

FROM

STATE OF OHIO, OTTAWA COUNTY (THU) JUN 9 2005 8:41/ST. 8:40/No. 6660777379 P 2
 I hereby certify this to be a true copy of original on file.
 Subscribed to me this 16th day of June 2005
 By JoAn C. Monnett Clerk of Courts
 By [Signature] deputy

ALL-STATE LEG.
B

gak:jmb
 06/07/04

IN THE COURT OF COMMON PLEAS OF OTTAWA COUNTY, OHIO

FILED
 COMMON PLEAS COURT

KAREN METZKER, ET AL.,

Case No. 02-CVH-035 JUN 14 2005

Plaintiffs,

Judge Paul C. Mason
 JOAN C. MONNETT, CLERK
 OTTAWA COUNTY, OHIO

v.

JOHNSON'S ISLAND PROPERTY OWNERS' ASSOCIATION,

CONSENT JUDGMENT ENTRY

Defendant.

This matter came on for consideration and the court, being fully advised, finds that the parties have settled their differences and have agreed to the following order:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

1. The plaintiffs herein, as lot owners in the Bay Havens Estates and the Shiloh Subdivision on Johnson's Island in Ottawa County, Ohio, benefit from the existence and activities of the Johnson's Island Property Owners' Association to repair common roads and the causeway and, as a result, had been judicially determined to have an obligation to pay their fair share of its normal operational costs. The costs would be the fair share amount defined in this entry which is the method used to determine their obligation to pay as a fair share of the "normal operating expense of Johnson's Island Property Owners' Association." Specifically, the plaintiffs herein are the owners of Lot Number 1 of the Shiloh Subdivision and Lots Number 93, 94, 95, 96, 97, 98, 99, 100, 189, 194, 245, 246, 247, 248, 263, 264, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329,

200500151057
 Filed for Record in
 OTTAWA COUNTY, OHIO
 VIRGINIA M. PARK
 06-17-2005 At 01:51 pm.
 JUDGE ENTRY 92.00
 OR Book 1077 Page 454 - 463

VL1077PG0454

340

FROM

VL1077PG0455

(THU) JUN 9 2005 8:12/ST. 8:40/No. 6660777379 P 3

Metzker, et al. v. Johnson's Island Property Owners' Association
Case No. 02-CVH-035
Consent Judgment Entry

Page 2

339, 369, 370, 429, 431, 434, and 438 in the Bayhavens Estates Subdivision.

The Court finds and hereby Orders that the obligation to pay a fair share of the normal operating costs as set forth in this Judgment Entry is an obligation that runs with the land, and shall be binding upon all parties, their heirs, assigns, grantees, transferees, and all subsequent purchasers of the land from the plaintiffs.

2. It is hereby Ordered that a certified copy of this Judgment Entry shall be filed with the Ottawa County Recorder and shall thereafter become part of the chain of title of these lots in the Bay Haven Estates Subdivision and Shiloh Subdivision on Johnson's Island, Ottawa County, Ohio.

3. The plaintiffs are not members of Johnson's Island Property Owners' Association, herein known as JIPOA. Plaintiffs shall contribute their fair share for administrative operational and road maintenance costs of JIPOA. Beginning with October 2004 to 2005 season, their fair share shall be defined as being 75% of the above costs voted on by the members of JIPOA, less legal fees for fighting development affecting the island, together with the vote non-members as herein provided.

A. Upon payment of their fair share of operational costs as defined above, the plaintiffs shall immediately receive one gate pass together with the right to purchase additional gate passes at \$20 per pass per year thereafter.

B. No limits shall be imposed upon the future annual operational expenses. All future operational expenses will be determined by the amount of repair and/or maintenance necessary for road and causeway, including administrative expenses."

C. The plaintiffs shall not be responsible to contribute toward nor pay as

341

06/09/05 07:59

TX/RX NO.2256

P.003

FROM

VL1077PG0456

(THU) JUN 9 2005 8:12/ST. 8:40/No. 6660777379 P 4

Metzker, et al. v. Johnson's Island Property Owners' Association
Case No. 02-CVH-035
Consent Judgment Entry

Page 3

part of their fair share of operational costs, legal fees or expenses incurred or projected to be incurred by JIPOA for fighting, resisting, or otherwise challenging development on the island,

D. The plaintiffs, individually, shall have the right to attend annual general meetings of the association and to vote on road and causeway issues or maintenance;

E. The plaintiffs shall be responsible for their prorated share of any special assessments, which share shall be equal to the assessment amount paid by the social members of Johnson's Island Property Owners' Association and which are needed to address any unexpected maintenance or repair expense for the roads or causeway.

4. The defendant is required to keep and maintain reasonable road and causeway records of monies received and expenses paid, including all: road maintenance contracts, invoices, statements, receipts, and the like which the plaintiffs shall have the right to review and acquire copies of said documents within a ten day period after a written request is made by any non-member.

