

# **Ohio Lakefront Group**

## **Annual Meeting**

**Geneva on the Lake, Ohio**  
**May 31, 2018**



**Ohio Lakefront Group**

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# What is the Ohio Lakefront Group

- Non-Profit and non-partisan
- Incorporated in 1999
- Shoreline property owners
- Grassroots volunteer organization --Board Members are NOT paid or reimbursed
- At present there are over 7,000 members
- There are 14,000 - 15,000 parcels along Lake Erie in Ohio



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# Purpose

- Prevent taking of shoreline property by governmental entities
- Protect the use of Lake Erie and the environment
- We are NOT anti-environment, **we just want our deeds honored!**



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# Terms for the Bd. of Directors

## Current By Laws

Each Director shall hold office until the end of the next annual meeting of the Members and until successor Directors shall have been collectively elected and qualified and shall be eligible for re-election.



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# Staggered Terms for the Board

## Proposed Language

Each Director shall hold office for a 3-year staggered term. Directors shall hold office beginning with their election at an annual meeting and until the end of the annual meeting of the Members three years later, when a successor Director shall have been elected. All Directors shall be eligible for re-election.



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# Nominees for Board of Directors

## Initial Term

1	Baeppler, Greg	Bay Village
1	Bunsey, Bob	Huron
1	Cyvas, Vitas	Willowick
2	Kemmerer, Kent	Willowick
2	Limbert, Gina	Timberlake
2	Plymale, Nancy	Marblehead
3	Prout, Mike	Sandusky
3	Rennell, Rick	Bay Village
3	Yankel, Tony	Lakewood



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# Treasurer's Report

1/1/17 starting balance	\$67,379.80
Misc. Revenue    ODNR	\$600,000.00
Member Support	\$18,780.00
Total Assets	\$675,369.40
Expenses	\$20,579.98
Current Balance	\$654,789.42



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# Dues

- General membership dues at this time are \$ 50 per year with no additional lawsuit support requested.
- For Gold Members (\$1,000 and above) the dues will only be \$ 25 per year.





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# History

- We filed our lawsuit **14** years ago
- We won in Federal Court once
- We won in the Trial Court 2 times
- We won in the Appeals Court 2 times
- We won in the Ohio Supreme Court 2 times



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# Have we won ???

- We have won the battle, **but not the war.**
- The Courts have established that the State does not own up to the OHWM.
- ODNR has given up on OHWM, but it has been using its own definition of the Natural Shoreline.



# Where did the \$6.1 million go???

- \$1.09 m Lease payments claimed
- \$0.63 m Lease payment unclaimed
- \$2.33 m Compensation claims
- \$0.60 m Attorney fees (phase I)
- \$1.25 m Attorney fees (phase II)
- \$0.20 m 3<sup>rd</sup> party administrator



# What Did the Lawsuit Cost ?

- \$750,000 Phase I legal fees
- \$1,250,000 Phase II legal fees
- \$650,000 OLG non-legal costs
- \$200,000 3<sup>rd</sup> party administrator
- \$2,850,000 Total



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# Judge Lucci's 2012 Decision

- **Defined the Natural Shoreline**
- **Voided Leases up to the OHWM**
- **Notice to be provided to local governments**
- **Return of Lease Fees**
- **OLG is the “prevailing party”**



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# Lucci's Natural Shoreline

- “The **furthest** landward boundary of the ‘territory’...is the natural shoreline”
- The natural shoreline can be determined on a calm day.
- Artificial fill is allowed to “reclaim land lost by avulsion.” (Page 34)
- Simply, the Public Trust is essentially “where beachcombers may walk...where the walker’s feet would be wet.” (Page 34)



# Legal Fees Have Been Awarded

- Since the lawsuit began, OLG has had contributions of \$1.40 million.
- We spent \$1.35 million.
- We had \$50,000 at the time of Settlement
- OLG was awarded \$600,000.





# Compensation Checks

- The Settlement allocated \$2.33 million to pay compensation to property owners.
- Checks have been mailed out to all those that applied and had a valid claim.
- This was done by a 3<sup>rd</sup> party administrator at the cost of \$200,000.



# People Who Got Nothing

- Didn't submit Claim and/or didn't provide adequate support for the Claim.
- OLG informed members via letters, postcards, Newsletters, Enews and its website.
- Judge Lucci required Public Notice in major newspapers



# Did we really win???

- **Yes, we won.**
- The legal profession was shocked that we won at the Supreme Court.
- Even more shocked that we got \$6.1 million from ODNR to settle the suit.
- We won **BIG**, but ODNR is not behaving as we would like.



# What Have We Won in Count 1?

- Gotten ODNR to obey the letter of the Law—**Not yet the spirit**
- No Public Trust rights on our property.
- Restoration of land lost due to avulsion.
- Voided leases up to OHWM.
- A clear definition so that trespassing laws can be enforced.



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# What Is In The Future?

