.

26 17. These facts only recently came to light. In late-September, 2014, Mr. Wilbur  
27 filed a Motion for Summary Judgment with this Court. In this Motion, he seeks to  
28 end this case and acquire a Permanent Injunction against the Club. The wide-

1 ranging injunction he seeks goes well beyond anything that has been requested in  
2 this case before.

3 18. Mr. Wilbur now asks the Court to “affirmatively require and direct” the Club  
4 to conduct significant repairs to the pool. Motion for Summary Judgment at 2. He  
5 asks the Court to order the Club to “implement an annual budget that provides for  
6 sufficient funds, from dues and assessments,” to effectuate these repairs and  
7 maintenance. Id. In other words, Mr. Wilbur is asking the Court to take over Club  
8 affairs as it regards the repair, maintenance, budgeting, and assessments against  
9 Members related to the pool. He does this without even estimating in his Motion  
10 how much this will cost the 600 Club Members who would be subject to this Order.

11 19. The Injunction requested would, in my opinion, violate the Club Bylaws in  
12 numerous respects. It would eliminate Club control over its own facilities and  
13 property. It would eliminate the entitlement of all Club Members to vote on  
14 budgetary and assessment issues. It would overturn the vote of Club Members,  
15 pursuant to the Bylaws, regarding the disposition of the pool. And it would impose  
16 large financial assessments against all 600 Club Members, who will have no say in  
17 the matter or ability to vote.

18 20. While the Club previously opposed Mr. Wilbur, the Club has decided to give  
19 up any opposition. In response to Wilbur’s Motion, the Club stated that “officially it  
20 can take no position on plaintiff’s motion for summary judgment.” Defendant’s  
21 Response to Summary Judgment at 1. Throwing up its hands, the Club actually  
22 asks for a “final declaratory ruling that clarifies the ACBC Board’s duties...so that  
23 the Admiral’s Cove Beach Club can attempt to move past this controversial matter  
24 once and for all.” In other words, the Club is agreeing to the request for a Summary  
25 Judgment ruling that will end this case now.

26 21. This is a substantial change in the Club’s approach. I was not notified that  
27 the Club had decided to drop opposition to the lawsuit. I am aware of no notice that  
28 Club officials provided to Members about this change. I only learned of these facts

1 very recently.

2 22. This is why I am intervening in this case, and doing so now. There is no one  
3 who is representing my interests, or the interests of hundreds of like-minded Club  
4 Members. The hundreds of Club Members who oppose Mr. Wilbur's demands  
5 deserve a voice in this case. Because I have a direct financial stake in the case  
6 outcome, and because my interests are not adequately represented, I request that  
7 this Court grant my timely request to intervene.

8 23. I intend to file an opposition to the present Summary Judgment motion and  
9 to appear, through counsel, at the Summary Judgment hearing on November 17.

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

13 Done on this (day)\_\_\_\_\_ day of (month)\_\_\_\_\_, 2014, at  
14 (city)\_\_\_\_\_, Washington

15  
16  
17 \_\_\_\_\_  
Sue Corliss

18  
19 \_\_\_\_\_  
Signature