



# Shoreline Views

Newsletter of the Ohio Lakefront Group

March 2007

Vol. 7 Issue 3

## Class Action Lawsuit Moves Forward

After an OLG motion to amend the Court's order for Class Notification was granted by Judge Lucci, OLG placed three Class Action notifications in the Plain Dealer and 5 newspapers serving the counties bordering Lake Erie between January 12<sup>th</sup> and 26<sup>th</sup>, 2007. The amendment to the order saved OLG more than \$40,000.

Judge Lucci set February 9, 2007, as the last day for any member of the class to opt out of the Class. Only one individual, as well as the City of Cleveland, chose to opt out. The city stated in its motion:

*"The City disavows the aim of this lawsuit, and wishes instead to support the State of Ohio's position on lakeshore ownership. The City believes that public access to Lake Erie should be maintained and encouraged, not diminished."*

On Wednesday, February 28, 2007, Judge Lucci conducted a conference by telephone with legal counsel for all parties of the lawsuit and with legal counsel for class members opposing inclusion in the class.

Judge Lucci denied the motions to opt out filed by the individual and the City of Cleveland. He asked that these parties continue to participate in the proceedings to assist the court with issues as they arise.

Judge Lucci asked if the State planned to change its current position given a new Governor and Attorney General. The States' attorney replied that she was not given any new marching orders. The two intervening defendants, the National Wildlife Federation and Ohio Environmental Council, indicated that they would fight on if the State adopted the plaintiffs' (OLG) position.

Among other things, ODNR's legal counsel stated that the State's public trust is not a question of legal title but a question of rights of use.

A time schedule has been developed for motions for Summary Judgment to be filed no later than May 30 and all replies and counter replies are due by July 27.

## New Administration – New Bills

When new State officials (Governor, Lieutenant Governor, Senators, and Representatives) took office this year, a new legislative session began, the 127<sup>th</sup> Ohio General Assembly. All bills that were introduced during the past 2-year legislative session died and will need to be introduced and start all over again in the new General Assembly.

Senator Tim Grendell is ready to reintroduce a Bill that is substantially the same as last session's SB 127. State Senator Randy Gardner, the Senate Majority Floor Leader, and Assistant Senate Majority Floor Leader Senator Bob Spada have agreed to be co-sponsors of the bill. Gardner said "Property owners along Lake Erie.... must have their deeds honored and their property respected," and "It is time to break the stalemate between the state of Ohio and property owners. A legislative solution is in order. In fact, it is long overdue."

Based upon a meeting between Senator Grendell and the Attorney General, we highly doubt that we'll see any change in the position of the ODNR and the Attorney General's office with respect to our lawsuit or the taking of our property. Senator Grendell thus recommends that we continue to pursue both our lawsuit in Court as well as the legislation.

OLG members have been involved in three attempts to get legislation passed. If there is only one thing we have learned, it is that if the Governor is not behind the legislation, it will go nowhere. If the Governor does not feel strongly enough about our plight that he cannot control these runaway bureaucrats, then it is unlikely that we will have sufficient support from the legislature to get any meaningful legislation passed.

OLG stands ready to introduce legislation, but only if it has strong support from the Governor. Until we get that assurance, we will be focusing upon the lawsuit.

## 2007 Annual OLG Meeting

The meeting will be held on Thursday, May 24<sup>th</sup> at the Holiday Inn West at 1100 Crocker Road in Westlake. The business meeting will begin at 7:00 P.M. Coffee and a cash bar will be available at 6:00 P.M. Please plan to arrive early for registration and ballots for the election of OLG Directors. Directions: Take I90 to exit 156. Go north on Crocker Road. The hotel is on the left.

## The Election and Kelo

The recent November election had a new flavor as a result of the property-rights backlash resulting from last year's extremely unpopular Supreme Court decision in *Kelo v. City of New London*. A narrow Court majority decided that the Constitution's "takings" clause somehow allowed the government to seize private property, not merely for "public use," but also on behalf of other private interests.

Many Americans took issue with the Court's decision. Twelve states had ballot measures designed to limit the government's ability to steal private property for someone else's private economic benefit. Some 28 states have already passed statutes that limit "takings" powers.

