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September 27, 2010

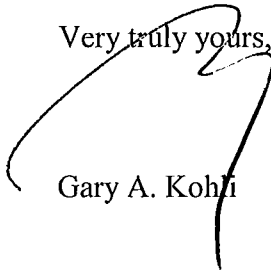
Richard R. Gillum, Esq.
James C. Barney, Esq.
Kocher & Gillum
Attorneys at Law
101½ Madison Street
Port Clinton, OH 43452

Re: *Cianciola et al v. JIPOA*
OCCPC No. 10-CV-232H

Dear Rich & Jim:

Enclosed please find copies of a Motion to Intervene and a Memorandum which are being filed in the above-captioned matter.

Very truly yours,


Gary A. Kohli

jmb

Enc.

Cc: Jeffrey G. Rupert (w/enc)
D. Jeffrey Rengel (w/enc)
George Wilber (w/enc)
client (w/enc)

IN THE COURT OF COMMON PLEAS OF OTTAWA COUNTY, OHIO

ELIZABETH J. CIANCIOLA, ET AL.,

Plaintiffs,

and

FRED BODE, ET AL.,

Intervenor Plaintiffs,

v.

JOHNSON'S ISLAND PROPERTY OWNERS ASSOCIATION,
an Ohio not-for-profit corporation,

Defendants.

Case No. 10-CV-232H

Judge Bruce Winters

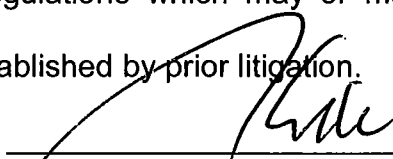
MOTION TO INTERVENE

Gary A. Kohli (0021896)
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Attorneys for

Now come Sigmund W. Nachman and Janet M. Nachman, owners of lot numbers 98, 99, 100, 315, 316, 317, 318, and 319, Bay Haven Estates Subdivision of Johnson's Island; Ellen L. Nachman also known as Ellen Louise Nachman also known as Ellen Nachman, owner of lot numbers 93, 94, 95, 323, 324, 325, 326, and 327, Bay Haven Estates Subdivision of Johnson's Island; John E. Lehlbach and Holly F. Lehlbach, owners of lot number 189, Bay Haven Estates Subdivision of Johnson's Island; Bert R. Tomon and Virginia A. Toman, owners of lot number 198, Bay Haven Estates Subdivision of Johnson's Island; Karen Metzker, owner of lot number 97, Bay Haven Estates Subdivision of Johnson's Island; Kevin Kirkpatrick, owner of lot numbers 321 and 322, Bay Haven Estates Subdivision of Johnson's Island; William A. Kirkpatrick, Jr. and Michelle Kirkpatrick, owners of lot number 320, Bay Haven Estates Subdivision of Johnson's Island; and David

Nachman and Deborah Nachman, owners of lot number 96, Bay Haven Estates Subdivision of Johnson's Island and move to intervene as plaintiffs in this action in order to assert their rights on grounds that they have interests in real estate sought to be affected by this action. This action may impair or impede their ability to protect their interests which are not adequately represented by existing parties.

Johnson's Island Property Owners Association has taken the position with the movants that they are bound by the new regulations which may or may not be in contradiction with the rights of the movants established by prior litigation.



Gary A. Kohli
Kohli & Christie
Attorneys for Intervenor Plaintiffs Nachman,
Nachman, Lehlbach, Tomon, Metzker,
Kirkpatrick, Kirkpatrick and Nachman

CERTIFICATION

I hereby certify that a copy of the foregoing Motion to Intervene was sent by first class mail, postage prepaid, to

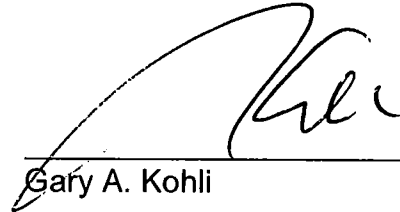
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D. Jeffrey Rengel
Rengel Law Office
421 Jackson Street
Sandusky, OH 44870

George Wilber
Wilber & Wilber
211 E. Second Street
Port Clinton, OH 43452

this 17th day of September, 2010.



Gary A. Kohli

IN THE COURT OF COMMON PLEAS OF OTTAWA COUNTY, OHIO

ELIZABETH J. CIANCIOLA, ET AL.,

Plaintiffs,

and

FRED BODE, ET AL.,

Intervenor Plaintiffs,

v.

JOHNSON'S ISLAND PROPERTY OWNERS ASSOCIATION,
an Ohio not-for-profit corporation,

Defendants.

Case No. 10-CV-232H

Judge Bruce Winters

MEMORANDUM

Gary A. Kohli (0021896)
Kohli & Christie
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419-898-3327 (Fax)
Attorneys for

Civ R 24(A) reads as follows:

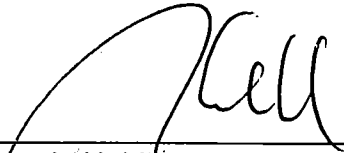
Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of this state confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction that is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

These intervenor plaintiffs represent that they are owners of lots in Bay Haven Estates Subdivision of Johnson's Island and were participants in *Baycliffs Homeowner's*

Association, Inc. v. Johnson's Island Property Owners Association, et al. and Karen Metzker, et al., Ottawa County Common Pleas Court Case No. 04-CVH-202. All of the intervenor plaintiffs are not members nor have they ever been members of Johnson's Island Property Owners Association, Inc. At the time of their purchases, membership in Johnson's Island Property Owners Association was not required nor was any subsequent purchaser of theirs required to become members of Johnson's Island Property Owners Association. The existing plaintiffs have been members of Johnson's Island Property Owners Association and are now non-members. Their interests are not nor have they ever been identical to the interests of these intervening plaintiffs. The rights of the existing plaintiffs may be mandated by prior litigation as existing members of Johnson's Island Property Owners Association at the time of that litigation. On or about May 26, 2009 and June 8, 2009, the defendant, Johnson's Island Property Owners Association, passed a Code of Regulations working to control the lots and real estate owned by these intervening plaintiffs, their heirs and assigns for which these intervening plaintiffs had no opportunity to vote. These intervening plaintiffs have put Johnson's Island Property Owners Association, Inc. on notice that they do not intend to be bound by the Code of Regulations.

The moving parties claim an interest relating in real estate which is the subject of this action and the parties are so situated that the disposition of this action may, as a practical matter, impair and/or impede their ability to protect their interests unless there interests are adequately represented by the existing parties. Based upon knowledge and belief, all of the existing parties had been or are members of Johnson's Island Property Owners Association, Inc. and would not adequately represent the interests of the moving

parties.



Gary A. Kohli
Kohli & Christie
Attorneys for Intervenor Plaintiffs Nachman,
Nachman, Lehlbach, Tomon, Metzker,
Kirkpatrick, Kirkpatrick and Nachman

CERTIFICATION

I hereby certify that a copy of the foregoing Memorandum was sent by first class mail, postage prepaid, to


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this 27th day of September, 2010.



Gary A. Kohli