

IN THE COURT OF APPEALS
OF THE STATE OF WASHINGTON
DIVISION I

ROBERT WILBUR and DUSTIN
FREDERICK

Plaintiffs,

vs.

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.

No. 73725-2

DECLARATION OF ED
DELAHANTY IN SUPPORT
OF ACBC'S OPPOSITION TO
APPELLANT'S RAP 8.3
MOTION

Ed Delahanty, declares as follows:

1. My name is Ed Delahanty and I am the current Vice President of the Board of Directors ("Board") for Admiral's Cove Beach Club ("ACBC"). In May 2015, I was President of the ACBC Board. I am over the age of 18 and competent to testify to the matters herein.

2. Since Judge Hancock issued his May 2015 Order ("Order") and because there has been no request for a stay of enforcement of the Order, the Board has taken steps to comply with the Order.

3. Pursuant to the Order, the Board has acted to fulfill its obligation “to maintain, repair and operate the swimming pool and its related facilities in a reasonable manner.”

4. Since the Order, the swimming pool was open from June through Labor Day 2015 with the approval of the Island County and Washington State Health Departments. The pool will be open again in 2016 subject to the same approvals.

5. The Board has discussed swimming pool renovations and upgrades at numerous open monthly public Board meetings and at the annual Members’ meetings.

6. The minutes of the Board meetings are posted on the ACBC website shortly after each meeting and accessible to anyone who accesses the website.

7. The Board spent much time since the Order carefully developing a ballot to ACBC members about the swimming pool renovation including spending \$13,694 for a construction consultant’s evaluation of pool supplier, electrical and mechanical contractor estimates. This cost was an integral part of estimating the project cost and setting the amount for the assessment ballot.

8. The Board evaluated renovation strategies and cost, engaged a consultant who evaluated regulatory constraints, contractor

bids, other costs and prepared a budget and plan for the project. After the consultant's presentation at the annual Members meeting the Board carefully constructed a pool renovation assessment ballot with support materials for the consideration of the Members in Good Standing.

9. Members in Good Standing are those who are current on assessments and dues. The annual dues for ACBC are merely \$183.50.

10. The ballot provided two assessment propositions: Proposition 1, Pool Renovation and Proposition 2, Heat Pump Option. Members in Good Standing were allowed to vote either Yes or No on each proposition. The ballot was mailed to Members in Good Standing in sufficient time for each to return the ballot by March 11, 2016.

11. Attached as Exhibit A is a true and correct copy of the ballot (hereafter called "March 2016 ballot.")

12. Two additional items were mailed with each ballot: a fact sheet labeled "ACBC Pool Renovation Ballot Q & A" and a brochure. Attached as Exhibit B is a true and correct copy of the fact sheet. Attached as Exhibit C is a true and correct copy of the brochure.

13. ACBC spent at least \$1,700 to print and mail the March 2016 ballot, fact sheet, and brochure.

14. The March 2016 ballot proposition for repair and renovation of the pool passed by a 7% margin. The heat pump option failed.

15. With the passage of the assessments, the Board has spent many hours and much effort determining the procedure and logistics of mailing the billings for the authorized assessments.

16. ACBC members will be offered the opportunity to negotiate a range of payment plans to pay the March 2016 assessment.

17. The billings for the assessments were originally scheduled to be sent in April but have been delayed. The billings for the assessments are expected to be mailed in the near future.

18. All funds collected will be deposited into a special designated account. It is expected that the majority of funds will be collected by late fall or early winter 2016.

19. As the funds are collected, the Board contemplates spending a very small portion of the funds to begin the process of applying for and securing the necessary County and State permits. It is estimated to take four months to secure the permits.

20. The bulk of the funds collected would not begin to be used until early 2017.

21. It is important to be able to proceed with collecting the assessments now so that the Board is ready to fund the detailed planning and drawings, apply for permits, deal with shoreline and environmental issues, and perform the actual renovation before the 2017 swim season.

22. If any part of this process is delayed and ACBC has to wait another year (i.e. until 2018 or later), ACBC will likely incur significant additional costs.

23. ACBC has obtained a project proposal from a project consultant. The project consultant included a 5% cost escalation clause. Using a projected total cost of \$600,000 for the March 2016 member approved pool renovation, a delay until 2018 or later results in a cost increase of at least \$30,000 a year.

I declare, under penalty of perjury under the laws of the state of Washington, that the foregoing is true and correct.

Dated this 28th day of April, 2016, at COUPEVILLE, Washington.



ED DELAHANTY

EXHIBIT A

ACBC POOL RENOVATION BALLOT

Please vote on the two assessment propositions below.

Proposition 1: Pool Renovation

Shall ACBC assess \$1,000 per perc lot, \$500 per non-perc lot, and approve spending for complete refurbishment of the Admiral's Cove Beach Club Pool?

YES NO

Proposition 2: Heat Pump Option

Shall ACBC assess an additional \$113 per perc lot, \$56 per non-perc lot, and approve spending to install heat pumps during the renovation?