Seven states, Florida, Georgia, Michigan, New Hampshire, North Dakota, Nevada, and South Carolina, passed constitutional amendments forbidding the transfer of private property for private economic development. Arizona and Washington voted for legislative language that protected property owners from eminent domain.

California, Idaho, and Washington voters defeated their initiatives by narrow margins. In California where the margin was 52-48, opponents included environmental groups, municipal associations, and urban planners. It is believed that opponents stated that legislation as written would bankrupt the State. It is expected that these initiatives will appear on the ballot again in 2008 with somewhat different language.

States absent from this debate on the East Coast included New York, New Jersey and Connecticut (home of *Kelo*). They are so addicted to the tax revenue they get by forcible property transfers to rich developers that they refuse to act on behalf of property rights. This is one more reason for their citizens to keep fleeing these states for more hospitable locations.

Conspicuously less active has been the federal government. The House last year passed legislation that denies federal funds to local governments that use eminent domain for private development. Unfortunately the Senate failed to act on it.

### Stay Up-To-Date with Weekly e-News!

OLG sends out a weekly e-mail to keep members informed about current activities and events. If we have your e-mail address you will receive it automatically. If you are not receiving the e-News and would like to, please send an e-mail to [klkemmer@adelphia.net](mailto:klkemmer@adelphia.net) and your name will be added the list of those homes already receiving it. We never share or disclose members' e-mail addresses.

### Save OLG \$ - Get this Newsletter by e-mail

OLG spends over \$15,000 annually on Newsletter printing and mailing. Send us an e-mail to receive only the electronic e-mail version and help save us money.

## The Great Lakes Compact

The primary objective of the Compact between the 8 Great Lakes States and 2 Canadian Provinces is to stop the taking of fresh water from the Great Lakes watershed, which would reduce the total amount of fresh water remaining in the Lakes. As is often the case, the devil is in the details.

Last year, in a last minute attempt to be the first state to pass the Compact, the full session of the Ohio House passed the Great Lakes Compact by an overwhelming majority of 82/5.

In last year's Ohio Senate hearings, OLG President Tony Yankel testified before the Senate Energy and Natural Resources Committee in opposition to the Great Lakes Compact. He expressed the concern that Ohio Lakefront Group members have for various sections of the compact, especially the provision that would expand the public trust doctrine to all ground and surface water.

Senator Tim Grendell argued that a provision declaring the waters of the five Great Lakes to be "part of the public trust" would convert existing private property rights to the public domain. He also contended that federal law already prohibits water diversion.

Under the Compact, the State gives up its sovereign rights of governance over the entire area specified in the Compact and the Compact's governing group would be immune from all legal actions by individuals or states.

As the 126<sup>th</sup> General Assembly concluded its final session last year, the Great Lakes Compact Ratification Bill died in the Senate Rules Committee, where the Senate Committee on Environment and Natural Resources sent it.

We strongly believe this is the result of the work of OLG members who wrote letters to the Senators, and especially the unending support of Senator Tim Grendell, and his assistant, Beth Vanderkooi, who tirelessly worked to stop this bill in its tracks.

Finally we give a special thank you to the Senators on the Senate Committee on Environment and Natural Resources who listened to Senator Grendell and our letters and e-mails and responded favorably.

The bill is now under discussion in committee this year. Senator Grendell has recommended a task force to review the Compact and "fix" the language before it comes to the floor for vote. Only one state has passed the Compact at this time. Other states are carefully reviewing the language, as should the State of Ohio.

### Renew Your OLG Membership

**Renew your annual membership now** to continue your support of the OLG lawsuit against the ODNR. The cost is \$50 per household, plus a suggested \$50 per \$100,000 tax value of your property. You can renew through the website by credit card or you can send a check directly to OLG at the address on the back of this newsletter.

## Ask the President – Tony Yankel

Write or email your questions to us.

### Q. What is the purpose of neighborhood meetings?

A. Neighborhood meetings are designed to address the specific concerns of individual communities in a manner that cannot be done with a larger group. Typically, it consists of 10-15 households and provides an opportunity to explain on an individualized basis what ODNR has been doing and what OLG has done to counter ODNR. These meetings are a great opportunity to bring our message to many individuals that would not normally come to a large meeting. It is a great opportunity to get your neighbors involved.

