

Executive Session

August 6, 2022

Mr. Tom Wilson, attorney for Lexington Heights, was present for the session. He presented an overview of the case for our new trustee, John Medovarsky. Mr. Wilson discussed the origin of the lawsuit and filled John in on the current status of the lawsuit. Much of what Mr. Wilson reviewed can be found in our Annual Minutes from June 25, 2022. Mr. Wilson gave a thorough overview of the case at the Annual Meeting. Unfortunately, John was not present at the Annual Meeting. A counter offer was reviewed by the Board. See following:

Tom,

Most of the proposal is fine other than the additional changes below:

3. Mr. Adkins is permitted in raising a motion before the Board and General Membership to buy the property depicted in the attached survey. There shall be no attempt by the Board or anyone to wrongfully deny any such motion and the motion shall be left to a vote of the general membership, and the Board shall not provide information regarding the history of the property in an effort to deny Ron in making such a Motion.
4. Mr. Adkins agrees that he will not encroach on Lexington Heights Property without written permission from Lexington Heights. However, Ron as a member of Lexington Heights, can use the areas in question and is permitted in continuing to maintain and plant in order to slow erosion and beautify all bluffs. Also, upon written permission being provided, Ron is permitted in adding dirt where necessary to hold the bluff line in place.
5. Mr. Adkins cannot provide any easement to the east and south for members to travel the stairs. As previously stated, trees have been falling into the creek and there is a safety concern, so he can no longer provide any easement given the potential liability concerns.

As to attorney fees (Number 7), Ron will pay \$19,000.00 if the payments are spread out and made over the course of 5 years, \$3,800 per year.

Regards,

The following is the offer that the Board authorized Mr. Wilson to present to Mr. Adkins on Saturday, August 6, 2022.

Alec: I met with the Board on Saturday, August 6, 2022 to consider your latest counter-offer. The Board has authorized me to counter as follows:

#3. Neither the Board or its members will in any fashion hinder your client from bringing whatever motion he chooses at the August general membership meeting.

However, the Board is under an obligation to keep its members informed of the status of the litigation and intends to fully inform its members the full details of the same. This is not a negotiable issue as the Board has a fiduciary duty to its members.

#4. Any work Mr. Atkins desires to perform on Lexington Heights property requires the written permission of the Board. This is required for all bluff work and not just your client. If your client desires to maintain the property by filling, planting, etc. simply advise the Board and they will work with him. They both have the same goal of slowing erosion and beautifying the bluff. But permission in written form is required.

#5. Board is fine with not be granted an easement.

#7. Attorney fees are to be capped at \$25,000.00, and as you know they continue to mount as more work becomes necessary. The sooner this case is resolved, the less attorney fees will be incurred. Board is willing to take installment payments, however not as proposed. They will accept \$13,000.00 down, payable within 30 days of any agreement being executed, the balance paid out over three years in equal installments with no interest. Each annual payment to be due on the anniversary of the \$13,000.00 down payment. Balance to be secured by a mortgage executed by all property owners and if any payment is not timely made, the easements shall immediately terminate and Lexington Heights may remove whatever structures they desire that are part of the easement.

Perhaps I am wrong on this, but it does not appear to me that we are that far apart at this point. Please advise as to your client's position. Thanks, Tom

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