

STATEMENT FOR ALHA BOARD MEETING RE: STATUS OF HARBOR PROJECT – 8/1/20

As you all know, the Association has engaged the services of engineering consulting firm C.T. MALE to examine and put forward a plan for the required repairs and maintenance of the Harbor. As you also know, under the Association's Declarations, it is the Board's responsibility to levy assessments to fund those necessary repairs to ensure that all members are able to safely use and enjoy all of the recreational facilities of the ALHA. In that regard, it was determined by the Board that action was required to maintain and repair the Harbor.

Accordingly, you all have received an "A3" Maintenance assessment invoice for \$3,500 which was preliminarily levied for the purpose of initiating the process of ensuring necessary maintenance and repairs of the Harbor. I am happy to report that 77 of 78 members have paid that assessment.

Association members John and Kathryn Zollo filed a lawsuit last week in New York State Supreme Court, Warren County against the Association and the Board of Directors. That lawsuit alleges a variety of things, of which is most relevant here, that the A3 assessment is improper because it (i) doesn't benefit the owners of the "outer docks" and (ii) that the Board does not have the authority to issue this assessment for necessary maintenance without a vote of the members. In addition, the Zollos have also alleged that a member of the Board had a conflict of interest in the hiring CT Male as the project engineer for the Harbour project – a baseless claim that the Board vehemently denies.

The Association and the Board has retained counsel to represent it in this lawsuit. The attorney we retained is Peter Lauricella of Wilson Elser, a law firm that has offices across the country but has a local office in Albany. Peter is the managing Partner of Wilson Elser's Albany office. We have worked with Wilson Elser previously and they came recommended through the Association/Board's insurance carrier, Philadelphia Insurance. Given the nature of the Zollos claims against the Association and the Board, Wilson Elser's fees are being paid by our insurance carrier.

When the Zollos initiated this lawsuit, they also sought a "temporary restraining order" (TRO) from the Judge that would put temporary hold on the Association collecting the assessment from the Zollos while the Judge makes a determination on the Zollos' legal claim regarding the nature of the assessment issued. Since this is an ongoing legal matter, the Board is limited in what it can share. However, as a general update, the Court put on hold temporarily the collection of the assessment from Mr. Zollo and the "A3" assessments collected to date must be placed in "escrow" with our attorneys' pending a further determination by the Court as to the nature of the assessment itself and whether it requires a vote.

To be clear, the Association and the Board believe this assessment is a "maintenance" assessment, and it was properly issued, and our attorneys' have provided us with an opinion that validates our position. However, the Court will be considering the merits of the case in the next several weeks after our attorneys' have the opportunity to formally respond to the Zollos legal papers. We are hopeful that there will be a resolution by early September on this issue so that the Harbor project can continue without further interruption. The Board intends to continue to defend this lawsuit and illustrate to the Court that the Declarations mandate that the Board ensure that all recreational facilities

are kept in safe manner. We are confident that Harbour rehabilitation project will move forward notwithstanding this lawsuit.

If there are any further questions regarding this matter, the Board will respectfully be guided by the advice of counsel. We appreciate your patience.