### Q. Are neighborhood meetings hard to host?

A. No. In fact these meetings are quite easy to host. OLG will supply a speaker as well as suggested letters to send out to your neighbors. It is up to you to craft the meeting to fit your home and style. Basically, you invite whom you would like and the OLG will provide a speaker and all materials.

### Q. Can I deduct my contributions from my taxes?

A. No. We are incorporated in Ohio as a not-for-profit corporation, but we do not have the IRS' tax-exempt 501.C.3 status. OLG has investigated obtaining tax-exempt status and determined that we do not qualify because our activities include lobbying the legislature. Although tax-exempt status would help our members at tax time, we unfortunately cannot abandon our lobbying efforts in Columbus.

### Q. Do we have enough money for the lawsuit?

A. We have been involved in the lawsuit for nearly 3 years. We are still at the trial court level. Our opponents have told us that they will appeal this case all the way to the Ohio Supreme Court, which is an admission that they believe we will win in Court. Thanks to our members, especially the diamond, platinum and gold members, we have been able to pay our legal bills on time. However, we do not have enough money on hand to pay for all of the trial court and all of the appeals that are expected. Only if our members (and new members) continue to support us as they have done in the past, will we be able to continue to pay our legal fees.

## OLG Member Call to ACTION

The Ohio 127<sup>th</sup> General Assembly is now in place and it is time for us to remind our legislators that we are still here fighting for our property rights. Educate your city's Mayor and Council members. Likewise we need to inform those who are not members of our organization about their private property rights issues that are at stake.

We ask that EACH MEMBER living in a lakefront city, call or write their Mayor and Council members. Also, talk to your neighbors about joining OLG.

We need to get new bills introduced in the Senate and the House. You NEED to take the time to call, e-mail, or write the top ranking members of the General Assembly as well as your own State Senator and Representative and ask them to co-sponsor and support these bills. We need to show them that this is an important issue for private property rights, as important as legislation against improper eminent domain abuses.

The information to contact YOUR elected State officials is on the back of the insert page.

## We Need Your Grassroots Support!

Many of us have taken a more relaxed position with respect to the Lakefront issue because of the statements made by Strickland and Fisher during their campaign. They stated that they supported our deeds and ownership of all of our property.

During the March settlement conference with Judge Lucci on the lawsuit, the ODNR attorneys stated that they have not been given any orders to change the direction or posture of their position with respect to our lawsuit.

The continuation of the status quo was acknowledged this week by the Ohio Attorney General who stated to Senator Grendell that the attorneys that work for him and the bureaucrats that work for ODNR are too entrenched in their positions to get them to change. Thus, the lawsuit will continue as it has with both the Governor and the Attorney General claiming to be powerless to stop this taking of our private property.

Each one of us needs to become active. We need to spread the word about our fight in a very aggressive and deliberate manner.

We are again planning small neighborhood meetings to inform your neighbors of the true issues. We need you to help by hosting a meeting of 15-20 of your neighbors. The OLG Board will supply suggestions on how to host the meeting and supply a speaker to attend your meeting. Please respond by email or phone and give your address and a timeframe (month) when you will host an event.

Without YOUR additional personal involvement our cause will lose momentum. The other side is counting on this. OLG is a grassroots organization and WITHOUT YOUR PERSONAL SUPPORT, WE WILL FAIL.

**Yes, I'll help OLG fight the ODNR to protect my property rights!**

There are 3 ways to donate to the Ohio Lakefront Group:

1. Donate by mail with your MC or Visa card or a check. Fill out this form and mail it to:

**Ohio Lakefront Group  
P.O. Box 2084**

**Sheffield Lake, OH 44054**

2. Donate by phone with your MC or Visa. Call our special donation line at 888-502-3224 and give us your name, phone number, card number, expiration date and the amount of your donation.

