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5 **IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON**
6
7 **IN AND FOR THE COUNTY OF ISLAND**

8 ROBERT WILBUR and DUSTIN
9 FREDERICK,
10
11 Plaintiffs,

12 vs.

13 ADMIRAL'S COVE BEACH CLUB, a
14 Washington non-profit corporation;
15 and JEAN SALLS, MARIA
16 CHAMBERLAIN, KAREN SHAAK,
17 ROBERT PEETZ, ELSA PALMER,
18 ED DELAHANTY AND DAN JONES,
19 individuals,

20 Defendants.

NO. 13-2-00741-4

**DECLARATION OF ROBERT
WILBUR RE: MOTION TO
INTERVENE**

21 **UNDER PENALTY OF PERJURY AND PURSUANT TO THE LAWS OF THE**
22 **STATE OF WASHINGTON, I CERTIFY THAT THE FOLLOWING IS TRUE AND**
23 **CORRECT:**

24 My name is Robert Wilbur and I am the Plaintiff in the above captioned case.
25 This declaration is based upon my personal knowledge of the facts and is offered in
26 opposition to the motion submitted by Susan Corliss to intervene as a party defendant
27 in this lawsuit.

28 The court should deny Ms. Corliss' motion to intervene in this lawsuit. Only the
29 duly elected board of directors of Admiral's Cove Beach Club has authority to respond
30 to the claims for relief that I have asserted in my complaint. Additionally, despite Ms.
31 Corliss' argument that her motion is "timely," because it was filed prior to trial, it would
32 be extremely unfair and prejudicial to allow Ms. Corliss to intervene in this matter and
significantly delay the disposition of the case at the last minute as she proposes to do.
Ms. Corliss knew or should have known that this litigation has been pending for over a

1 significantly delay the disposition of the case at the last minute as she proposes to do.
2 Ms. Corliss knew or should have known that this litigation has been pending for over a
3 year, yet she waited until just days before a scheduled motion for summary judgment
4 before attempting to become a party.¹ Even if a legal basis existed for Ms. Corliss to
5 intervene, she has waited too long to do so and has waived any right to become
6 involved.
7

8 Contrary to Ms. Corliss' assertions, she does not represent the interests of the
9 majority of those persons who own property within the plat of Admiral's Cove. The
10 truth is that she is one of a handful of individuals who have been very vocal in their
11 opposition to the association's obligation to support the association owned swimming
12 pool and the related facilities. The individuals who submitted declarations along with
13 Ms. Corliss, support of her opposition to my summary judgment motion, are mostly
14 former board members who were not re-elected after the court made its temporary
15 ruling in this matter in November of 2013.
16

17 Ms. Corliss ran for election to the board at a recent 2014 annual meeting of the
18 membership. At the time that she ran for election, she made it clear that she was
19 opposed to our continued efforts to preserve the swimming pool and she was clearly
20 identified with the group of board members who attempted to decommission the
21 swimming pool through improper actions.
22

23 Ms. Corliss is not a proper party for this case. My lawsuit requests only that the
24 entity known as "Admiral's Cove Beach Club" and its board of directors, comply with
25 the existing bylaws and covenants governing the operation of the Admiral's Cove
26 Beach Club. To the extent that the former board violated the bylaws and covenants,
27 my suit requested that these improper actions be permanently enjoined and that the
28 board and ACBC be required to maintain the pool in the manner previously
29 contemplated when he plat was created.
30

31 _____
32 ¹ The motion for summary judgment was initially noted for October 20, 2014, but Judge Hancock was
called away to hear a case in San Juan County and the matter had to be rescheduled. The Corliss
motion was not filed until November 4, 2014.

1 The members of Admiral's Cove Beach Club have the right to vote to select a
2 board of directors. Only the board of directors is authorized to address the issues
3 identified in this litigation – not any member who disagrees with the board and wants
4 to act on the board's behalf. Section 1 of Article 8 of the ACBC bylaws provides as
5 follows:
6

7
8 Subject to limitations in the Articles of Incorporation and these Bylaws, and any
9 applicable county, state, federal laws or regulations all powers of the club shall
10 be exercised by or under the authority of, and the business and affairs of the
11 club shall be controlled by, the board of directors. (Emphasis supplied.)

12 Section 2 or Article 8 provides that the board is responsible for maintaining and
13 operating the properties and facilities owned by the club in accordance with the articles
14 of incorporation and the bylaws. Section 3 of that Article provides that the board is
15 authorized to "conduct, manage and control the affairs and business of the club..."

