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April 23, 2020

VIA ELECTRONIC MAIL ONLY: holidaylakesohio@gmail.com

Holiday Lakes HOA
c/o Holly Wiles, Community Association Manager
13 Lake Holiday Lane
Willard, Ohio 44890

Re: Opening of Marina and Annual Meeting

Dear Ms. Wiles:

On behalf of the Board of Directors of Holiday Lakes Property Owners Association, Inc., you advised that the Association marina is currently closed. We were asked to provide our written opinion as to whether the marina should remain closed at this time due to COVID 19 and to address Board member terms for those Board members whose terms are up in 2020. My response to the Board's request is based on my review of the information received, review of the Holiday Lakes HOA Declaration and Bylaws, research and review of the Ohio Planned Community Act, and on our experience in representing community associations throughout Ohio.

In my opinion, the marina should remain closed at this time and until the Stay at Home Order is lifted or relaxed. Board members with terms that are up in 2020 continue to serve on the Board until the annual meeting and election for 2020 is held. Please allow me to elaborate.

The marina is located on Parcel No. 140730050230200 and is owned by the Association. The marina is part of the common elements of the Association, and the Board has full authority to decide when to open the marina. Under the Ohio Department of Health Stay at Home Order in effect through May 1, 2020 at 11:59 p.m., only marinas that are necessary to provide transportation for essential activities are permitted to operate. The Association marina does not fall under this category and should remain closed through the remainder of the current Stay at Home Order.

We anticipate that the Stay at Home Order will be extended beyond May 1, 2020 in a modified and relaxed form. It is possible that the marina can be opened at that time, but we cannot know until the updated Order is put into place. We are updating our COVID-19 Community Association Legal Resource Guide as new information is released. You can view the Resource Guide by logging onto your ATLAS account on our firm website. Also, please feel free to contact our office if the Stay at Home Order is extended in a modified version to discuss whether or not the marina can be opened at that time.

The Board posed the question whether the Association could be liable if boats are on the water and not following the social distancing rules. The Association is not responsible for individual actions taken by owners that violate the Stay at Home Order; however, the Association could potentially be liable for violating the Stay at Home Order if they allow a non-essential service to be performed on Association property. The opening and running of the marina at this time could be deemed to be a violation of the Order. I do not believe the Association would have any responsibility for an owner who puts their boat in the water and uses the boat on the water. The Board could consider posting a sign at the marina that the marina is currently closed for additional protection.

Under Bylaws Article 4, Section A, the annual meeting is to be held on the first Sunday in May of each year. Under the Stay at Home Order, the annual meeting cannot be held on that date and needs to be postponed. The Board members whose terms are up this year will continue to serve on the Board as a duly elected member of the Board with full authority until the election is properly held. Under Bylaws Article 5, Section D, the election can be held at the annual meeting or can be conducted by mail. This means that the election could be held via mail before the annual meeting is actually held.

In summary, the marina should remain closed until the Stay at Home Order is lifted or relaxed so that marina operations are allowed. The Board members whose terms are up in 2020 remain duly elected members of the Board until the 2020 election is held.

I trust the above responds to the Board's request. Should you or any of the Board members have any questions or wish to further discuss this matter, please do not hesitate to telephone me.

Sincerely yours,



JENNIFER B. CUSIMANO