

HIGH TIDINGS

THE OFFICIAL NEWSLETTER OF THE FOREST BEACH ASSOCIATION, INC.

SEPTEMBER 1994

Forest Beach Lawsuit Status

An order by Judge Thomas Kemmerlin, Jr., Special Circuit Judge for Beaufort Common Pleas, was issued on 3 May 1994 dismissing Forest Beach Association's first two Causes of Action against Property Research Holdings, Inc., and Hilton Head Beach Subdivision #2 Assets Holding Corporation. In the Order, Judge Kemmerlin states "What the Plaintiff overlooks is that the Statute of Frauds is not a matter of proof: I can enter into a detailed oral contract for the sale of my home and orally agree to a detailed written contract for the sale of my farm, but yet breach these perfectly valid but unenforceable contracts with impunity and even take the witness stand and admit under oath that I entered the contracts but state, "However, I am not a man of my word and am in fact a grand rascal and scoundrel who chooses to hide behind and use Statute of Frauds as a cover for my fraud and, goody-goody, you can't touch me and in fact, I can't be touched legally, but must be left to Heaven."

Our third Cause of Action has to do with the subdivision of the property (violating Town Laws) and no action is expected from Judge Kemmerlin.

The Fourth Cause of Action, the Declaration of Rights and Covenants is still under consideration. We have furnished to Judge Kemmerlin a list of Forest Beach Association members as of the date of the filing of the lawsuit and another list dated May, 1994. We have informed Judge Kemmerlin we are ready for trial on this Cause. We hope to have this portion of the lawsuit tried and a decision rendered by September.

Director Nominations

The terms of three Board of Directors members expires at the end of this year. They are: Rose Montgomery, President; Bill Lancaster, Treasurer; and David MacLellan, Director.

As noted elsewhere in this edition, Rose Montgomery has declined to stand for reelection to the Board. However, we are fortunate that both Bill Lancaster and David MacLellan have agreed to stand for reelection so we will continue to benefit from their considerable knowledge and experience in the affairs of the Association. Both are long term residents of the Forest Beach area. Lancaster has been in the real estate and short term rental business for many years and has operated another service business. MacLellan has been here for over 20 years and was Chief of the Sea Pines/Forest Beach Fire Department most of the time. When the Town combined the two Island Fire Departments into one entity, MacLellan was named Chief for the Town.

Bonnie Snyder of 4 Nighthawk Street has agreed to stand for election to fill Rose Montgomery's seat. Bonnie has lived in the Forest Beach area for a couple of years. She is part owner and Vice President of Sales for High Cotton, a local and very successful T-Shirt company. Prior to this, she was Director of Marketing and the Rental Division of Sea Pines Company.

Other candidates may be nominated from the floor at the October 1st Annual Membership Meeting. Director candidates must be Forest Beach area property owners or work for a company that is, members of the Association, should be interested in the welfare of all area property owners and should be willing to actively participate in and assume responsibility for the Association's business.

Annual Membership Meeting

10 A.M., SATURDAY, OCTOBER 1ST

Best Western Oceanwalk Suites, South Forest Beach Drive (opposite Adventure Inn)

AGENDA ITEMS WILL INCLUDE:

Election of Directors • Proposed 1995 Budget & Dues • Lawsuit Status
Various Reports • Questions & answers

Please make plans now to attend this important Annual Meeting

Parking in North & South Forest Beach

(At our request, the Coligny Beach Park Town office supplied the following information about parking in the area.)

The Town of Hilton Head Island Facilities Management staff is responsible for patrolling the residential areas of North and South Forest Beach. The purpose of these patrols is to ensure that only residents and their guests are parked in these areas. Random patrols are conducted throughout the day from 8:30 AM to 5:00 PM, with the heaviest patrols being conducted on the weekends and holidays. Residents who wish to report illegally parked cars may contact the office at 785-4730.

After 5:00 PM, complaints about illegally parked cars should be directed to the Beaufort County Sheriff's office. The office number on Hilton Head is 842-2800.