5. The plaintiffs shall have the right to have one non-member attend and participate on the road and causeway committee, who is to be selected by JIPOA from a list provided by the non-member group.

6. JIPOA shall have the right to file liens against properties of the plaintiffs for any assessment or delinquent fees, upon providing sixty days advance written notice by certified mail, return receipt requested, to the plaintiff-lot owner thereof; in the event that the lot owner responds in writing by certified mail, return receipt requested, within the sixty days, objecting to or protesting to the fee, the matter shall be heard before the Board of

342

06/09/05 07:59

TX/RX NO.2256

P.004

FROM

VL1077PG0457

(THU) JUN 9 2005 8:42/ST. 8:40/No. 6660777379 P 5

Matzker, et al. v. Johnson's Island Property Owners' Association
Case No. 02-CVH-035
Consent Judgment Entry

Page 4

Trustees. If the matter is not resolved by the Board of Trustees, then the defendant shall have the right to file suit in the appropriate court for collection of fees due and owing. All parties shall be entitled to any and all legal or equitable rights incidental thereto.

7. The plaintiffs, as non-members, shall not be qualified to hold office of the association and shall, other than for the purpose of general meetings of the association and to discuss road, causeway or maintenance issues, shall not be able to use any of the clubhouse, future buildings, or any grounds belonging to JIPOA.

*which is the clubhouse most for
1) Admin
2) Social*

8. The plaintiffs shall pay for arrearage on prior fees as represented on liens filed in October 2000, forward, at 60% of the prorated principal amount due, plus 6% per annum, compounded annually, based upon the matrix attached hereto, which shall be payable as follows:

A. All payments shall be paid within ninety days from the date of the filing of this Consent Judgment Entry.

1. If paid within thirty days, no additional interest shall be due; if paid between the sixtieth and ninetieth days from the date of the filing of this Consent Judgment Entry, the payments shall bear interest at 6% per annum.

B. The following plaintiffs have made payments under protest during the pendency of this action on the prior assessments; in the event that any plaintiff has overpaid, after the aforementioned adjustment, then that plaintiff shall have the option to receive a credit against any future non-member fee or direct payment from the association for the overage:

<u>Name</u>	<u>Date Paid</u> <u>(on or about)</u>	<u>Amount</u>
-------------	--	---------------

343

06/09/05 07:59

TX/RX NO.2256

P.005

David Tropkoff	09/02/2002	\$ 850.00
John E. & Holly F. Lehibach	06/16/1999	\$ 2,666.39
Bartholomew & Mary Patrice Lenegan	11/12/2002	\$ 1,998.81
Joseph J. & Patricia Goucker	03/28/2002	\$ 968.86
James Petroski	09/22/2003	\$ 906.77

9. The Ottawa County Recorder shall release of record the following Affidavits of Lien:

<u>Name</u>	<u>Ottawa County Official Records</u>
Lisa Assim	Vol. 714, Page 547
Kevin Kirkpatrick	Vol. 714, Page 563
Karen Metzker	Vol. 714, Page 556
Terrance Kirkpatrick	Vol. 714, Page 562
John and Holly Lehibach	Vol. 714, Page 558
Ellen Nachman	Vol. 714, Page 555
Nancy Cepis	Vol. 714, Page 568
Lance Yandel	Vol. 714, Page 550
William Kirkpatrick, Jr.	Vol. 714, Page 561
Kenneth Zychowski	Vol. 714, Page 569
Daniel Michalske	Vol. 714, Page 566
Elmer Scott	Vol. 714, Page 552
Bert Tomon	Vol. 714, Page 570
Shawn Breslin	Vol. 714, Page 571
James Mazur	Vol. 714, Page 567
Joseph and Pat Gouker	Vol. 714, Page 546
James Petroski	Vol. 714, Page 549
Bartholomew Leneghan	Vol. 714, Page 557

<u>Name</u>	<u>Ottawa County Misc. Records</u>
Ellen Nachman	Vol. 15, Page 483
William A. , Jr. and Michelle Kirkpatrick	Vol. 16, Page 288
Kenneth and Loretta J. Zychowski	Vol. 16, Page 294
Sigmund and Janet Nachman	Vol. 16, Page 554
Sigmund W. and Janet M. Nachman	Vol. 16, Page 38
Elmer E. Scott	Vol. 16, Page 292
Bert and Virginia Tomon	Vol. 15, Page 490
Bartholomew and Mary P. Leneghan	Vol. 16, Page 289

There shall be due from each plaintiff the following payments which shall include the

011-11344

06/09/05 07:59

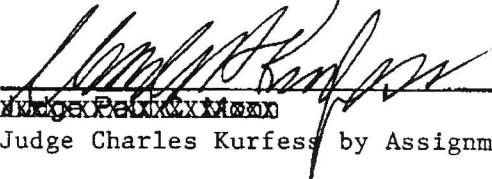
TX/RX NO.2256

P.006

arrears, as agreed, together with the 2003-2004 fees which shall be paid heretofore provided:

