

A few years ago a Complaint was filed by a member of Suissevale and the resulting stipulation gave the plaintiffs the rights to certain documents, including the "certified election." The stipulation is specific to the years to which the plaintiffs had access. In other words, plaintiffs were granted specific documents for specific years as opposed to the right to see those documents for other years. The Complaint stated that the plaintiffs wanted to see the documents as a way to assure their rights and responsibilities as owners and they were granted access to the specific years requested.

However, the Petition I filed was asking the Court to grant access to the checklist as a policy, thus eliminating the necessity to return to court year after year and sue for the right to see the certified election, realizing that an election cannot be certified without the checklist. I had hoped that, if a right to ensuing certified elections could be established, it would eliminate questions and misunderstandings in the future. However, the Court, as is clear in the judge's initial ruling, will not interfere in the workings of an association by setting policies that will move forward. Therefore, in order for the list to be accessible, either the Board has to change its current policy, which is not written down anywhere, or members will have to file complaints each year.

I used NH Election law in the petition as I felt - and still do - that it offers the best explanation as to the importance of the checklist. The quotes from the state manual refer to error or fraud and although I never accused the board of fraud I am aware, having helped assembling election packets prior to serving on the board, that errors could happen. Properties change hands, owners die, people own lots that are not merged and therefore have more than one vote, members of trusts change, etc. Access to the checklist merely assures all members that no errors have occurred and that the mathematical limits of the vote count can be certified. All members have the right to know that their votes have been counted and that errors have not been made elsewhere.

At the initial hearing, the prior case was not discussed and that was a serious error on my part. At the conclusion of that hearing, the judge ruled that I should be included on the ballot but that the Court would not set policy, thus leaving us in a position to file complaints annually to have access to the checklist. At that point the Board filed for reconsideration asking her to allow them to remove me from the ballot. Two days later I filed hoping that she would consider the prior court case that had not been discussed in the initial hearing.

During the hearing on reconsideration, when I explained the parameters of our voting, the judge was very sympathetic but could not consider an argument that had not been presented at the initial hearing. Regardless, the Court will not set policy so the Petition was denied. The Court also denied Suissevale's motion to remove my name from the ballot.

The term lawsuit according to Oxford Dictionary, is “a claim or dispute brought to a court of law for adjudication.” The term is generic. The Petition asked for a declaration of policy and the court will not rule on policy. Filing a Complaint would have given the right to the specific year, but necessitate a return to Court and filing Complaints year after year to gain access to the certified election. Ironically, had I filed a Complaint rather than a simple Petition, the results would most probably have been different.