YES NO

How to submit:

1. Fold this page and place it in the small confidential white envelope
2. Place the white envelope in the post-paid blue return envelope
3. Fill in your name and address for verification of your vote
4. Mail

Your ballot must arrive on or before March 11, 2016 to be counted.
Results will be announced at a special Members' Meeting on March 12 at 2pm at the Shelter.

EXHIBIT B

ACBC Pool Renovation Ballot Q&A

The ACBC Board of Directors, Pool Committees, Long Range Planning Committee, along with a host of others have worked long and hard to prepare this ballot and ask for your "YES" vote.

Proposition 1: Pool Renovation

This ballot covers complete renovation of the pool, its decks, plaster surfaces, tiles, railings, plumbing, drains, electrical system and relocation of mechanical equipment. It also covers required safety and access upgrades including two main drains, an ADA compliant lift, and a new entry ramp and gate.

Assessment: \$1,000 per perc lot \$500 per Non-perc lot

Proposition 2: Heat Pump Option

Adding heat pumps would dramatically reduce energy costs and CO₂ emissions. Even with significant installation costs, including a utility upgrade for power, the initial payback is only 7 years. This is a cost saving and environmentally sound option.

Assessment: \$113 per perc lot \$56 per Non-perc lot

Why renovate the pool? Why now?

Island County Superior Court affirmed in 2015 that we are required to maintain and operate all club facilities under the existing Articles of Incorporation, Bylaws, Covenants and other documents. The pool, built in the late 1960's, has been under-maintained. It now has cracked decking, an abrasive pool surface, uneven stairs, and other deterioration. While it can still be operated with Band-Aid measures, we want it up to current standards, a pool we can be proud of.

Where did these numbers come from?

The Board worked with an experienced consultant/project manager to develop the assessment numbers. Initial bids for the pool work were evaluated then merged with bids for electrical and plumbing work to meet regulatory requirements. Permitting and associated costs were included and some contingency built in. We believe these estimates to be reasonable yet conservative. The consultant's presentation can be found on our website's Documents tab at www.acbc-whidbey.org.

What about the building?

The building will be addressed in the future. We envision kicking off community sessions to come to a consensus on the many alternatives available to us. The feasibility study done in early 2015 shows a number of options for improving the pool building and the shelter. The Alternative Vision study and member survey identified many potential ways to improve our buildings such as upgrading the outside bathrooms, covering the pool, adding a kitchen, meeting room or exercise room.

What is the timing?

The pool will be open early June into September as it was last year, with construction to take place after the pool season and adequate funds have been collected.

But I can't write a check for \$1,000.

We realize that this is a significant amount of money so help ease the pain, we are offering monthly payment plans spreading payments over up to 6 months with no finance charges. For members who need smaller payments or who have prior unpaid balances, we will offer extended terms by special arrangement. In addition, limited hardship funds are also available to help.

EXHIBIT C

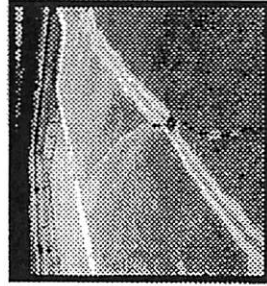
Why renovate now?

now?

The ACBC pool was built in the 1960's and has had very little maintenance since. Nearly fifty years of wear and tear has left it in dire need of renovation. The Board and many volunteers have worked tirelessly the past two years to get our pool opened for summer, but band-aids can only do so much. Now is the time to complete phase one of our pool and clubhouse renovation for our community to enjoy and for future generations to come.

Pool Deck

- Exhibits severe weathering, cracking and damage
- Pool deck needs replacing and strip drains installed

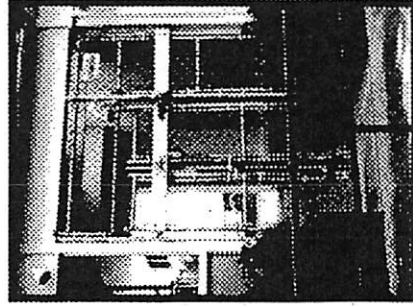


Pool Surface

- Plaster has worn off leaving a very rough surface
- Tiles severely weathered

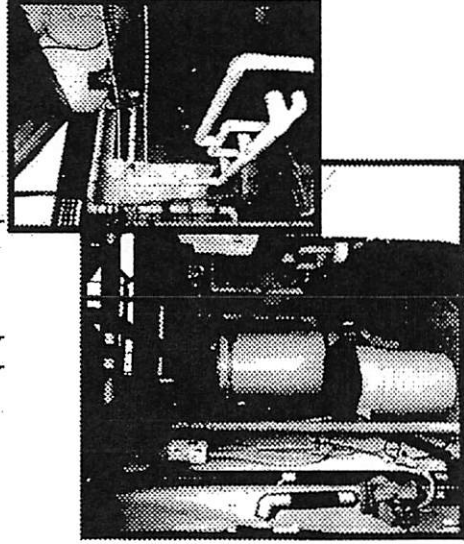
ADA/Accessibility

- Pool itself does not meet ADA access requirements
- Front entry and ramp do not meet ADA access requirements
- Locking gate needs to be updated for safety and security



Equipment

- Equipment room needs to be relocated and equipment replaced



Estimated Costs and Assessments

Costs

Pool Renovation: \$517,500
Heat Pump Option: \$58,500

For more information, please see the Pool Renovation Presentation at ACBC-Whidbey.org

Estimated Assessments

Pool Renovation:

- Perc Lot: \$1000
- Non-perc Lots \$500

Heat Pump Option:

- Perc Lot \$113
- Non-perc Lots \$56

Payment Options

- One-time payment in full*
- Up to 6 monthly payments without a finance charge*
- Alternate payment agreements available

*As an added incentive, the pay in full option includes 10 individual swim passes for this summer and another 10 for next summer. The 6 monthly payments option includes 5 passes for this summer and 5 for next summer.