<u>Name</u>	<u>Amount</u>	
Lisa Assim	\$ 1,673.50	
Kevin Kirkpatrick	\$ 1,673.50	
Karen Metzker	\$ 1,673.50	
Terrance Kirkpatrick	\$ 1,673.50	
John and Holly Lehlbach	\$ 116.50	Refund
Ellen Nachman	\$ 3,683.48	
Nancy Cepis	\$ 2,200.98	
Lance Yandel	\$ 2,200.98	
William Kirkpatrick, Jr.	\$ 2,059.83	
Kenneth Zychowski	\$ 2,059.83	
Daniel Michalske	\$ 2,059.83	
Sigmund and Janet Nachman	\$ 4,603.44	
Elmer Scott	\$ 3,306.83	
Bert Tomon	\$ 2,385.20	
Shawn Breslin	\$ 2,920.50	
James Mazur	\$ 1,458.65	

10. Costs to be paid equally between the plaintiffs and the defendant.


~~Judge Paul J. ...~~
Judge Charles Kurfess by Assignment

Approved:

Karen Metzker

Kevin Kirkpatrick

Lisa Assim

William A. Kirkpatrick, Jr.

*** This case was assigned to this Judge after submission by both parties of separate and disparate entries of settlement. Defendant now agrees to Plaintiff's entry submitted as representing settlement of this matter at mediation and the Court therefore approves the same.

345



Michele Kirkpatrick

Ellen Nachman aka Ellen Louise Nachman
aka Ellen L. Nachman

Sigmund W. Nachman aka Z. W. Nachman

Janet M. Nachman

Ronald A. Cepis

Nancy K. Cepis

John T. Mazur

David Tropkoff

Daniel Michalske

Catherine P. Michalske

Lance Yandel

Linda Yandel

Joe Casey

John E. Lehibach

Holly F. Lehibach

Bartholomew Leneghan

Mary Patrice Leneghan

Elmer Scott

Bert R. Tomon

Virginia A. Tomon

Shawn Breslin

Michael F. Murphy

Bridget A. Murphy

Joseph J. Gouker

Patricia A. Gouker

James Mazur

James Petroski

Kenneth Zychowski

Loretta J. Zychowski
Plaintiffs

100-1111347

06/09/05 07:59

TX/RX NO.2256

P.009

Gary A. Kohli
Attorney for Plaintiffs

Johnson's Island Property Owners' Association

by

Defendant

Duffield E. Milkie
Attorney for Defendant

Prepared by Gary A. Kohli (0021896)

348

06/09/05 07:59

TX/RX NO.2256

P.010

JIPOA DUES & ASSESSMENTS-ACTUAL DISTRIBUTION

Fiscal Year	Total Dist.	Legal Dist.	% Dist.	Total Dues	Dues		Legal Anti-Not Dev.	Pro-Rata Dues	60%	6% 02-03	75%
					Not Legal	Legal					
82-83				30.00	30.00			30.00	30	101.99	
83-84				30.00	30.00			30.00	30	96.21	
84-85				30.00	30.00			30.00	30	90.77	
85-86				30.00	30.00			30.00	30	85.63	
86-87				30.00	30.00			30.00	30	80.78	
87-88				30.00	30.00			30.00	30	76.21	
88-89				30.00	30.00			30.00	30	71.90	
89-90				30.00	30.00			30.00	30	67.83	
90-91	76,515	18,773	24.5	300.00	226.50	73.50		226.50	135.90	289.86	
91-92	84,406	46,946	55.6	340.00	150.96	189.04		150.96	90.58	182.26	
92-93	90,531	52,153	57.6	390.00	165.36	224.64		165.36	99.22	188.35	
93-94	84,242	51,187	60.7	390.00	153.27	236.73		153.27	91.96	164.69	
94-95	122,769	65,641	53.4	390.00	181.74	208.26		181.74	109.04	184.22	
95-96	100,179	67,315	67.2	450.00	147.60	302.40		147.60	88.56	141.15	
96-97	100,311	64,019	63.8	550.00	199.10	350.90		199.10	119.46	179.62	
97-98	132,357	87,833	66.4	550.00	184.80	365.20	15.9	242.87	145.72	206.71	
98-99	108,007	75,535	69.9	500.00	150.50	349.50	33.5	267.58	160.55	214.85	
99-00	72,609	17,493	24.1	450.00	341.55	108.45	50.5	396.32	237.79	300.20	
00-01	70,896	3,403	4.8	450.00	428.40	21.60	66.0	442.66	265.60	316.33	
01-02	109,937	10,246	9.3	400.00	362.80	37.20	26.0	372.47	223.48	251.10	
02-03	101,804	11,726	11.5	400.00	354.00	46.00	97.1	398.62	239.17	253.52	
03-04				450.00							337.50

344