

June 17, 2020

Lake Park Homeowners,

We understand that many of you have been anxiously awaiting communication relative to the pool and amenity openings at Lake Park and we apologize for the delay. The Board has been hoping for a change or development that would allow for an easier path forward. Unfortunately, as of now, the Board of Directors has decided to keep our pool and common amenities closed. Please read and consider the provided information, as we would like each homeowner to understand the basis for this decision as the Board is highly cognizant of the fact that this decision will not be popular with many of our homeowner and not a decision the Board was hoping to make.

A revised Executive Order 06.11.20.01 was issued on June 11th, went into effect on June 15th, and can be found here (<https://gov.georgia.gov/executive-action/executive-orders/2020-executive-orders>). This Order is set to expire on June 30th, and while the Governor continues to loosen restrictions allowing businesses to reopen, the Executive Order and Governor are not able to prevent an individual from filing a COVID-19 related claim against our Association. Attached to this letter is a written recommendation from legal counsel that we hope will shed more light on the risks and potential costs of defense, given that the Association's insurance policy excludes coverage for COVID-19 related claims.

As of now, the Board intends to keep the amenities closed until there is legislative relief eliminating COVID liability, a vaccine or significantly improved treatment regime, or other unforeseen development to significantly reduce the liability risk to the Association. An article about an effort in the Georgia legislature to pass a bill to relieve businesses of COVID-19 liability can be found here: <https://www.ajc.com/news/state--regional-govt--politics/georgia-senate-panel-approves-coronavirus-protections-for-businesses/3IKPb8x4ToKnddQIK4OeYO/>.

The Board understands that the potential financial risks to the community in the event of a lawsuit could be devastating, and the does not feel that the risk/reward calculation is favorable for our Association.

The Board understands that the amenities remaining closed is not an ideal scenario, hopes that each of you will review and give serious consideration to the enclosed input from our Association legal counsel and be aware that the Board of Directors genuinely wants what is best for our Association and community and every decision being made is to that end. The Board would also like to convey that the pools must be cleaned and maintained even though closed, resulting in ongoing expenses related to cleaning and maintaining water chemical levels to prevent staining and other damage to the pool surface. While we will not all agree on every decision as homeowners, we look forward to working to ensure that Lake Park remains a terrific place to call home!

In the event that the Georgia legislature does pass a bill that significantly relieves the liability exposure, the Board intends to quickly re-open our community amenities. The Board is working on an adjusted re-opening plan in hopes that this legislation will pass, but will provide a further update prior to July 1st should the bill pass or should this current legislative session end with no action being taken. Additionally, **POOL COMMITTEE VOLUNTEERS ARE NEEDED!** Should the pools re-open, volunteers will have an impact on the operating schedule and the length of the pool season as there are still expensive requirements related to cleaning. **IF YOU ARE WILLING TO VOLUNTEER FOR THE POOL COMMITTEE, PLEASE NOTIFY LENA DAVIS, lena.davis@sixesmanagement.com, OR ANY EXISTING BOARD MEMBER!**

If you have concerns or questions, please do not hesitate to contact Sixes Management at (770) 575-0943 or info@sixesmanagement.com as that is the fastest channel to receive answers and a response to any concerns. The volunteer Board makes every effort to monitor social media and respond as appropriate, but please reach out

to the Sixes Management office for the fastest response and any concerns that they are unable to answer will be forwarded to the Board. Lastly, if you are not receiving e-mails from the Association, please provide your e-mail address to Sixes Management as e-mail will be the primary method of communication and information will also be posted to the community website as appropriate, www.lakeparkhoa.com.

Sincerely,

The Board of Directors
Lake Park Homeowners Association

----- Original message -----

From: "Erin M. O'Connell"

Date: 6/12/20 10:05 AM (GMT-06:00)

Subject: RE: COVID-19 Liability

As you point out below, the issue for Associations is that without insurance coverage due to an exclusion on communicable diseases, there is a lot of potential risk for the Association. Defending an uninsured claim alone could cost \$30,000 - \$50,000, which would have to be paid for out of reserves or through special assessments or loans. Of course, a judgment entered against the uninsured Association would be even more disastrous. We expect the damages will be high as only those that were severely injured or loved ones on behalf of the deceased will be bringing these sorts of claims.

