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## July 2019 Newsletter

### Board of Directors

#### President

Steve (Mongo) Lyon

#### Vice President

Doug Anderson\*

#### Treasurer

Tegen Greene

#### Secretary

Frederic (Ric) Wirick\*

#### Directors:

Sky Platt\*

Jeremai Cann

Steven Baca

Don Stoner

Paul imaizumi

John Erickson\*

### Aloha Orchidland Community Association Members,

Mahalo for your continued Community support since July 2015. Payment of your annual Mandatory Road Maintenance Assessment fees has allowed us, your elected (volunteer) Board of Directors (BOD) and Road Maintenance Committee (RMC), to effectively manage the maintenance and improvements of the 40 miles of private roads within Orchidland Estates.

As a Community Association, a 414D and 501c4 nonprofit, Orchidland Community Association, Inc. (OLCA) remains a democratically controlled association with the membership approving elections, annual budgets, road fees and more via annual ballot voting. These OLCA Ballots are sent out in the March Newsletter. Mahalo for your participation in this democratic process. For more details please visit [www.Orchidland.org](http://www.Orchidland.org) : Ballots, Minutes, Monthly Financials and more.

OLCA members are welcomed to attend and participate as guests at the monthly RMC and BOD meetings. The meetings are held the 2<sup>nd</sup> and 3<sup>rd</sup> Tuesday of each month from 6:30pm to 8:00pm at the Neighborhood Place of Puna in Keaau. NPP is located just across the street from the Humane Society, (on Google maps) at 16-105 Opukahala St., Keaau, HI 96749. For those unable to attend, monthly RMC and BOD approved Minutes (record of OLCA business, road maintenance and more) are posted online at [www.Orchidland.org](http://www.Orchidland.org) .

In addition, please join us at the once a month, OLCA First-Saturday Market, held at the Hui Hoaloha (community gathering place) located near the intersection of Orchidland Drive and 36<sup>th</sup> Ave. July 2019 marks the 3-year anniversary of this once a month gathering at the Hui Hoaloha. For more information on this event, visit [www.Orchidland.org](http://www.Orchidland.org) ; there is also a link to the OLCA group Facebook page or call: 808-464-5598.

Mahalo and a hui hou.

## OLCA LEGAL UPDATE

Aloha Orchidland Community Association Members,

This has been a long time coming, but now that the lawsuit of Arthurs v. Wirick, et al, is over, your Board of Directors is finally able to answer members' questions regarding the details of what *actually* occurred. Unfortunately, over the nearly four years, 24 hearings, and hundreds of hours of time by your volunteer Board it has taken to adjudicate this case, a lot of misinformation has been circulating on social media and other platforms, mostly perpetuated by the small group of Barbara Arthurs supporters.

The lawsuit was initially filed on June 30, 2015, naming as Plaintiff Orchidland Voice (represented by Barbara Arthurs and Peter Houle, among others) but signed only by Peter Houle, who at the time the lawsuit was filed, was an interim OLCA Director. The complaint against OLCA and six of its Directors alleged various breaches of fiduciary duties and specifically sought Dissolution and Receivership OLCA. Interestingly, one of the named "Directors" and primary target of the lawsuit, Frederic Wirick, did not become a Director until one day later on July 1, 2015.

The Court ordered the parties into mediation in August 2015. The mediation failed as the parties were too far apart. OLCA, knowing Orchidland Voice lacked standing to bring this lawsuit, requested the suit be dropped and OLCA legal fees be paid. Peter Houle demanded \$1 MILLION DOLLARS and the OLCA Community Lot before he would retract the lawsuit against the Directors; however, he would still seek Dissolution and Receivership of OLCA.

In November 2015, OLCA membership voted to remove Peter Houle and Barbara Arthurs as Directors because, among other reasons, they fraudulently ran for OLCA Board positions and did not disclose their intent to use those positions to file a lawsuit against OLCA. The membership petition and the process for Houle and Arthurs removal were done in strict accordance with OLCA Bylaws. In the ensuing litigation of this case Arthurs was asked during her deposition if she should have disclosed to OLCA membership, while running for a Board position, her affiliation with *Orchidland Voice* and her intent to initiate a lawsuit. Barbara Arthurs justified her subterfuge by stating, "Did Donald Trump reveal everything?"