Residents of the area who park their vehicles on the street must have a Residential Parking Permit. This may be obtained from the Facilities Management office at the Coligny Beach Park. Proof of residency, vehicle registration and the vehicle must be present when applying for the permit. The permit cost is five dollars.

When having guests, residents are encouraged to pick up temporary parking permits for their guests if they will have to park on the street. This will allow the enforcement staff to differentiate between invited and uninvited guests. If you are planning a party and will have many guests, please notify the Facilities Management staff of the party date, time and approximate number of vehicles. No temporary passes will be needed in such circumstances.

Please remind all construction and repair companies to have their vehicles remain as far off the streets as possible. Please be patient when they must park on the streets to do the required work.

If you are renting a house in the Forest Beach area, please notify your renter of the parking rules.

The Facilities Management staff wishes to thank you for your cooperation.

Town Beach Ordinance

Despite considerable misinformation and misunderstanding at the time the Town Council was considering amendments to this ordinance, the final changes were modest, rational and have limited impact on the Forest Beach area.

The major change was in the effective dates of the ordinance. These changes were made in recognition of the fact the beaches are popular and heavily used for a longer period during the year than they were when the ordinance was first written. The effective dates now are from April 1st through September 30th. Previously, the dates were from Friday of Memorial Day weekend through Monday following Labor Day.

The limits of the Designated Swimming Areas were modified for the Bradley Beach and Folly Field beach parks. There was no change for the Coligny Circle Park

(the northern boundary of the Breakers to the southern boundary of the Holiday Inn). Alder Lane was set at 100 feet on either side of the beach access boardwalk.

The definition of leash was modified to "mean a chain, rope, strap, or electronic device for leading or holding an animal in check".

The regulations regarding dogs and other animals on the beach were modified and broken into two (2) time segments:

1. Between April 1st through the Thursday before Memorial Day weekend and between the Tuesday after Labor Day weekend through September 30th. During this time animals must be on a leash between 10 AM and 5 PM.

2. Between the Friday before Memorial Day weekend through the Monday of Labor Day weekend. During this time, animals are not permitted on the beach between 10

AM and 5 PM.

All of the former ordinance restrictions remain except the time has been changed to April 1st through September 30th. These include the operation, anchoring or launching of motorized craft, sand-sailing and kite flying for all of the beaches. Other restrictions, which apply only to the Designated Swimming areas remain the same such as fishing or surf casting, the use of surfboards or similar articles for surfing or surfriding. Frisbees and/or other team sports involving a ball and recreational games with metal components such as horseshoes.

If you have any questions about the restrictions that apply in the Forest Beach area, we suggest you call the Town Facilities Management staff at Coligny Beach Park, 785-4730.

New Office

For the convenience of members and greater visibility of the Association, on June 1st the office was moved from the second floor location in Heritage Plaza to the ground floor in Heritage Plaza alongside of The Swiss Cookery restaurant.

The new office is bright, cheerful, and is readily accessible without the necessity of climbing stairs. The space we occupy is shared with the Greater Island Committee to reduce the costs for both organizations. Because the space is larger than either group needs, we

are trying to rent the approximately 400 square feet of extra space so the total cost for office space for each organization will be about the same as it was for the previous second floor location.

If you know of anyone who may be interested in this office space at a very reasonable rental rate, please have them call Dick Dey or Jeff Nation at the office, 785-5565.

When you are in the Heritage Plaza area, stop in and see our new office.

By-Laws Revision

In order to provide continuity of administration and to have the benefit of the knowledge and experience of the immediate past chief executive, most associations like ours provide that the retiring chief executive remain on the Board of Directors throughout the term of his/her immediate successor.

The Board of Directors recommends a revision be made in the Association's By-Laws to provide for the Immediate Past President to be a member of the Board of Directors throughout the term of the succeeding President. The membership will be asked to approve this change at the October 1st Annual Membership Meeting. Because of the heavy workload at Vacation Time of Hilton Head Island, Rose Montgomery, President for the past two years, has declined to be nominated for another term on the Board. However, she has consented to serve in an advisory capacity if this revision of the By-Laws is approved by the membership.