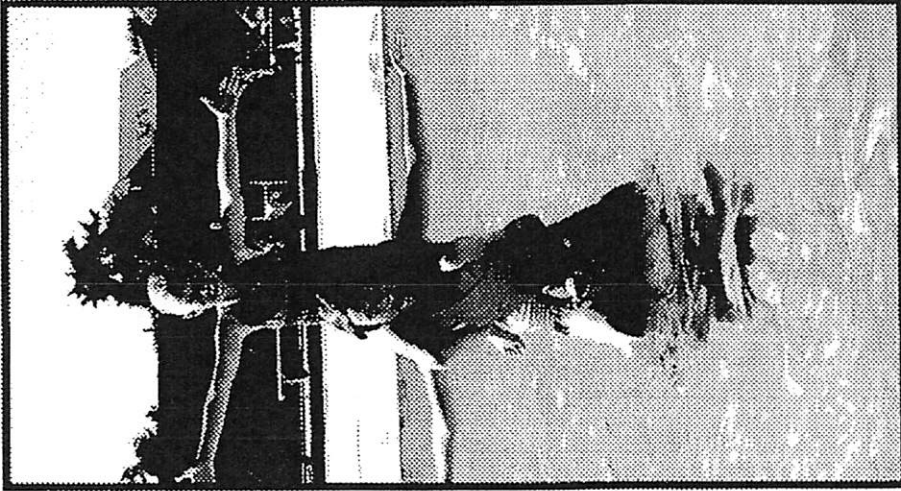
What are the benefits of the proposed pool renovation?

- Pool will be like new with new electrical, plumbing, pool surface, decks, handrails, ladders, and shallow stairs
- The Pool will be ADA compliant, complete with a poolside lift
- Complex entry and gate will be ADA compliant
- Pool drains will comply with all safety standards
- Decks will be replaced and include strip drains
- Equipment will be upgraded and relocated to comply with new safety standards
- Volume of pool will be decreased to reduce heating and chemical costs
- Heat Pump option will result in long term cost savings for pool heating

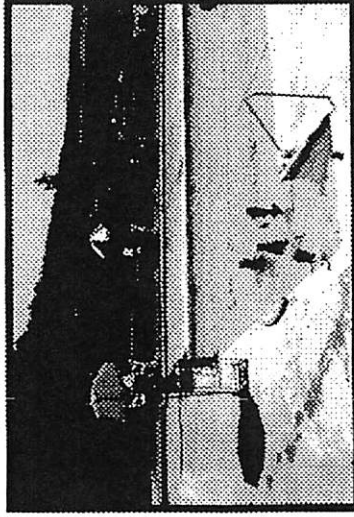
Not to mention...

- Increased property values
- Pride of ownership of our beach club and pool
- Joy on the faces of our ACBC families and friends enjoying our pool on a summer day

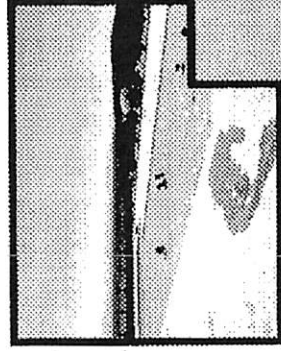
Save our pool!



Admiral's Cove Beach Club



Why vote YES on our pool assessment?



Admiral's Cove Beach Club
PO Box 366
Coupeville, WA 98239
ACBC-Whidbey.org

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No. 73725-2

DECLARATION PURSUANT
TO GR 17(A)(2)

SUE CORLISS

Intervenor/Appellant,

vs.

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

Respondents.

I, MARILEE C. ERICKSON, declare as follows

1. I am over the age of 18 and competent to testify as to the following matters.
2. I submit this affidavit pursuant to GR 17(a)(2) as recipient of "Declaration of Ed Delahanty in Support of ACBC's Opposition to

Appellant's RAP 8.3 Motion" received via electronic mail for filing with the Court in this matter.

3. I have examined the document. The "Declaration of Ed Delahanty in Support of Opposition to Appellant's RAP 8.3 Motion" consists of twelve (12) pages, including the signature page, and this Declaration page. It is complete and legible.

4. The original of said declaration shall be kept file in our law offices for a period of time consistent with our firm's records retention policies.

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

DATED this 29th day of April, 2016, at Seattle,

Washington.

By 
Marilee C. Erickson