- OLG will need to continue to fight against inappropriate bureaucratic treatment.
- Need ODNR to recognize private property **based on deeds** and not historic photographs.
- Another lawsuit **if necessary**—probably not a class action, but for current members only.
- **Vigilance**



# What Is ODNR's Natural Shoreline

ODNR is using old aerial photographs to “locate” where the natural shoreline is today.



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# March 28, 1986



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# **Glass v Goeckel**

## **Michigan Supreme Court**

### **Changed the Law in Michigan:**

- Took away owner's "exclusive use"
- Created a right of "beach walking"





# Lessons Learned from Michigan

- Public opinion matters.
- Judge's perceptions of the best public policy may prevail over decades of prior law.
- The Fifth Amendment Protection of Private Property is eroding.
- **Vigilance is vital.**



# Is ODNR Changing?

- We have recently opened a dialog with ODNR Management.
- We are not getting a sympathetic ear, but we are getting a fair hearing.
- We approached ODNR management with the idea of issuing temporary permits because of high water. They have enacted our recommendation.



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# Temporary Permit Information

Information regarding ODNR's new policy on Temporary Permits can be found at:

[coastal.ohiodnr.gov/tssp](http://coastal.ohiodnr.gov/tssp)

or

[coastal@dnr.state.oh.us](mailto:coastal@dnr.state.oh.us)



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# Opinion of Temporary Permits

- Good
  - Do it yourself application
  - Like the Army Corps Nationwide Permit Process
  - No professional engineer (cost) involved
  - Approximate one week turnaround
- Not Good
  - Requires a full Shore Structure Permit process within the next 2 years
  - You build it now, pay all the engineering later, then face possible change orders by ODNR
  - ODNR now has data on you.



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# Temporary Permit Considerations

- If one does not trust ODNR, this looks like a very bad deal.
- Action is needed now to prevent further damage. Contractors **may** not want to work without a permit.
- What can ODNR do if you do not go through the full permitting process in 2 years?
- OLG is working with ODNR to make the Temporary Permit **permanent** for our members.



# Your Help Is Needed

- OLG needs to support its allegations that the regulatory burden is presently out of control.
- Who has experienced a permitting process that has taken over a year?
- Who has experienced a permitting process that has cost more than \$10,000?
- We want only cases that can be supported by facts.



# Needed Information

- Your Name
- Your Address
- Permit Number
- Approximate dates over which the permitting process took place
- Approximate cost of engineering and surveying work



# What Else is OLG Doing ?

- Expediting the permitting process is only half of the solution.
- OLG is working to find funding solutions **for its members.**
- OLG is looking into utilizing existing or new avenues of low interest funding and 30 year amortization of loans **for its members.** Legislation may be needed.





# S.B. 51

- Proposes SID's for lakefront owners where low interest long term financing could be provided.
- It may not get out of the Senate before summer recess.
- It is an election year and the Legislature will not meet again until after the election.
- It would still need to go to the House.
- Getting any money this year because of SB 51 is extremely unlikely.



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# Problems with S.B. 51

- S.B. 51 has potential. But, as the Revised Code didn't anticipate the use of SID's to include private lakefront property, S.B. 51 as currently drafted, is akin to “putting a square peg in a round hole.”
- “Improvements” to protect the shoreline could be considered to be “public.”
- SIDs “shall be governed by the board of trustees of a nonprofit corporation.”
- It includes **everyone**, even those that do not want to be involved.



# Concluding Remarks

- Yes, **WE WON. WE WON BIG.**
- ODNR is still misbehaving, but maybe changing.
- We might need another lawsuit.
- Vigilance is needed.
- Continue to support OLG. We need your involvement and support.
- We are here for you, but you must be here for us.



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# Questions



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# Dr. Charles Herdendorf

- Dr. Herdendorf will discuss Lake Erie coastal processes (erosion, avulsion, accretion, and water levels) and show some examples of erosion control projects that have been successful. Dr. Herdendorf is professor emeritus from The Ohio State University, and headed Stone Lab—the research institute on the islands that is dedicated to Lake Erie issues.



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# Questions



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# Contractors Attending Tonight

- **Eagle Excavating –**

Mark Mihalik

440-812-4916

- **Geo Gradel Company**

John Bennett

419-691-7123

- **Hill Crafters – Winfield Construction**

Tom Winfield

440-283-5335

- **Shoreline Contractors**

Tom Murowsky

440-899-3100



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# Wind Turbines on the Lake

- Please note that the OLG has not taken a position on this issue as we have members on both sides of the issue.
- Mr. David Strang has requested to be recognized. He leads an organization that is opposed to wind turbines on the Lake. He will be available to anyone that may be interested in the topic.





# Sandy Bihn

- Executive Director Lake Erie Foundation
- Executive Director of Northwest Ohio
- Protection the waters of Lake Erie and the waters going into it.



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# In Closing

- For those of you who are members,  
**THANK YOU** for your support.  
We could not have won without you.
- For those of you who are guests,  
please consider becoming a member.



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# THANK YOU



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