As President, Rose has given most generously of her time, effort, persistence and strong managerial experience to bolster the affairs of the Association. Among her many accomplishments are: Having the baseline adjustment for North Forest Beach agreed to by the SC Coastal Council; putting the Association's records on the computer; attempting to resolve the purchase of the beach accesses, strand blocks and roads from Property Research Holdings; hiring an Office Manager; consistent covenants enforcement; increasing the number of members; moving the office to a more convenient location.

Much as she will be missed as President, we are grateful and appreciative for her two years of strong leadership and wish Rose the best of everything in her professional and personal life.

Covenants Enforcement

An interesting case is making its way through the courts about a North Forest Beach oceanfront property. The owner, a long time resident, has undertaken a large remodeling project without obtaining the necessary approvals of the SC Coastal Council, the Town or our ARB. On June 1, the Association filed for a Preliminary Injunction for failing to submit plans for architectural review. The Town and the SC Coastal Council have obtained an injunction against the property owner forbidding further work on the property until the judge makes his ruling on the case. The property owner continued the work in defiance of the court. This caused the Town to have the power turned off but the individual obtained an electric generator so power tools could continue to be used.

Obviously, this is a person who does not care about rules and regulations and insists on doing things their own way whether anyone else likes it or not. Such a person is to be admired for their individuality, independence, ingenuity, etc. Not so admirable is their stubbornness, lack of consideration for anyone else, unwillingness to abide by the rules and regulations set up for the common good and the feeling he/she can do anything they please. Thank goodness, it's not my neighbor!

Funds Plea

Three years ago, the Association petitioned the SC Coastal Council to move the baseline out to the rock revetment. The request was denied but we appealed and after several hearings, the Coastal Council agreed to move the baseline October 1, 1994.

The position of the original baseline had a serious adverse effect on the property values of not only oceanfront properties but, also, non-oceanfront properties. Determining the property value for a non-ocean front lot includes taking into account the value of oceanfront property and its distance from the ocean in addition to the other standard criteria used to determine the value of a specific property. Thus, moving the baseline out to the rock revetment definitely enhances the value of all properties in North Forest Beach.

In addition to substantially increasing the value of property that formerly was within the baseline (all you need to do is check the sales price of properties in 1992 and early 1993 against current prices for comparable properties to see how much they have escalated), some of the other benefits include:

Flood Insurance: Properties formerly within the baseline may have been ineligible for flood insurance payments or continued coverage but can now obtain such coverage.

Rebuilding: Buildings within the baseline that are destroyed or damaged by fire, storms, etc. can only be repaired if they meet certain criteria. Now these could be restored.

Additions, Other Improvements: What could be done to improve a structure within the baseline was very limited and required extensive governmental reviews and approvals. Now these special restrictions are removed.

Mortgages: If a property or a building is within the baseline, it can be difficult to obtain a mortgage at all much less at a favorable rate. Now the options are far greater for obtaining a mortgage on such property and receiving a favorable rate of interest.

We believe these are good examples of the value to individual property owners of the favorable ruling we were able to obtain from the SC Coastal Council. We think we are quite justified to ask the beneficiaries of these important financial gains to make the modest contributions we suggest to reimburse the Association for its out-of-pocket expenses to accomplish this favorable ruling.

We spent \$15,000. in hard costs and expert witness fees. The net result is that our treasury is bare. Thus, we respectfully request that those who have not done so make a special contribution to reimburse our expenses. As of July 15, 1994 we had received only \$6,200. from 25 property owners.

We suggest the modest amounts of \$500.00 for beachfront and oceanside of Dune Lane property owner, \$250. for properties between Dune Lane and North Forest Beach Drive and \$100. for properties west of North Forest Beach Drive.

Should you have any questions, please call Jeff Nation at our Association office 785-5565.

Office Manager

Office manager, Jeff Nation, has been with us now about six (6) months handling the numerous tasks outlined in our March of 1994 newsletter. The everyday administrative tasks of running our busy office include handling general correspondence, answering questions and problems that are brought to him by property owners.

