

## Beach Strip Lawsuit Status Results of HSIA Special Board Meeting

*By Bill Shuman, President, HSIA*

There have been some recent developments in the Beach Strip Lawsuit. This controversy has been going on for nearly four years. If you are not familiar with the issues see the President's Comments in last month's Sea Breeze or visit our web site at [www.HillsmereShores.net](http://www.HillsmereShores.net). Many people have asked what we have spent on defending against this lawsuit. We have spent approximately \$15,000 in legal fees plus about \$6,500 in surveying costs. That comes to about \$18 per lot owner. As you probably know, the lawsuit was heard by the District Court where we lost and was immediately appealed.

On December 5<sup>th</sup>, the Court of Special Appeals ruled in our favor on one of the major issues we raised (and did not rule on the others). They ruled that the beach strip property was owned by each and every lot owner in Hillsmere and that if the plaintiffs wanted to take the property by adverse possession that they would have to sue all of the approximately 3000 property owners. While there are only about 1,250 homes, many are owned by multiple individuals (such as husband and wife).

On January 24<sup>th</sup>, the board meet in a closed Special Meeting. Closed board meetings are permitted in the bylaws when legal issues are being discussed. The board authorized the following offer to settle the lawsuit:

### **Plaintiffs would agree:**

- 1. To remove fences, hedges and other encumbrances that block access back to property line.**
- 2. Remove any "No Trespassing" signs and agree not to put any signs up that would make someone think they could not walk on the HSIA property.**
- 3. To drop lawsuit and all claims of adverse possession.**

### **HSIA would agree:**

- 1. Not to put up any fences or other structures.**
- 2. That the only improvements allowed would be a ground level walkway.**
- 3. To allow Singleton to keep the part of his pool that is on HSIA property and to allow a fence on HSIA property no more than 10 feet from the property line if required by county code for a pool.**

The agreement, if approved, would be legally binding on future HSIA boards. Item #3 above was included because Singleton, the first one to sue HSIA, had built his pool partly on community property. If the fences to the water were

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removed then his pool would be illegal since pools must be enclosed for safety reasons.

On February 21<sup>st</sup> we received a response from the lawyer for the plaintiffs. It said that "under no circumstances would (the plaintiffs) go forward with a solution that does not involve their owning the property". The letter also offered to pay \$135,000 if HSIA "executes a deed for all of it's right, title, and interest in and to the property". The offer was on behalf of all of the seventeen lots except for 105, 107, and 127 East Bay View.

Since the court already ruled that HSIA does not own the property alone, we would be selling only HSIA's interest. We would, in effect, be removing ourselves from the suit and telling the members of our community, who are also owners, to fend for themselves if attempting to assert their rights.

HSIA has a legal obligation to protect the rights of all Hillsmere lot owners with regard to this property. The deed that gave HSIA this property (executed on July 9<sup>th</sup>, 1952) said that HSIA shall hold the property "for the use and benefit of all Hillsmere lot owners". It further says that HSIA shall "protect and defend" the use of the property as a "beach recreational area" and "for no other use, intent, or purpose whatsoever". It goes on to say that nothing in the deed shall deprive the lot owners of Hillsmere of any of the rights to the use of the property.

If it were legally possible and morally defensible for the board to sell it's rights to the property to the plaintiffs then the sale price should be equal to the market value. The combined value of the 17 properties (according to [www.zillow.com](http://www.zillow.com)) is 15.8 million dollars. Everyone knows that having riparian rights greatly increases the value of any waterfront property. Assuming a 10% increase in value (without even considering the additional land) that places a more reasonable offer at over 1.5 million dollars (nearly 12 times the amount offered). The average value of the 17 properties is just under \$69 per square foot. Singleton is seeking to take nearly 7,500 square feet of community property. Based on the value per square foot, his additional land alone would be worth over \$515,000.

If a way could be found for HSIA to legally sell the property and if the price were equal to it's actual value then the board might be convinced to approve the sale. The offer of \$135,000 is much less than one year's budget. The benefit to any lot owner would be totally negligible. A price closer to the \$1.5 million figure could allow the building of a community center or other projects that would benefit all the residents in a direct, perceivable way. Asking us to sell \$1.5 million worth of community assets for \$135,000 is nothing more than a greedy attempt to take advantage of this situation.

The HSIA board met in a closed Special Meeting on March 15<sup>th</sup> to consider the plaintiff's offer and decide on a response. The meeting was not open to the public, as permitted in our bylaws, because we were discussing legal

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issues. Eight board members plus our lawyer attended the meeting. There was a great deal of discussion about the responsibilities of HSIA to protect this community property that belongs to all of us. There was a strong interest in working with DNR to restore the natural sand beach using the environmentally sound methods discussed at the General Meeting. In the end, the board decided to reject the offer to settle for \$135,000. The following resolution was approved:

**RESOLVED, that the HSIA Board of Directors will not convey title for the community property (known as the Beach Strip) to the adjoining lot owners.**

**Furthermore, The HSIA Board of Directors**

- (1) believes that it must preserve and protect the land now titled to HSIA,**
- (2) has no plans to build any structures on the disputed land,**
- (3) wishes to investigate environmentally sound ways to protect, preserve, and restore the beach that used to exist along the waterfront,**
- (4) should represent, foster, and protect the interests of all lot owners in Hillsmere.**

If the three waterfront lot owners suing HSIA (Singleton at 117 E. Bay View, Sahandy at 131 E. Bay View, and Hertz at 129 E. Bay View) still demand the title be transferred to them, then their next step may be to file suit against every lot owner in Hillsmere as the court said they must in order to proceed. If this happens, we will immediately have a community meeting to explain what options we would all have to deal with the situation. These options would probably include retaining a lawyer, defending ourselves, or opting out of the suit. Even though each of us would be sued individually, HSIA would do it's best to make sure everyone's rights were protected and to provide as much guidance as possible.

I sincerely hope that Singleton, Sahandy and Hertz do not decide to sue all their neighbors. Their attempt to take community property has caused enough strife already. Filing these lawsuits would only make a bad situation much worse. In another Annapolis Neck community with a similar beach strip, the board put up a chain link fence blocking the waterfront lots from access to the water. Our offer to legally bind HSIA from ever putting up fences, building playgrounds, or other improvements is an excellent solution that would protect the rights of all Hillsmere residents and minimize the impact on the Beach Strip property owners. Even though they might win in the end, they should think long and hard about the effect such an action would have on our community.

We would like to hear how you feel about this issue. Please send an email to [lawsuit@hillsmershores.net](mailto:lawsuit@hillsmershores.net) or write to HSIA, PO Box 3485, Annapolis, MD

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21403. In the interest of fairness, each email or letter MUST include your Hillsmere address or it will not be considered. While these will be shared with the board, if any comments are published then the address will be removed.

As the resolution indicates, the HSIA Board of Directors feels strongly that regardless of the likely outcome of this lawsuit, we must protect and defend the rights and interests of all Hillsmere lot owners and residents.