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

ROBOERT WILBUR,

Plaintiff,

v.

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

Defendants.

SUSAN CORLISS,

Intervenor,

v.

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

Defendants.

Case No.: 13-2-00741-4

DECLARATION OF JOHN H. DEEGAN
IN OPPOSITION TO ADMIRAL'S COVE
BEACH CLUB'S MOTION FOR
SUMMARY JUDGMENT

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

1. I currently own one lot containing a single-family home and one
additional undeveloped lot in Admiral's Cove Division 7. I purchased
my properties in the year 2006. I am a member of Admiral's Cove
Beach Club (ACBC) (the "Club") by virtue of my property ownership,

1 which is named as the defendant in this lawsuit. The Club exists to
2 serve the interest of its Members, such as myself.

3
4 2. I oppose Judge Hancock’s ruling in Mr. Wilbur’s Case No.: 13-2-00741-4 in
5 SUPERIOR COURT FOR THE STATE OF WASHINGTON IN AND FOR THE
6 COUNTY OF ISLAND that would result in a permanent injunction
7 requiring the operation and maintenance of the ACBC pool because: 1)
8 it nullifies my ACBC vote in 2013 to decommission the pool; and 2) it
9 imposes a significant, unjustified, financial burden on me for a pool that
10 is only available for use for three months out of the year and is only
11 used by a very small number of ACBC members.

12
13 3. **Nullification of My Vote to Decommission the Pool**

14 A ballot was distributed to ACBC members in May of 2013 in order to
15 decide the future of the ACBC pool. The ballot presented two options
16 for members to vote on: (1) to decommission/remove the pool for a
17 special assessment of \$200,000; or (2) to repair the pool and bring it up
18 to code for a special assessment of \$650,000.

19 Each member also received a detailed two-page document of
20 “Frequently Asked Questions” with their ballot explaining the various
21 options and issues related to the pool vote. This document discussed,
22 among other things, the estimates for the repair or the removal of the
23 pool, the various financing options, and ADA compliance.

24
25 Prior to the aforementioned pool vote, the pool issue was a huge point of
26 contention and had been debated and discussed within the Admiral’s
27 Cove community for many years. Any ACBC member with an interest
28

1 in the pool had more than ample time and opportunity before the vote
2 to be fully advised of every aspect of the pool dispute. Therefore, the
3 ACBC members voted with their eyes wide open.

4
5 The result of the vote count was 166 ACBC members in favor of
6 decommissioning/removing the pool, and 153 ACBC members in favor
7 of repairing the pool and bringing it up to code. Thus, a majority of the
8 319 voting ACBC members chose to close the pool. I voted with the
9 majority to close the pool. A substantial amount of the funds needed to
10 decommission the pool were received by ACBC prior to Mr. Wilbur's
11 referenced Case.

12 The ACBC Articles of Incorporation unquestionably allow for the
13 disposal of ACBC assets. However, Judge Hancock ruled that the
14 ACBC By-Laws take precedence over the ACBC Articles of
15 Incorporation, and thereupon compelled the ACBC community to
16 maintain a non-sustainable pool with limited ACBC member support.

17
18 After Judge Hancock's ruling, ACBC recently mailed another ballot
19 seeking authorization to repair only the swimming pool and not the
20 pool house. This new ballot sought approval of an assessment of
21 \$1,000 per perk lot at an approximate cost of \$600,000. The ACBC
22 community and I voted to remove the pool in 2013 and also had the
23 option to repair the pool in the 2013 ballot.

24
25 The current ballot does not reflect the entire ACBC community's will
26 because nearly half the community was denied a vote, and told the
27 community that the Court ordered that we had to fund the repairs for
28

1 the pool.

2
3 **4. ACBC's History of Denied Use of ACBC's Facilities by Disabled**
4 **Members Due to No ADA Compliance of Its Pool Facilities**

5 The ACBC Pool facilities are not ADA compliant and ACBC's current
6 pool restoration assessment for \$1,000 will not even come close to
7 bringing the pool facilities into ADA compliance. Since 2006, I have
8 faithfully paid my yearly dues, yet I have been and continue to be
9 denied use of this pool while still being forced to pay yearly dues for a
10 pool that I cannot even use. There are many in the community who are
11 disabled and are still being denied this benefit of membership. This
12 begs the question: Why should any of the disabled people in the ACBC
13 community be forced to pay for a pool that we are being denied access to
14 because of its noncompliance with the Americans with Disabilities Act?

15 **5. Taxation Without Representation**

16 After paying my dues to ACBC for all these years through 2015, I am
17 continually denied the privilege of ever being able to enjoy the use of
18 the pool facilities because of ACBC's failure to provide handicap access.
19 Everyone has their limit. So, I have not paid the 2016 dues. Since I
20 missed paying dues for one month, I was not allowed to vote on the
21 ballot for the recent pool restoration assessment of \$1,000 per perk lot.
22 Now I will be charged a \$1,000 assessment that I would have voted
23 against had I been given the opportunity. I believe this is a case of
24 taxation without representation and I am being forced to pay for pool
25 facilities that I will never be able to use as long as they are not ADA
26 compliant.

1 **5. Unfair Financial Burden on Me and Other Retired Members**

2 The ACBC send out bills for \$1,000 per perk lot to pay for the
3 restoration of the current pool based on the results of their most recent
4 assessment ballot. The impact of this assessment, which assessment
5 ACBC claims is based on Judge Hancock’s ruling, will require me to pay
6 \$1,000 per lot for my two lots, resulting in a cost to me of \$2,000. I am
7 informed that this will be just the first of several assessments needed to
8 repair the pool and its facilities. This represents an extraordinary
9 financial burden, particularly given that there has been no benefit to
10 me or the other disabled members of the ACBC community. I am
11 retired on a fixed income with significant medical expenses. The efforts
12 to save this pool by the ACBC Board of Directors could force me into
13 bankruptcy. If Judge Hancock’s overrules the Appeal Courts decision to
14 reverse Judge Hancock’s ruling against the 2013 pool decommission
15 vote, it’s my understanding that I will have no choice but to pay
16 whatever costs are incurred to refurbish and operate the pool in
17 perpetuity. This could result in my being forced to sell my home of 10
18 years as well as my undeveloped lot, which I planned to bequest to my
19 family in old age.

20 I respectfully request that the SUPERIOR Court rule that all votes for
21 the 2013 Ballot to decommission the pool be reinstated.

22
23 I declare under penalty of perjury under the laws of the State of Washington
24 that the foregoing is true and correct.

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Done on this 25th day of July, 2017, at Coupeville, Washington

JOHN H. DEEGAN

[Name]

John H Deegan
Signature