Recently, he has been working with the commercial properties in the area explaining how the Association watches out for their best interests also. This is an important project that the Association simply didn't have time to undertake previously.

He has also been working closely with the Architectural Review Board, which includes sitting-in on their monthly meetings, understanding what work is to be done, delivering the permit(s) and then conducting periodic site checks to make sure the approved plans are being followed. As part of his ARB responsibilities, he patrols the neighborhood and on several occasions has discovered unapproved renovations actively underway with no permits on site.

Town Noise Ordinance

At its July 19th meeting, the Town Council unanimously approved a long and hotly debated noise control ordinance. The proposed construction of an outdoors live, entertainment center at Indigo Run Plantation for concerts and other musical programs, since abandoned, created a demand that the Town impose noise controls.

After many months of intense and emotional debate, a compromise was crafted by a Town Council committee that gained the support of proponents and opponents alike.

The ordinance establishes different noise level standards for residential and commercial areas including those that are applicable during the day and nights (10 PM to 7 AM). It also makes exceptions for the traditional outdoor entertainment at Harbour Town and Shelter Cove and for noise levels for aircraft approaching or leaving Hilton Head Airport.

Questions regarding this ordinance should be referred to Town Code Enforcement Officer Barbara Barrett at 842-8900.

Fall Beach Clean-Up

Mark your calendar for Saturday, September 17th from 9 AM to noon to assist in the Fall clean-up of the beach from the Crystal Sands Resort to the border of Lawton Beach and Sea Pines.

We are lining up help from the Boy Scouts, Girl Scouts and the Boys and Girls Club but they need assistance and supervision from some of the residents of the area.

We will meet at the Coligny Beach Park at 9 AM to get our beach assignments. Because the Beach Patrol does a good job of keeping the beach area around the high water mark cleaned, most of the debris to be picked up is found in the dunes. Throughout the dunes there are a lot of sand spurs which can hurt when you step on them or brush along your legs. Thus, it is strongly suggested that you wear shoes that cover the foot and a pair of light pants to protect yourself.

Director Appointments

Shortly after her election as a Director, Julie Fine, '95, who had been General Manager of the Shelter Cove Mall, accepted a new position as the manager of a larger mall in the Tampa area.

As her replacement, the Board elected Aime Baima, '95. Baima is the owner of the popular Coligny Bakery in Coligny Plaza.

Robert Miller, '95 who was Vice President, Development for Marriott Ownership Resorts, found it necessary to resign due to his heavy travel assignments. Replacing him, the Board elected Scott Schrieber, '95 Resort Manager of Marriott's Grande Ocean Resort.

Recently, Julie Mariotte, '96 found her business commitments prevent her from actively participating in the affairs of the Association and she resigned.

To replace her, the Board appointed John Snodgrass, '96 of 2 Sandpiper. He is employed by Coastal Plains Insurance Company in the Shelter Cove Executive Park. He previously lived in Hilton Head Plantation.

Beaches Doing Well

In June, the Town's Shore & Beach Preservation Commission received good news from the Town's engineering consultant. He reported more than 75% of the sand put on the beach during the 1990 renourishment project is still where it was expected to be after this amount of time.

Before the renourishment took place, consultant Erik Olsen predicted an annual loss of 164,000 cubic yards of sand due to normal erosion. To date, the annual loss is running about 148,000 cubic yards or roughly 9% less than expected. Of course, a couple of severe storms could quickly offset the good results to date. If these favorable rates should continue, it might delay the tentatively scheduled 1997 renourishment project for one (1) or two (2) years.

The average dry beach at high tide is about 46 feet wide. The report noted that the erosional "hot spots" at the Hyatt and North Forest Beach have dry sand beaches that continue to be better than they were before renourishment.

Quality Suites Project

The long stalled Quality Suites Inn project on Pope Avenue near Coligny Circle cleared a major hurdle when the Town Planning Commission granted approval of a traffic impact study that is required before application can be made for a building permit. This study satisfied the Commission that the traffic generated by the proposed 125 room inn would be within the Town's traffic goals.

