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VIA FIRST CLASS MAIL

Unit Owners

Skyview Heights Homeowners' Association

**RE: Skyview Heights Homeowners' Association
Update on Pool**

Dear Unit Owners:

I represent the Skyview Heights Homeowners' Association. I have been asked by the Board of Trustees to communicate with you on a matter of importance.

Recently, the Governor announced that his newest Executive Order, No.153 would allow public and private pools to reopen, effective June 22, 2020. To be clear, this was not an order to open pools. It was permission to do so, subject to certain limitations. As it turns out, those limitations are substantial and expensive. In fact, they are costly and added expenses to the community. We understand that a letter was sent to you by the Board on June 16, 2020, relaying its decision not to open the pool for precisely these reasons.

POOL STANDARDS: The Department of Health recently released new outdoor pool standards, which address COVID-19 issues in conjunction with existing pool guidelines. They are seven (7) pages in length and can be read in its entirety at https://nj.gov/health/ceohs/documents/phss/Guidance_for_Operating_Pool_Bathing_Facilities_During_COVID-19.pdf. They involve training and staffing, a pre-operational checklist, a plan to implement the requirements of the new guidelines – to be approved by the Township Board of Health, and an “Aquatics Facility Plan” to the local health authority. The Township Board of Health is likely not prepared to administer all of these new regulations just yet, as they have not been trained on these new regulations.

Outlined below are some of the issues that have to be addressed. In addition to requiring diminished use of the pool (50% or less), the Association would also have to address the following:

- Develop nondiscriminatory practices with regard to implementing an appointment or reservation system, as well as administer it and enforce it.
- Place circles around the pool at 6-foot intervals.
- Enforce social distancing.
- Exclude all guests and non-residents.
- The pool furniture could not be used. Those using the pool would have to bring their own chairs.
- Enforcement of the wearing of face coverings by children 2 years of age and older.
- The staggering of entry and exit points.
- Signs to be posted advising to be on the lookout for signs of illness or to stay home if you are not feeling well or have COVID-19.
- Residents and staff must sign in to assist with contact tracing.

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- Provide hand sanitizer stations.
- Rest Room Use. Substantial additional sanitation would be required, several times each day. No barefoot use of the restrooms would be allowed.
- It is recommended that a person be designated to oversee restroom and/or shower access.
- Installation of equipment for the use of showers without touching anything with hands, such as foot pedals or motion sensors.
- Screening staff for COVID-19 each day.
- Disinfecting high-touch surfaces several times daily.
- The hiring and implementation of an ambassador role to monitor and encourage social distancing of bathers on the pool deck, along with a COVID contact person.

EXPECTED DELAYS: The likelihood is that there would be significant delays installing the necessary equipment (especially foot pedals or motion sensors if applicable) and ordering and receiving signs. Then, the plan has to be approved by the municipality, which will be getting requests for approval all at once. This is to say nothing of town or board of health inspections that have not occurred because municipal officials were not able to go out in the field for the past three months due to COVID-19. In addition, pool companies now have the onerous task of finding and hiring a sufficient number of lifeguards and training them under these requirements to fulfill the demand that they face. We have received no guarantee from the Association's pool company that lifeguards will be available and properly trained to be provided for the Association to open its pool. It is likely that two staff members, at a minimum, will be needed for each hour the pool is open.

SAFETY: As the Board's June 16 letter stated to you, the Board has discussed the subject of opening the Association pool at length. The overriding concern is safety. Safety is the Association's first responsibility, and the Board takes this responsibility seriously. As you know, every use of a recreational facility carries with it some degree of risk. In the case of the Coronavirus, you are literally betting with your life, and the lives of your children, parents, grandparents, and neighbors. The difficulty in assuring safety in the midst of a pandemic was a paramount concern.

INABILITY TO INSURE AGAINST RISKS: The other thing you should know, which was touched on in the Board's June 16 letter, is that while the Association is generally insured against risks associated with the use of Association facilities, in the case of viruses and illnesses, we are told, there is a specific exclusion in the Association's insurance policy, so that Coronavirus risks are not covered. Further, there is no insurance that is available to the Association at this time that could be purchased, which would cover damages or injury alleged to be caused by COVID-19. Thus, if someone sues the Association over contracting COVID-19 or the death of a spouse, parent or child, in connection with a Coronavirus issue, the costs associated with the defense of the Association would be by means of a special assessment, the purpose of which is to defray, in whole or in part, the costs of

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defending such an action. If there is ever a judgment against the Association, that judgment would have to be paid by a special assessment. There would have to be waivers of any responsibility by the Association and Management for use of the pool in a pandemic.

For all of these reasons, and as already stated to you, the Board has decided that it cannot open the pool this year. It is sorry to have to come to that conclusion, but between the inability to insure against risk, the likely delay in opening, the cut in usage of the pool to below 50% of capacity, the overwhelming number of regulations and the cost of complying, opening the pool is just not feasible.

MAINTENANCE FEES: There may be several questions as to whether maintenance fees will be reduced if the pool is not opened for the summer. In short, maintenance fees will not be reduced for any member. It is important to remember your maintenance fees are allocated to cover a variety of line items in the Association's budget. There are still costs associated with, maintaining, repairing, and/or winterizing the pool this summer even if it does not open. Further, any amounts not spent on the pool this year will be reallocated to other maintenance items for which the Association is responsible. Your maintenance fees are much like municipal taxes. While there may road closures throughout the year, or you do not have children that utilize the public-school system, your taxes are not reduced for these services. Similarly, the Association provides other services such as snow clearing and landscaping that are paid through collection of the members' maintenance fees.

For similar reasons described above as to safety and the inability to insure against risks, we reiterate that the tennis courts and playground shall be closed as well.

Thank you for your attention to this matter, and your interest in the community.

Very truly yours,
GRIFFIN ALEXANDER, P.C.

/s/ **Jennifer L. Alexander, Esq.**