

RESPONSE TO HSIA VICE PRESIDENT BILL SHUMAN'S STATEMENT IN THE  
MAY, 2003 "SEA BREEZE"

5/25/03

Dear neighbor:

The waterfront owners on East Bay View Drive wish to respond to a statement that was placed in the May, 2003 "SEA BREEZE" by the vice president of HSIA who makes allegations which are inaccurate, misleading and incomplete. We have owned the 17 lots in this area ranging from several years to nearly 50 years. It is apparent from Mr. Shuman's statement that he is presenting his own views related to the situation concerning the strip on East Bay View Drive, not those of the community at large. Even some members of his own board are opposed to his stand on this issue. He inaccurately states that we are "seizing community property" and misrepresents the costs that will have to be paid by the community if HSIA continues with its actions. The hostility of Mr. Shuman's statement, seems primarily intended to incite a certain emotional response from the community without really revealing the true nature of the facts.

### HISTORY

In 1952 Hillsmere Estates subdivided the land on East Bay View Drive, which has an irregular shoreline, into lots 100' by 150'. Some of the lots were at the water's edge while others did not reach the shoreline. However, all of the homeowners have maintained their lots along with the strip of land adjoining the shoreline including investing many thousands of dollars in bulkheads to prevent the erosion of the shoreline. At no time did we ask HSIA to reimburse us because it has always been assumed by HSIA and the lot owners that the land belonged to the lot owners. Many of us have letters from HSIA which specifically state that the bulkheads that were built were placed on the lot owners land. It appears that the tax assessors agree because we have all been paying waterfront taxes while living here.

The allegation that the deed that Hillsmere Estates provided to HSIA in 1965 for the beach at the end of Hillsmere Drive included a "community beach" on the strip of land between the current beach and the marina is false. There never has been a beach there. This is easily confirmed by talking to the Hillsmere residents who have resided here the longest. The constant wave action that occurs in this area washes out any sand and has required continuous bulkheading to prevent severe erosion, which we have provided over the years. Mr. Shuman's statement that this "community beach can not be used for anything else" is contradicted by his further assertion that this area should now be used as a walkway. In addition, the configuration of the shoreline and lots would prevent such a walkway from being continuous. For those of us living here the longest, it has been observed that the playground, community beach and swimming area have never been used to capacity, even on the hottest days of summer.

Mr. Shuman refers to a small pier that was constructed by one of the homeowners on what they considered to be their land. Before construction, the lot owner made certain that all necessary county and state permits were obtained. To get HSIA approval, two board members, including the president were asked for permission to build the pier. The board members stated that they saw no reason not to build it and the pier was constructed because they had already received county and state approval. This admission was later confirmed in a special meeting held in the summer of 2001. HSIA did nothing during the building of the pier to halt its construction and decided two years after its completion to take action.

It is obvious to those informed about this situation that the "controversy" referred to in Mr. Shuman's statement began when HSIA suddenly discovered after nearly 40 years that it might have a claim to this strip of land. Reflective of this sudden inspiration was the fact that the strip had never been surveyed, so HSIA spent thousands of dollars of HSIA funds to do so. Soon after the survey was completed, an attorney hired by HSIA issued a letter to us to remove all fences, hedges and encumbrances, some of which have been in place to the waters edge for nearly 40 years. We had heard initially that a boardwalk was being considered by HSIA and that sand dredged from the community creeks would be dumped in front of our lots to create a beach that has never existed before. We were convinced at the time that the only course was to take legal action to prevent destruction of the shoreline and the future filling in of the channel from storm action.

Now that the current HSIA intention is to put in a non-continuous walkway on land which, according to Mr. Shuman, "can only be used as a beach", it is apparent to us that other issues must be considered. The construction of such a walkway would place it a few feet from the back doors of many us and would severely affect our privacy and safety. Imagine someone constructing a walkway behind your back door with people walking back and forth at all hours of the night and you can see why we are concerned about the present proposal by HSIA. Like anyone, we value our privacy and are concerned about the potential security problems and littering that will occur when an unlit, unpatrolled area adjacent to us is open to the public. These issues already exist at the marina sandspit and would be difficult to control here. We believe no one in the community should be subject to such unfair conditions.

Mr. Shuman mentions costs in his statement but has been incomplete in his assessments of ownership. Beyond the legal costs, if HSIA were to become the steward of this strip of land it would have to bear the costs of repairing and maintaining the bulkheads already in existence along with the construction and maintenance of the walkway. Many bulkheads need repair now and replacement costs average approximately \$30,000 per bulkhead and there are 17 to maintain. This money would have to be paid by each homeowner in Hillsmere through a special tax assessment which could amount to hundreds of dollars per home. These funds should be used for much needed improvements for Hillsmere instead of being wasted on pursuits that will have no real benefit to the community but will have a devastating effect on us. Also, the legal costs mentioned by Mr. Shuman is the approximate cost associated with going to trial with one case, and there would be as many as 17 to litigate.

The only recourse that we have to prevent HSIA from its threatened actions is to pursue the ownership of the land we have acquired by adverse possession. This can occur when a lot owner has occupied the land in question for over 20 years without anyone's permission. Many of us have been in continuous possession that long and at least one owner has had his land completely fenced off for over 23 years. We believe that a strong case can be made in court if forced to by HSIA. Mr. Shuman has grossly overestimated HSIA's chances of winning such a case and has failed to factor in the great cost to everyone of pursuing such a course of action. Again, we are not seizing community property, but simply asserting the rights that we have according to Maryland law in order to protect ourselves from the intrusive and harmful actions of HSIA, as any home owner would do.

## CONCLUSION

We believe that after 40 years of inaction and neglect HSIA has abandoned any claim to the strip of land it suddenly believes it owns. Without our combined efforts, this controversy wouldn't even exist because this strip of land would have eroded away long

ago. Not once in the last 40 years has HSIA taken the responsibility of preserving and maintaining this resource. We have taken upon ourselves to care for and maintain this strip of land with a tremendous personal investment. As such, we are unwilling to allow HSIA to proceed with plans that would ultimately affect our safety and the quality of life which we are all entitled to. We hope that HSIA will alter its actions to restore the state of peace and tranquility which we once enjoyed. You can help by telling HSIA to stop these actions so detrimental to us and our community.

Sincerely,

East Bay View Drive Waterfront Home Owners  
P.O. Box 4546  
Annapolis, MD 21403-9998