

July 14, 2020  
204 Cleveland Lane  
Rockaway, NJ 07866

Honorable Maritza Berdote-Byrne  
Chancery Division, General Equity Part  
Morris County Superior Court  
Washington & Court Streets  
Morristown, NJ 07960

RE: Paul Kardos vs. Fox Hills at Rockaway Condominium Association, Inc.  
Docket No.: MRS-C-102-18  
Certification and Letter Brief in Support of Plaintiff's Motion for 2<sup>nd</sup> Amendment to  
Complaint  
Hearing Date – Friday, July 31, 2020 at 9:00 am

Dear Judge Berdote-Byrne:

I am the *pro se* plaintiff in the above matter. Please accept this *Certification and Letter Brief in Support of Plaintiff's Motion for 2<sup>nd</sup> Amendment to Complaint*.

#### CERTIFICATION AND STATEMENT OF FACTS

I, Paul Kardos, plaintiff *pro se*, do hereby say and certify:

1. I am a resident and homeowner at the Fox Hills at Rockaway Condominium Association, Inc. (hereafter "Fox Hills"). I have personal knowledge of the facts set forth and make this *Certification in Support of Motion for 2<sup>nd</sup> Amendment to Complaint*.
2. At the Fox Hills Quarterly meeting of 10/1/18, the Fox Hills Board of Directors (hereafter "the Board") secretary stated,  
  
"OK. I'm going to make a roll call to ratify the vote that had been taken at the August work-session regarding redecorating of the clubhouse."
3. I, the plaintiff, received a MEMORANDUM dated June 22, 2020 (Exhibit A) from the Board stating that the outdoor pool will be closed for the 2020 season.
4. On July 23, 2020, the Board voted to suspend opening the pool for the 2020 season.

Pursuant to R.1:4-4 ( c ), I certify that the foregoing statements (paragraphs 1-4) made by me are true. I am aware that if any foregoing statements made by me are willfully false, I am subject to punishment.

#### ARGUMENT

5. The proposed 2<sup>nd</sup> Amendment to the Complaint sets forth an allegation of a statute violation that will require the court to determine the legislative intent of the Condominium Act requirement for open meetings.

In interpreting statute, primary regard must be given fundamental purpose for which legislation was enacted and where literal reading will lead to a result not in accord with the essential purpose and design of act, the spirit of law will control the letter. *N.J. Builders v. Blair*, 60 NJ 330, 331 (1972).

6. Does the practice of voting to ratify previous votes or previously made decisions meet the legislative intent of Title 46 Chapter 8B section 12 (a) of the Condominium Act? Or is this practice merely a sham for superficial compliance while violating legislative intent? For the court to hear arguments and rule on legislative intent, the court must first grant the plaintiff's motion.
7. No additional Discovery is required by the Plaintiff for this 2<sup>nd</sup> Amendment to the Complaint.

#### CONCLUSION

For the foregoing reasons, the Court should grant the plaintiff Motion For Leave Of The Court For A 2<sup>nd</sup> Amendment To The Complaint.

Date:

July 14, 2020

By



Paul Kardos

MEMORANDUM



To: Fox Hills Residents  
From: Board of Directors  
Date: June 22, 2020  
Subject: Outdoor Pool

The Board of Directors deeply regrets that the outdoor pool will remain closed for the 2020 summer season. We made the decision after exploring all possible avenues for meeting our responsibility to protect our residents and the financial well-being of the association. This decision was made after extensive consultations with our attorney, insurance broker, management company and pool vendor.

There were many factors that influenced our decision, but the most important was protecting the health, safety, and welfare of our residents, as well as our on-site staff and contractors. It would be extremely difficult for us to fully implement in a timely manner all of the exhaustively comprehensive requirements for operating the pool that have been imposed by the New Jersey Department of Health and Governor Murphy's Executive Orders. And more importantly, we are not confident that we could achieve full compliance with these standards. These standards would require us to carefully implement many protective measures.

The standards mandate, required among other things, hiring and training an "ambassador" to monitor and encourage social distancing of patrons on the pool deck and pool, as well as a "COVID contact person"; implementing a system, such as an electronic reservation system, to assure that the pool and pool deck do not exceed 50% of maximum capacity at any time; taking the temperature of staff and screening them for COVID-19 symptoms; ensuring that 6 feet social distancing is maintained; maintaining a record of all staff/patrons who enter the pool area in order to facilitate potential contact tracing efforts; implementing mitigation strategies to limit COVID-19 exposure; documenting cleaning protocols; installing sanitizer stations throughout the pool facility; conducting sanitization multiple times per day of areas open to pool patrons, including frequently touched surfaces and shared objects after each use; encouraging staff/patrons to wear a cloth face covering while not in the pool when social distancing of 6 feet cannot be maintained; and implementing a robust communications plan (notices, email, mobile communications, and signage) that conveys the importance of social distancing, hygiene and rules associated with use of the pool facility.

There are also other serious legal, insurance and financial considerations that could have a very adverse impact on the association. The State of New Jersey has established standards that are exhaustive and comprehensive which places significant responsibility on the Association. As explained by our attorney, while a tightly drawn waiver with indemnification and hold harmless provision would strengthen a defense, there is no guarantee that it would stand up in court. Even if we prevailed, the risk and associated legal costs would not be considered prudent. One lawsuit could result in a significant financial burden on the association that could require the imposition of a special assessment on all homeowners, the borrowing of funds, or even result in the insolvency of the association.

The Board shares in the feelings of loss and disappointment. The pool is one of the most coveted amenities in Fox Hills, but we believe we have made the right decision. Over the past few months, we have handled many unfortunate circumstances and expect we will continue to face difficult decisions. This is unprecedented territory lacking solid guidance. The Board has been meeting at least once a week as the situation evolves. We will be glad to answer any questions you may have at our Quarterly meeting on July 13, 2020. As part of our new normal, we will be conducting the meeting virtually. We will provide instructions well in advance and allow you the opportunity to submit questions prior to the call.