

A condo owner asked the county for flooding help. Her HOA sued

by [Maddy Lauria](#) March 12, 2026



Water flows to the edge of the Mallard Lakes community following a storm in October 2025. | PHOTO COURTESY OF SIMONE REBA

Why Should Delaware Care?

With the lowest average elevation in the country, Delaware is in line to be among the most impacted states by sea-level rise. Coastal communities are at the forefront of those flood risks, and homeowners there will be faced with increasing questions of how much flood resiliency is needed.

Simone Reba said she was worried about the future of her southern Delaware vacation home when she began seeking solutions to the increasing risks posed by coastal storms and floods.

She didn't expect her curiosity would get her sued.

Make sense of the decisions shaping Delaware.

Know what's happening today, so you know what to do tomorrow. Get our free newsletter delivered right to your inbox – six days a week.

The nine-member condominium association board that manages her Mallard Lakes community filed a lawsuit last fall against Reba, seeking an injunction that would gag her from asking public officials for funding or other support for flood repairs or resiliency measures for the coastal development.

The Mallard Lake Community Association claims Reba was speaking on behalf of the board-governed group at county meetings, in emails with government officials, and on her personal website.

And they say she has no right to act as a formal representative of the community or of the board, which is responsible for the community's shared resources including its roadways, stormwater infrastructure, and most of the buildings' exteriors.

Reba's attorney wrote in recent court filings that anything she might have said "falls within the scope of core political speech."

"This lawsuit is nothing more than an attempt to limit Reba's public participation in the political process and stifle her First Amendment rights," the attorney, Daniel McAllister, wrote.

The dispute highlights growing tensions in Delaware's low-lying coastal communities as residents grapple with worsening flood risks tied to sea-level rise and coastal erosion. It also sets up an early test of a new state law designed to protect people from lawsuits that they claim are meant to silence public speech.



Simone Reba | PHOTO COURTESY OF SIMONE REBA

Reba's quest for solutions to her condo's flood risks – which are expected to increase as [climate change](#) exacerbates sea-level rise along the East Coast – is now just one thing causing her stress.

With the lawsuit and the association's messaging to neighbors, Reba says her reputation has also been damaged. The Virginia resident and retired federal government employee said that even if a judge dismissed the case, she worries "it'll be difficult to live that type of life I wanted."

“We bought it as a vacation home, and it’s supposed to be fun,” she said. “It’s supposed to be relaxing.”

While Reba doesn’t make a reputational counter-claim in the court case, the condo association argues that its reputation has been damaged by what they called Reba’s “continued misconduct.”

The association claims Reba’s efforts “eroded much of the groundwork” it had previously made with elected officials.

But Reba notes that the association also stated in court documents that it has found “no readily available, financially feasible solutions to address tidal water flow into the community.”

“They’re basically saying, ‘We’re done,’” Reba said. “What harm did I do if they’re not even trying to get government funding?”

Association leaders particularly [point to a website Reba created](#) to house her research into flood risks and potential solutions for the community that sits just west of Fenwick Island.

They claim “misinformation” from the website could potentially drive down property values, alleging in their lawsuit that at least one local real estate agent was led to believe the condominium buildings need to be raised “at considerable cost” to avoid future flood problems.

The debate over raising the buildings — and who should bear that cost — has pitted Mallard Lakes residents against the board before. It first became a point of contention over a decade ago, after Hurricane Sandy damaged several buildings in the neighborhood and left residents arguing in court over who was responsible for the fixes.

In its October lawsuit, the condominium association, which operates like an HOA, also demanded that Reba add additional disclaimers to her website noting that it is not endorsed by the association. As of Tuesday, the website does include such disclaimers.

Are public comments protected?

Reba insists that her website is fact-based. And she claims in court documents that the lawsuit amounts to an attempt to silence her.

But Mallard Lakes' case also relies heavily on public comments Reba made during one Sussex County Council meeting in July 2025. During the meeting, she identified herself as an individual condo owner and asked the elected officials to consider setting aside \$500,000 in funding for a watershed-wide engineering study or a smaller feasibility study to identify solutions to future flooding.

Her lawyer has argued that Reba has "every right to speak at public meetings" and to ask public officials to help the community pay for flood mitigation.

"This is true even if Reba has no authority to speak on behalf of the Association, or if the expenditure of any requested money on Mallard Lakes common areas would require ultimate approval from the Association," Reba's attorney said.

Leaning on a law passed last year to further protect free speech in the First State, Reba's attorney is asking the court to dismiss the case entirely and also award Reba punitive damages for a suit they believe should have never been brought in the first place.

Last year's amendments to the [Uniform Public Expression Protection Act](#) aim to shield individuals from being sued for speaking publicly – particularly during public meetings or to elected officials.

[Mallard Lake v. Reba Complaint Redline to Amended Complaint 4921-7040-8836 v.1](#) **Download**

Living that 'salt life'

Mallard Lakes is no stranger to water.