Construction of this property first began in 1990 but was abandoned when financing for the project fell through. The concrete foundation slab on the roughly five (5) acre site has been an eyesore for the entire area. It has been one of the examples used to try to convince planners of the need to have some type of regulation which would prevent a neighborhood and the Town from enduring the blight of a failed project. For ex-

ample, perhaps a large deposit before a project began which would be forfeited if the project failed and provide the Town with the necessary funds to remove the eyesore.

With the Planning Commissions approval, the developer is now expected to draw up a detailed site and building plan. These are expected to be similar to the original plans which called for 125 rooms, a swimming pool, spa, four (4) meeting rooms and a small restaurant.

The original developer was Motels of America. Peppertree Resorts Ltd., of Asheville, NC have an option to buy the property subject to their being able to obtain a building permit. It is estimated if permits are issued this year, construction can start early next year with completion sometime around 1996 or early 1997.

Beach Franchises

In June, there were two (2) applications to the Town for the granting of franchises to operate businesses on the public beach. An application for a broad range of named and unnamed activities in the South Beach area of Sea Pines was withdrawn after vocal opposition from many property owners in that area.

These applications appeared to us to be only one more step in an attempt to broaden the commercialization of the beaches. After careful consideration, the Board of Directors wrote the Town Council

recommending that further commercialization of the beaches be prevented so they will continue to remain the Town's single, greatest asset. In that letter, the Board suggested the following:

"We strongly believe it is the responsibility of the Town to maintain the beach as its single, greatest asset. To us, this means doing everything possible to prevent it from becoming commercialized and over-crowded. We feel, the Town's objective should be to keep the beaches clean, renourished as

needed, safe, family oriented and attractive."

The application to allow small boats to transfer customers from the beach in front of Crystal Sands and Hilton Resorts to waiting speed boats for parasailing was rejected by the Town Council at its July 5th meeting. We appreciate the efforts of Councilman Tom Peebles, who lives in South Forest Beach, and Jim Carlin, who lives in Shipyard Plantation, for their leadership in defeating this franchise application.

Office Computer

The Association recently bought and installed a 270 megabyte IBM Compatible Personal Computer System and laser printer to handle the daily office operations. The system holds all the records of residential and commercial properties ownership plus it is used for all the correspondence that is mailed out.

The computer and laser printer will greatly enhance the accuracy and presentation of our membership files and financial statements. Our office manager, Jeff Na-

tion, is the primary user of the system and is very pleased with its performance.

The installation of this system has allowed us to relieve Bill Lancaster of the responsibility of maintaining all of our membership records which he has done voluntarily for the past ten (10) years. We are grateful to Bill for all of the hours and help he has contributed to the Association over the years.

Office Wish List

While our office is adequately furnished to get our job done effectively, there are some "nicities" we would use to advantage if anyone has a surplus of these items:

Vacuum cleaner • 4 drawer, legal size file cabinet • Table lamps • Window curtains or blinds • Polaroid Camera
If you have any of these items or others you would like to donate to the Association, please call Dick or Jeff at 785-5565 — we will be most appreciative of your help.

FBA Board of Directors

OFFICERS & DIRECTORS

Rose Montgomery, '94	President
Pamela Ovens, '96	Vice President
Bill Lancaster, '94	Treasurer
Rich Hughes, '96	Secretary
Aime Baima, '95	Director
Alan Jackson, '95	Director
David MacLellan, '94	Director
Scott Schrieber, '95	Director
John Snodgrass, '96	Director

ADVISORS

Dick Dey	Executive Director
Andy Klepchick	Advisor
Jeff Nation	Office Manager
David Witt	Advisor & ARB Representative
Karen Dill	ARB Administrator

If you wish to contact one of the Officers, please call Dick Dey or Jeff Nation at the office (785-5565) and they will ask the appropriate one to call you. If they are not in when you call, please leave a message on the answering machine. Please speak slowly, spell your name and address and give your phone number.

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