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March 31, 2011

**VIA E-MAIL AND FIRST CLASS MAIL**

BIMC members  
Blakely Island, Washington

Re: *Roats v. Blakely Island Maintenance Commission*  
San Juan County Superior Court, Case No. 09-02-05067-9  
Lawsuit Update  
Our File No.: 113529/171333

Dear BIMC members:

I am writing to update the BIMC membership on the lawsuit filed by Gary and Pamela Roats against the Blakely Island Maintenance Commission (the "BIMC"). In short, the Court has dismissed 4 ½ of 5 of the Roatses' claims and, on the ½ claim which was not dismissed outright, the Court concluded that the Roatses were not entitled to any further relief or award. With all of the claims now decided, Judge Eaton designated the BIMC as the prevailing party in the lawsuit, entitling the BIMC to an award of its attorney fees and costs. In the coming weeks, the Court will order the Roatses to pay the BIMC, in an amount yet to be determined, a portion of the attorney fees and costs that the BIMC has incurred in defending against the Roatses' lawsuit.

The Roatses have appealed the trial court's decisions and the BIMC has cross-appealed. An appeal is likely to be considered by the Court of Appeals towards the end of summer or early in the fall. A more detailed summary of the lawsuit is below.

***Gary and Pamela Roats v. BIMC***

In May 2009, the Roatses filed their lawsuit against the BIMC and its Board of Governors at the time, including Ellen Roth, Anne Malmo, Jim Fergus, Dick Demers, Scott Burkhardt, Deborah Davey, and Gail Light. The Roatses' lawsuit made five claims against the BIMC, to include: (i) the Blakely Island Covenants (the "BIC's") were unlawfully enacted and therefore invalid; (ii) the BIMC acted beyond its authority in creating the BCF and entering into a lease with the marina; (iii) the BIMC did not have the right to pursue a lien for the Roatses' unpaid assessment; (iv) the Board of Governors breached the duty of care that it owed to the BIMC; and (v) that the Board of Governors conducted some of its meetings improperly by

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holding them telephonically (instead of in-person) and by not providing notice to the membership for some meetings.

Through a series of summary judgment motions, Judge Linde and Judge Eaton of San Juan County Superior Court dismissed 4 ½ out of 5 of the Roatses' claims, to include: (i) Judge Linde concluded that the BIC's are a valid set of covenants; (ii) Judge Eaton concluded the BIMC acted within its authority with regard to the BCF and the marina; (iii) the Roatses voluntarily dismissed their claim that the BIMC could not pursue a lien for the Roatses' unpaid assessment; (iv) the Roatses voluntarily dismissed their claim that the Board breached its duty of care; and (v) Judge Eaton concluded that the Board can conduct telephonic Board meetings (i.e., by conference call).

The only claim that the Court did not find in the BIMC's favor was with regard to notice of some earlier Board meetings. Judge Eaton concluded that the BIMC did not provide proper notice for 18 Board of Governors' meetings between April 2006 and May 2009. Nevertheless, the Court also concluded that all of the Board's decisions during those meetings remain valid and that the Roatses are not entitled to any further relief or award related to this claim.

Judge Eaton has further decided that the BIMC is the prevailing party in the lawsuit and entitled to recover its attorney fees. As of the date of this letter, the amount of fees to be awarded to the BIMC has yet to be decided. The Court will soon determine just how much the Roatses must pay to the BIMC to compensate them for the attorney fees and costs that the BIMC has incurred in defending against this lawsuit.

With all of the claims having been resolved, the Roatses have decided to appeal Judge Linde and Judge Eaton's decisions to the Washington Court of Appeals. The Roatses' appeal is all-inclusive in that they have asked for review of the Court's final judgment, to include all the orders or rulings throughout the lawsuit. In order to keep its options open during an appeal, the BIMC filed a cross appeal in response.

Please contact Sally Elliman should you have any questions regarding the lawsuit or the appeal.

Sincerely,

SCHWABE, WILLIAMSON & WYATT, P.C.



Lawrence A. Costich



Milton A. Reimers

LAC:mre  
cc: Sally Elliman

