

From: Wayne Travell [wtravell@ltblaw.com]
Sent: Saturday, June 21, 2008 11:26 PM
To: 'Jill Holtzman Vogel'
Cc: 'Roxanne Rosado'; ndysart@ltblaw.com
Subject: LAke Holiday News Article
Attachments: WS_Lake_Holiday_fight_makes_way_to_capital.pdf

Senator:

I was shocked to read this article in today's Winchester Star today regarding our meeting on Thursday. The article says:

Vogel said in a telephone interview on Friday that her meeting with the plaintiffs' attorneys was designed to help them understand the intent of her legislation.

"I was absolutely transparent and clear about my legislation," she said. **"Obviously, they are super-excited that I am taking a look at it, but there is so much that I need to look into on the act.** I want to appreciate the spirit of the act but make the needed changes."

Nothing could be further from the truth. I asked to meet with you to explain Plaintiffs perspective of the impact of the Bemis lawsuit on the Lake Holiday Community and to urge you not to attempt to interfere in this private lawsuit through special interest legislation. As you know, I had asked to attend the meeting at Lake Holiday on Wednesday night to which you and the press were invited, to present Plaintiffs' point of view. I was was told by Mark Stivers that it was not a forum to advocate Plaintiffs' position and that I was not welcome.

At our Thursday meeting, you asked what Plaintiffs wanted from you. I was very clear, and Ms. Rosado is my witness, that Plaintiffs wanted you to leave the VPOAA alone and that quick-fix, special interest legislation on behalf of a big-money developer like Miller and Smith to affect the outcome of private litigation was an abuse of the legislative process and was likely to lead to unintended and dire consequences to the Bemis Plaintiffs and to the more than 9,100 community associations in Virginia, many of which are subject to the Act. You were very frank that you are not a real-estate lawyer, did not understand the implications of our lawsuit or the Virginia POAA, and that the proposed legislation you had sent to me was drafted by the lawyers for Miller and Smith and Lake Holiday Country Club, Inc. to affect the Bemis litigation.

This is in stark contrast to the quote from you in today's paper: **"Obviously, they are super-excited that I am taking a look at it, but there is so much that I need to look into on the act."** I didn't say that and it is not possible to make that conclusion based on our meeting. Giving you the benefit of doubt, perhaps you were misquoted. If so, I urge you to call the reporter at the Winchester Star or to issue a press release to retract or correct the blatantly false impression of our meeting as created by the attached article. I also urge you again, as I did at our meeting and in my several e-mail messages to you thereafter, to abandon your ill-considered intention of trying to change settled Virginia law to serve the interests of Miller and Smith.

Whether you call the reporter to retract or correct the false statement in today's paper, I do plan to call him myself to discuss what was really happened at our meeting and to dispel the obviously false notion that Plaintiffs "are super-excited" that you are trying to pass special legislation to derail the Bemis litigation.

At our meeting, you told me that the lawyers had called you after the Wednesday meeting to say that, on further reflection, the proposed legislation they had drafted for you would not work or solve the Bemis litigation and that new language would have to be developed. You promised me that you would send me a draft of the proposed legislation as soon as it was ready. As of this writing, I have not seen any proposed language you plan to submit. I explained that the Act is the subject of well-established Virginia Supreme Court caselaw, had far reaching consequences, and any changes to the Act should be made as a result of careful and deliberate study by neutral professionals and not at the behest of big developer to win a lawsuit. Given the time pressures of next week's special session to discuss emergency transportation legislation and that as of Saturday night, you have no workable draft of what you propose to submit next week, anything you propose next week cannot have been given the careful consideration any fundamental change to the Act deserves.

As we told you, the object of the Bemis lawsuit is to have the judge apply clear Virginia precedent to force a runaway board to comply with clear Virginia law. Special legislation to attempt change existing law to rescue this board from its own unlawful conduct or to protect Miller and Smith, which owns over 700 lots at Lake Holiday and which has been granted dues concessions of over \$1.7 million since 2004 (increasing at the rate of \$25,000/ month) is unseemly and unfair.

If you wish to speak to me tomorrow, you can reach me at 540.554.4810 or 540.272.6108.

I look forward to hearing from you.

Respectfully,

Wayne Travell



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