Water regularly flows under some of its buildings, including the 11-unit dwelling that houses the condo Reba and her husband, Jeff, bought in September 2023 for \$337,000. They had dreamed of owning beachfront property, and bought the unit sight-unseen, after falling in love with the community during previous trips there with friends.

Mallard Lakes officials acknowledge that water flows under its buildings, but the community association's board vice president, Chris Reutershan, said structures in the 61-acre community haven't suffered any significant flooding damage since Superstorm Sandy in 2012.

Reba argues that her building's 3-foot pilings mean water sometimes comes right to the first floor.

"We were told by the owner, no, there's no water issues," Reba said.

But when she witnessed the water flowing beneath the porch, Reba was surprised to hear there was nothing to be done about it. That's when she started doing some research on her own.

Mallard Lakes was essentially designed to welcome the tides – the community is nestled into Delaware’s southernmost coast with Assawoman Bay to the south, canals and Little Assawoman Bay to the north, and several smaller ponds scattered throughout the community. A handful of the buildings were constructed on raised pilings.

According to [publicly accessible flood mapping tools](#) provided by the Delaware Department of Natural Resources and Environmental Control, which rely on mapping data that is over a decade old, much of Mallard Lakes lies less than 10 feet above sea level. Its proximity to the coast makes it even more vulnerable during tropical storm or winter nor’easter conditions.

The community includes 47 buildings with 477 condominium units and is mostly in a floodplain surrounded by natural and manmade waterways. Located just north of Route 54, construction was focused in two phases between 1986 and 1992.

Since that time, sea level as measured in Lewes has risen about 7.25 inches, said Delaware State Climatologist Kevin Brinson.

Based on current trends, which show that sea level rise is accelerating, the area is expected to see that same amount of sea level rise in a shorter timeframe, Brinson said.

“In other words, another 7.25 inches by 2040,” Brinson said.

Those estimates do not account for impacts from erosion on shorelines near the community, or a replaced drainpipe under Route 54 that the HOA in court documents said reportedly has allowed for larger volumes of water to flow between one of the ponds and Assaswoman Bay, increasing water levels in and around Mallard Lakes by adding an estimated 6-8 inches of tidal change.

"I think of Mallard Lakes as one of the area's canaries in the coal mine, kind of signaling the past ills of poor development choices coupled with and coming up against the flood risks that are so inherent in that area and that are only going to be getting worse," said Danielle Swallow, coastal hazards specialist with Delaware Sea Grant, who is familiar with this unincorporated area of Sussex County.

Todd Fritchman, of Envirotech, an environmental consulting firm in southern Delaware, said he was not even sure how Mallard Lakes was permitted to be built in the first place.

"They're clearly in the wetlands," Fritchman said, recalling a walk-through assessment of the property years ago. "Any corrective actions that would be done would be Band-aids...relative to the entire situation."

From the coast to the courtroom

This also is not the first time the association has been pitted against displeased residents in court over water-related drama.

In the wake of Superstorm Sandy, water damaged about two dozen units in four buildings. Delaware was spared a direct hit from the 2012 storm, but it still grazed the coast with destructive wind and waves that caused more than \$9 million in damages in Delaware, [according to the National Weather Service](#).

Several years after the storm, a handful of residents sued the condominium association and others after being told they would each have to pay tens of thousands to address an alleged lack of repairs that [rendered some units legally uninhabitable](#).

In that 2016 Chancery Court case, former Vice Chancellor Sam Glasscock III denied the association's attempts to gag individual condo owners from speaking out about the litigation and storm damage.

At the heart of that legal dispute were discussions about the need to elevate some of the buildings – at the time, to the tune of about \$400,000 each. That solution, like all other previous attempts to address rising tides, proved too complex and too costly.

"Eventually, all litigation from Superstorm Sandy was settled and all units repaired," lawyers representing the association wrote in court documents in Reba's case.

Documents provided by Reutershan, the association board's vice president, note that the post-Sandy litigation, not the damages from Sandy itself, were what negatively impacted the community's property values at the time.

"Once the suit was settled, the property values have risen to values equivalent to similar properties located along the Delaware Coastline (adjusted for age, quality and location)," a printed out presentation from the board reads. "For most of the last three years, few units have remained on the market much longer than a month or so and [Mallard Lakes] sales continue to reach record highs."

Now the question of whether to raise the buildings is being raised again.

On Saturday, Mallard Lakes residents will be asked to vote on whether they want to raise their buildings for further flood protection, explore the possibility of a tidal flood gate on the Route 54 drainage pipe. And, if so, if they'd be willing to privately foot the bill for those efforts.

Reutershan said the price tag to elevate buildings would run \$75,000 to \$112,000 per unit owner this time around.

"It will be tabulated right then and there, so we will know what the answer is," he said.

Meanwhile, Reba's pending motion to dismiss the association's case against her will be heard this April. But by that time, she may no longer even own the Mallard Lakes condo.

Reba said she and her husband listed their vacation home for sale this spring.

"It breaks my heart," she said. "But in my former life, I was also a risk manager. Every time we see the next big nor'easter coming that way, we get nervous."