16 These decisions are what were at issue in my lawsuit.
17

18 Simply stated, the issues in this lawsuit affect the manner in which the board of
19 directors exercises its duties and responsibilities and whether those duties were being
20 properly exercised when the board attempted to decommission the ACBC swimming
21 pool. At the time that I filed this lawsuit, the board was illegally and improperly
22 attempting to exercise its authority in a manner that was contrary to the club's bylaws.
23 Specifically, Ms. Salls, Ms. Shaak, Mr. Peetz, Mr. Jones and Ms. Chamberlain were all
24 members of that board and they took action to decommission the ACBC swimming
25 pool. These people have all since been replaced on the board by other members of
26 the association who do not seem to hold their extreme views and despite their efforts
27 to be re-elected.
28

29 The lawsuit that I filed requested that the court address the question of whether
30 the previous board was acting in a manner contrary to the bylaws and without proper
31 consideration of the purposes for which the club was formed when the plat was
32

1 originally created. The court determined and ruled on a number of those issues at the
2 time that I submitted my motion for a temporary injunction and related relief. At that
3 temporary hearing, the court made decisions about the merits of my request for
4 injunctive relief. The court granted my motion and enjoined the board from
5 decommissioning the pool. The board of directors was also ordered to take the steps
6 necessary to maintain and repair the pool so as to preserve its viability and usefulness
7 as an asset of ACBC. Since that hearing and the court's ruling, two annual
8 membership meeting have been held and the former board consisting of Ms. Salls,
9 Ms. Shaak, Mr. Peetz, Mr. Jones and Ms. Chamberlain (i.e., the board that attempted
10 to decommission the swimming pool) has been replaced.

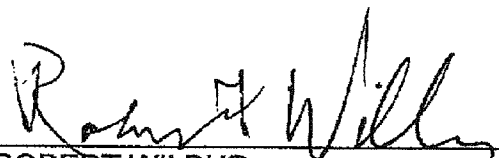
11
12 Ms. Corliss' contention that the current board of directors has "abandoned the
13 defense of this case" and is "not adequately representing," ACBC is simply wrong.
14 The board of directors is exclusively authorized by our bylaws to represent the
15 membership in this matter and not Ms. Corliss or any of her friends or like thinking
16 acquaintances. Presumably, after consulting with their legal counsel, the board made
17 a decision about how to address the motion for summary judgment that reflected the
18 court's earlier rulings, their own assessment of the proper procedure and their
19 consideration of the membership's general position on these issues.

20
21 The current board members were elected at a time when the issue of the pool
22 was the focal point of the director's elections. On the two occasions when director
23 elections have occurred since the court entered the temporary injunction in this case,
24 the "anti-pool" candidates have been rejected by the membership and other of a more
25 moderate disposition were elected instead. If Ms. Corliss is unhappy with the manner
26 in which the board is performing its job in this lawsuit, her remedy is to attempt to have
27 other individuals elected to the board. The fact that Ms. Corliss ran, unsuccessfully for
28 a directors' position at the last annual meeting held a few weeks ago, suggests very
29 strongly that she does not represent a majority of the membership's views.
30
31
32

1 This case has been expensive and time consuming. The court has considered
 2 a great deal of evidence and made detailed preliminary rulings about the issues
 3 presented in this case. The majority of the current board of directors for ACBC
 4 submitted a summary judgment response acknowledging the effect of the court's
 5 earlier rulings on the legal issues in this case. That response reflects what the board
 6 was responsibly required to do under all of the circumstances. There is no lack or
 7 representation or "failure to defend" occurring to justify Ms. Corliss's intervention in this
 8 suit. She simply does not like or agree with the decisions made by the elected board
 9 insofar as the manner in which they are handling the issues in this lawsuit.

11 Intervention at this point is improper and would be an extreme and
 12 unreasonable waste of the court's time and will do nothing but create the kind of delay
 13 and confusion that Ms. Corliss and her friends would like to visit upon this proceeding.
 14 I am requesting that the court deny the motion to intervene and permit the parties who
 15 are legitimately involved in this case to go forward with the summary judgment hearing
 16 scheduled for the 17th of November.

18 Dated this 10th day of November, 2014, at Coupeville, Washington.

21
 22 
 23
 24 ROBERT WILBUR

25
 26
 27 UNDER PENALTY OF PERJURY I STATE
 28 THAT AT OAK HARBOR, WA, I ~~MAILED~~ EMailed
 29 ~~MAILED~~ DELIVERED A COPY OF THIS
 30 DOCUMENT TO THE ATTORNEY FOR Corliss
 31 Defendant ACBC

32 ON (date) 11/10/2014
 SIGNED [Signature]