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Dear Residents:

2020 has been a challenging year for BHVA as it responded to hostile actions, removal of its waterfront property and multiple lawsuits filed against it. Fortunately, but not surprisingly, BHVA has prevailed overwhelmingly so far. The Bachman, Buckley, Braun lawsuit was dismissed outright. We have filed liens and will seek judgment for cost recovery in an attempt to protect the residents from the financial burden of that defense and from nuisance lawsuits against BHVA in the future.

Concerning the Fields lawsuit, the TRO was vacated and BHVA prevailed in the Preliminary Injunction stage of the lawsuit. Both parties are provided time for discovery of new facts until the end of February. BHVA has researched our documents exhaustively and we do not expect any new facts to emerge that will impact or alter the court's decision at the Preliminary Injunction stage. When this is over, we are optimistic BHVA will prevail overwhelmingly. Our waterfront will remain private.

Here's a recap:

Just about this time last year on Christmas Eve, Fields dismantled our fence and blocked access to our swim platform by placing a large concrete block on Dock A. For the past year, this community and board have suffered more antics: the blockade on the swim dock just in time for Memorial Day weekend, threats to close the docks for slip rental, the abrupt removal of the swim dock itself, the presence of unsightly commercial equipment to our north and south, the obstruction of our elevator repair work, obstruction of our stair repair work, and more threats of continuing and additional litigation.

And from here:

While the Board continues to work with decorum and professionalism, it does not mean there will be any compromise whatsoever in its vigilance and resilience in executing its fiduciary duties for an optimum outcome for this community. The Board is working its way through the litigation. There are court mandated time periods that require sound strategy and patience. In the meanwhile, the Board will not engage in correspondences or negotiations with FEI that it deems unreasonable, unproductive and costly. BHVA will not exhaust its legal funds chasing bogus agreements and fruitless negotiations. The fundamental issues are being litigated in the NYS Courts for the very reason that exchanges with FEI have not been reliable. Furthermore, the Board will not permit FEI to negotiate its way out of a favorable preliminary court ruling with presentations of outlandish and unreasonable terms.

Mediation:

While BHVA's insurance company has the greatest incentive to see this process end quickly and affordably, it has recently conferred with the Board and agreed that an attempt at mediation would be a waste of time, effort and expense. It has determined along with the Board that the court has provided a clear signal to the likely final outcome and that correspondences from the plaintiffs have been unrealistic in its expectations, highly deceptive in its construction, unreliable in its commitments and far from good faith.

The Board is of course open to negotiations, but the counter-party must be reasonable, rational, and empathetic to BHVA's position. Without these basic conditions, the Board would merely be negotiating against itself. Again, left to the court, the Board is optimistic BHVA will prevail overwhelmingly and that our waterfront will remain private.

The board's December update will be sent out by week's end. As always, please use the QCC portal for questions, comments and concerns.

Best wishes for a happy and healthy holiday season.

BHVA Board

