

NOTICE TO ALL PROPERTY OWNERS

Lake Parsippany

As many of you know, Lake Parsippany is a common-interest community. When properties in the original filed map area for Lake Parsippany are purchased, each owner receives the exclusive rights to their individual lot and home, but also receives certain rights for the use of the common properties, including the lake, and other recreational lots, subject to certain covenants and restrictions. Lake Parsippany Property Owners Association (“LPPOA”) holds title to the common properties for the benefit of the individual property owners. Lake Parsippany is a “traditional homeowners’ association” community where the dues and assessments levied against each individual owner represent a pro-rating of the expense of maintaining the lake and common properties, as well as the expense of fulfilling other purposes and objectives of LPPOA, which in turn enhances the value of each privately-owned property. For many years, membership in LPPOA has been considered voluntary, and the burden of maintaining the lake and community properties fall on a relatively small percentage of the property owners in the community.

Over the past year, LPPOA’s Board of Trustees has reviewed the community’s history, property deeds and New Jersey case law to determine options for a more equitable way for the community meet its obligations, and has determined that there is ample legal support to seek payment from all property owners, not just those who choose to be members of LPPOA. The following is a brief summary of these findings.

History:

Lake Parsippany was developed by the Mirror Holding Corporation in the 1930’s through a series of maps laying out the lots, which were filed with Town Clerk in Parsippany-Troy Hills. Lots were made available for purchase to subscribers of the Daily Mirror newspaper. The lake, dam, beach and recreation areas were transferred to the property owners’ association, LPPOA, which holds title to the property for the benefit of all property owners. The By-Laws of LPPOA specifically states that LPPOA is responsible for the general management and control of the properties. LPPOA is further responsible to keep, maintain and improve these properties for the benefit, use and enjoyment of the property owners. LPPOA depends on the payment of dues by its members for the support of the common properties.

The development of case law over the last several years by the New Jersey courts has recognized that property owners in a common interest community where membership in an association is not required may nevertheless be charged with the responsibility for the maintenance of the common property. In Island Improvement Association of Upper Greenwood Lake v. Ford, 155 N.J. Super 571 (App. Div. 1978), the Court held that individual property owners of the residential properties who were granted an easement to use the roads were obligated to contribute to the repair and maintenance of those roads, holding that “with the benefit ought to come the burden.” In Lake Lookover Property Owners Association v. Olson, 348 N.J. Super 53 (App. Div. 2002), the Court held that all property owners, not just those who are members of the association, were obligated to contribute to pay for the cost of rehabilitation of the Lake Lookover dam. In a recent unreported decision in Unfair Share Lake Arrowhead 2010 v. Lake Arrowhead Club, Docket No. MRS C-43-11, decided October 28, 2013, the Court found that Lake Arrowhead could impose an assessment on all property owners for maintenance of the easement over the lake and common properties in Lake Arrowhead, even though this had never been done in the past. In Visconti v. Lake Wallkill Community Association, Docket No. SSX-C-23-14, decided March 29, 2016, the Court upheld the Resolution to impose mandatory membership on all property owners, stating that lake communities must be self-sustaining, and that the Board has a fiduciary obligation to maintain the community. The Court held it is within the Board’s discretion to establish a fee for non-members to make certain sufficient funds were raised to maintain the community.

LPPOA researched the chain of title for several properties in various locations in the Lake Parsippany tract, and found in each case that the transfer included an easement: "together with the right to use, in common with others, the waters of Lake Parsippany for bathing, boating and fishing." The easement rights were further confirmed in a deed from Mirror Holding Corp. to Lake Parsippany Property Owners Association, dated June 7, 1935, where the developer transferred all

common property, including the Clubhouse, Mirror Pond, a conduit from Mirror Pond to Lake Parsippany, Lake Parsippany, the dam, dyke, streets, and lands designated as “park” on various maps. There are several significant covenants included in this transfer: a promise on the part of LPPOA to pay all taxes on the property; a covenant that LPPOA will “at all times properly keep and maintain the said Clubhouse for the benefit and use of the members of said Association as a Clubhouse or social centre or for general recreation purposes;” and a covenant that “the said Lake Parsippany shall be held for the benefit of the property owners at Lake Parsippany for boating, bathing and fishing, subject to the rights of the adjoining owners, to use the said waters for like purposes.” As a result, since all property owners had easement rights to the LPPOA-owned property, under the statutes and case law, all property owners could be assessed a fee in order to maintain those properties.

Actions of LPPOA:

The Board of Trustees of LPPOA conducted a full investigation of its options, and determined that it is in the best interests of the community that all property owners pay an assessment which represents equitable pro-rata sharing of the common expenses of the lake and recreational facilities. The benefit of maintaining the lake and recreational facilities accrues to all property owners within the original purchase tract of Lake Parsippany. Limited access to the lake and facilities will be available to all property owners; full membership is available at an additional cost to property owners who want full privileges to the community facilities.

On October 19, 2016, at a Special Meeting of the Membership of LPPOA a Resolution was adopted for an assessment on all property owners that represents equitable pro-rata sharing of the maintenance expenses of the lake and common properties . All property owners are being notified of the proposed changes, which will be implemented in the annual assessments beginning in 2017; a collection policy will be established for property owners who refuse to pay the assessment.

We invite you to participate in informational meetings, which will be held at:

Lake Parsippany School
Kingston Rd, Parsippany, NJ 07054
January 10, 2017
7:30pm-9:30pm

Lake Parsippany School
Kingston Rd, Parsippany, NJ 07054
January 13, 2017
7:30pm-9:30pm