3. Donate over the internet with your MC or Visa. Visit [www.ohiolakefrontgroup.com](http://www.ohiolakefrontgroup.com) Click on a "Donate" button and then follow the step-by-step instructions. You will be directed to a secure website that is operated by PayPal.

Choose your gift premium (add note on form):

\$100 – ODNR Stop Taking Our Property T-shirt

\$200 – Polo Shirt with OLG Logo

\$500 – OLG Windbreaker

Size(s): S M L XL XXL

e-mail choice to [info@ohiolakefrontgroup.com](mailto:info@ohiolakefrontgroup.com)



**OHIO LAKEFRONT GROUP**

**P.O. Box 2084**

**Sheffield Lake, OH 44054**

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## Special Member Recognition

Our OLG special member recognition for those who have given significant contributions to help us support our lawsuit continues to grow. We have added 4 Platinum and 11 new Gold members since our last newsletter.

The levels are: Gold for members who have contributed at least \$1000, Platinum for those who have contributed at least \$2500, and Diamond for those who have contributed \$5000 or more. We publish this list in each Newsletter to recognize these dedicated members. When you renew your membership, strive for the **Gold**.

### Diamond

Robert Liebert – New Albany/Marblehead  
Jerry & Kathy Rusk – Port Clinton  
Cherry Peirce – Port Clinton

### Platinum

Dr. Roger & B.J. Alexander – Rocky River  
Leo & Dolores Leiden – Madison  
Robert & Diane Merrill - Madison  
James & Dianne Miers – Huron  
D Scott & Mary Morrison – Bay Village  
Stephen & Mary Pero – Oak Harbor  
Richard Rennell – Bay Village  
James & Ruth Anne Robertson - Findlay/Port Clinton  
Barbara Wisch - Mentor  
Lost Lake Development – Port Clinton  
Sandusky Yacht Club – Sandusky  
Save Our Shoreline (Ohio) – Mentor

### Gold

Ed & Dot Andrus & Family – Geneva-on-the-Lake  
Bob & Sharon Barnes - Huron  
Charles Bauernschmidt – Bratenahl  
Judge James Bierce – Port Clinton  
Robert & Lucy Bunsey - Huron  
Dick & Joyce Burke - Mentor  
Mike & Nicki Cancelliere – Bay Village  
Joseph Chmielewski – Port Clinton  
Michael & Sharon Cole - Findlay  
Vitas Cyvas - Willowick  
Joe Darr – Port Clinton  
Paul & Connie Davis - Sandusky  
Robert & Cora Doyle – Wakeman/Oak Harbor  
Roger & Mary Drusbacky – Port Clinton  
Scot & Darla Duncan - Sandusky  
John Elden, Jr. - Vermilion  
Marvin Freeman, MD - Lakewood  
Gale & Linda Fritz – Port Clinton  
Jerome & Mary Fritz – Bay Village  
Pamela Gartin – Columbus/Marblehead  
Timothy & Melanie Gooding - Mentor  
Kent & Marilyn Hampton – Findlay/Port Clinton  
Vicki Heigel – Port Clinton  
Mike, Delores & Aaron Herbert - Tiffin/Oak Harbor  
David & Sharon Herzer – Vermilion  
Jim and Linda Hivnor – Sandusky