On February 4, 2016 the Court ruled that "Orchidland Voice" was a non-existent entity and therefore lacked the right to bring any legal action. The Plaintiff's attorney then stated to the Court that he will refile the suit with a "qualified plaintiff." This would have required at least one membership-elected OLCA Board member *or* 50 OLCA members in good standing.

So, in order to be the "qualified plaintiff," on March 8, 2016, Barbara Arthurs and Ariel Murphy illegally changed OLCA's listing with the DCCA, naming Barbara Arthurs as OLCA Treasurer.

For those who may not know, the Department of Commerce and Consumer Affairs (DCCA) is the Hawai'i State Business Registration site, and it contains the listing of Directors and Officers of corporations in the State. Businesses such as banks and the USPS rely upon this information in deciding whom they will conduct their business with. Amazingly, the DCCA does not currently verify the accuracy of information filed with it.

On March 16, 2016, Barbara Arthurs signed as the sole "qualified plaintiff" claiming to be the current OLCA Treasurer. She then proceeded to use the DCCA listing to seize control of the OLCA post office box and attempted to seize control of OLCA bank accounts.

OLCA's three financial institutions responded by freezing all our bank accounts, thereby protecting OLCA funds from Barbara Arthurs, but also effectively putting OLCA out of business for a short period of time.

On or about May 10, 2016, CU Hawaii Federal Credit Union unfroze the OLCA account. At the advice of both our counsel and a bank manager we were forced to take the unusual step of conducting business through the use of cashier's checks for about 2 months to protect the funds from seizure. OLCA kept stringent records of all transactions and every penny of OLCA funds were accounted for during this process. In 2016, a scheduled audit by Carbonaro CPA for fiscal year 2015-16 affirmed that our finances were in order.

In March 2017 the Plaintiff filed a motion for Receivership of OLCA. In July 2017, the Court took the middle road by appointing Nancy Cabral as the Special Master to investigate OLCA on behalf of the Court. Plaintiff Barbara Arthurs suggested Nancy Cabral to the Court as a Special Master candidate. Preceding this appointment, neither Nancy Cabral nor Barbara Arthurs disclosed to the Court their prior relationship. OLCA eventually found it necessary to file to terminate Nancy Cabral as the Special Master due to her bias, actively working with Arthurs against OLCA, and improperly inserting herself into corporate business. In March of 2019 the Court suspended Nancy Cabral as the Special Master.

By April of 2018, the Court ordered OLCA's remaining bank accounts to be unfrozen. When the Court Order was issued, Barbara Arthurs changed the DCCA listing again and used it to disrupt the Court Order, by sending a letter to OLCA financial institutions fraudulently claiming that she, Barbara Arthurs, was the President of OLCA (even though there had been no OLCA membership election nor had she paid her MRMA road fees and was therefore ineligible to be on the Board). This caused OLCA funds to remain frozen until March 2019 when the Court issued a second Order releasing the funds to OLCA's current Board of Directors, led by President Steve Lyon.

At the hearings on March 7 & 8, 2019, the Court dealt with the issues of Summary Judgment of all claims against the six OLCA Directors. OLCA prevailed when the Court ruled that Arthurs presented absolutely no evidence sustaining her various allegations against the Directors.

The final hearing occurred on May 2, 2019. This hearing was to deal with the specific issues of Dissolution and Receivership of the Association, and Arthurs attempt to revive her complaint with a 3<sup>rd</sup> amended complaint citing new claims. Once again, OLCA prevailed. The Court granted OLCA Summary Judgment as Arthurs had presented no evidence to sustain a ruling for Dissolution and Receivership. Therefore, all allegations against OLCA and its Directors have been cleared and a trial is no longer necessary.

Throughout this long, and arduous process your membership-elected volunteer OLCA Board also managed OLCA extraordinarily well. Even with some OLCA funds frozen for 3 years, roads were maintained on a regular basis. Most importantly, OLCA is financially solvent with all monies accounted for and a favorable audit.

On behalf of the OLCA Board we look forward to being able to focus solely on representing our community by focusing on improving our roads and growing events at our community lot.

Mahalo to all those who stood by us during this very trying time,  
OLCA President Steve (Mongo) Lyon, Vice President Doug Anderson, Treasurer Tegen Greene, Secretary Frederic (Ric) Wirick, RMC Foreman Sky Platt, RMC Vice-Chair John Erickson, Directors: Jeremai Cann, Steve Baca, Don Stoner and Paul Imaizumi.