Dave & Theresa Hoffman – Vermilion  
Clifford & Sue Holman – Port Clinton  
Lee & Joanne Howley - Vermilion  
George & Katherine Jones – Whitehouse/Port Clinton  
Alfred & Christina Kafity - Huron  
Kent & Linda Kemmerer - Willowick  
Paul & Sarah Kesselem - Bratenahl  
Zenon & Dozia Krislaty  
Paul & Emma Lincoln - Mentor  
Thomas & Fran Livingston-Clark - Mentor  
Frank & Melinda Lovell – Marblehead  
Norm & Jan Malcosky – Columbus/Port Clinton  
Paul & Diane Marinchick - Willoughby  
Brian & Jill McBride – Bay Village  
Gary & Janette McCreery – Bowling Green/Oak Harbor  
Paul Mihalik - Madison  
Donald & Judy Miller – Fostoria/Port Clinton  
Floro & Nancy Miraldi – Cleveland Hts/Sheffield Lake  
Paul Novosel - Bratenahl  
William & Arlene Oley – Cape Coral/Vermilion  
Thomas & Tomie Patton – Avon Lake  
Thomas & Judy Peterson – Mansfield/Marblehead  
Ken & Dawn Prince – Avon Lake  
Chuck Rathburn - Madison  
James & Elizabeth Redinger - Marblehead  
Robert Risman - Beachwood  
Stan & Joan Ross – Columbus/Port Clinton  
Gregory & Linda Rothman - Avon Lake  
Richard & Myrna Schwarz – Peoria/Ashtabula  
Thomas Smith – Port Clinton  
Doris Stamm - Marblehead  
Tom & Sandra Sullivan – Bay Village  
Thomas & Sandra Wade – Port Clinton  
Thomas & Kathy Wasserman – Avon Lake  
Gage & Susan Williams – N Ridgefield/Sheffield Lake  
Hugh & Elly Windsor – Sheffield Lake  
Crist & Barbara Winterstein - Vermilion  
Anthony & Sheryle Yankel – Bay Village  
Christine Zimmer - Huron  
Bar Harbor Association - Marblehead  
Catawba Point Association – Port Clinton  
Harbor Island Association – Port Clinton  
Kennykirk Association – Port Clinton  
Linwood Park Company – Vermilion  
Long Beach Association – Oak Harbor  
Sand Beach Association – Oak Harbor  
Save Our Shoreline, Inc. – Bay City, MI  
Vermilion Lagoons Association – Vermilion  
Anonymous – 2 Individuals

# IMPORTANT STATE GOVERNMENT CONTACT INFORMATION

(Unless otherwise shown all addresses are Columbus, OH 43215)

**Governor Ted Strickland** - Governor's Office, Riffe Center, 30<sup>th</sup>, Floor 77 South High Street, Columbus, OH 43215- 6108  
Phone (614) 466-3555 Fax: (614) 466-9354

**Lt. Governor Lee Fisher** Lt. Governor's Office, Riffe Center, 30th Floor, 77 South High Street, Columbus, OH 43215- 6108  
Phone (614) 466-3379 Fax: (614) 644-0475

## Leadership

**President of the Senate Bill Harris** – Statehouse, Room #201, Second Floor, Phone – (614) 466-8086  
e-mail - SD19@mailr.sen.state.oh.us

**President Pro Tempore Jeff Jacobson** –Senate Building, Room #138, First Floor, Phone – (614) 466-4538  
e-mail - jjacobso@mailr.sen.state.oh.us

**Senate Majority Leader Randall Gardner** - Senate Building, Room #220, Second Floor, Phone – (614) 466-8060  
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**Senate Asst. Majority Floor Leader Robert Spada** - Senate Building, Room#129, First Floor, Phone – (614) 466-9056  
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**Senate Majority Whip – Steve Austria** - Senate Building, Room #132, First Floor, Phone – (614) 466-3780  
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**Senate Minority Leader Teresa Fedor** – Statehouse, Room # 303, Third Floor, Phone – (614) 466-5204  
e-mail – fedoroffice@maild.sen.sen.state.oh.us

**Senate Asst. Minority Leader Tom Roberts** - Senate Building, Room #228, Second Floor, Phone – (614) 466-6247  
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**Senate Minority Whip Ray Miller** - Senate Building, Room #223, Second Floor, Phone – (614) 466-5131  
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**House Majority Leader Jon Husted** – 77 S. High St, 14<sup>th</sup> Floor, Phone – (614) 644-6008 e-mail - district37@ohr.state.oh.us

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**Cuyahoga District 16 Jennifer Brady** – 77 S. High St, 10<sup>th</sup> Floor, Phone – (614) 466-3998 e-mail -district16@ohr.state.oh.us

**Lucas District 49 Clayton Luckie** – 77 S. High St, 10<sup>th</sup> Floor, Phone – (614) 466-1607 e-mail – district39@ohr.state.oh.us

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**Ashtabula District 93 Jennifer Garrison** – 77 S. High St, 10<sup>th</sup> Floor, Phone – (614) 644-8728 e-mail -district93@ohr.state.oh.us

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