The liability for the Association stems from both the Association's obligation to maintain the common property and the Board's fiduciary obligation to make decisions and to adopt rules/regulations concerning the common property (such as the pool, fitness center, and tennis courts) that are reasonable and in the best interest of the membership as a whole after taking into consideration available information from a variety of sources. Furthermore, you have to comply with the Governor's June 11, 2020 Order attached which is good from June 16 – June 30 (see particularly pages 12 -15, which are applicable to Association amenities (not critical infrastructure) and gyms). We are not certain that a Community Association gym would be subject to the requirements of the Order, but in an abundance of caution, we recommend complying with the order. We also recommend complying with the Georgia Department of Health pool guidelines attached and CDC guidelines. In many Associations it is probably cost-prohibitive to take the steps necessary to ensure Owners attending the pool and fitness center are doing so in a safe fashion. These steps include ensuring members are washing their hands (the Association will need to ensure enough soap/hand sanitizer is present), surfaces are disinfected regularly, sanitation is enhanced, signs are posted regarding the COVID-19 risks, getting Owners to sign waivers related to association liability, keeping pool furniture safely distanced, prohibiting the sharing of pool and gym equipment and/or sanitizing after every use, staggering when Owners may be present via sign-up sheet or otherwise, etc. The Governor's order requires prohibiting gatherings (defined as more than 50 people if over 50 you can't keep 6 feet apart) at the pool, but Association's after June 15th don't have to enforce social distancing anymore (unless over 50). You still have to enforce social distancing at the gym.

Pools:

I have attached the extensive 7 page set of guidelines published by the Georgia Department of Public Health on May 13th (this may be updated shortly) as well as the Governors most recent Order ("Order"), which provide guidance on re-opening and is applicable through June 30, 2020.

** As far as signage goes, the main points that must be conveyed are:

1. Individuals who have a fever or other symptoms of COVID-19 shall not enter the pool area;
2. Individuals shall take the steps necessary to prevent the spread of COVID-19, including but not limited to, maintaining hand hygiene, hand washing, and/or sanitation, and maintaining social distancing;
3. The persons using the pool area do so at their own risk;
4. All Persons who enter the amenity area acknowledge and agree that by entering the pool area they are increasing their risk of coming into contact with and/or contracting COVID-19; and
5. All Persons who enter the amenity area further acknowledge that by entering the pool area they are doing so at their own risk with full knowledge of the risks of entering and agree to hold harmless the Association its Board of Directors, officers, employees and agents from any and all claims that may arise from their entering of the pool area.

It's important to note that signs, as is the case with waivers, do not eliminate potential liability to the Association and, in fact, there are a number of lawyers in the State of Georgia supporting the argument that any release waivers or indemnification agreements signed would be unenforceable. With that being said, we can attempt to limit this liability with a release waiver/indemnification agreement, but there is the legal possibility courts rule the waivers unenforceable and the reality is that this is a unique and new situation for homeowners associations. In addition, if an Owner contracts COVID-19 while at the pool or gym and passes it along to someone who has not signed a waiver, the Association could potentially be held liable for any damages resulting from that person's infection.

** The Order requires non-profits that are not critical infrastructure, arguably such as a Community Association operating an amenity, to implement measures which mitigate the exposure and spread of COVID-19, including, screening and evaluating Workers for illness ("Worker" is broadly defined to include employees, independent contractors, agents, volunteers, or other representative of a non-profit corporation), posting signage such as that recommended above, enhancing sanitation as appropriate, disinfecting common surfaces regularly, requiring hand washing or sanitation at appropriate places, prohibiting Gatherings (defined as more than 50 persons physically present at a Single Location and if present they must be standing or seated 6 feet apart), prohibiting handshaking and unnecessary person-to-person contact and prohibiting anyone with COVID-19 from participation in activities.

Fitness Centers: our recommendation would be to keep the fitness center closed, as the risks outweigh the benefits. Similar to pools, it is likewise cost prohibitive to follow the Governor's requirements. It is unclear whether Section V of the Order (beings on page 14) would be applicable to fitness centers/gyms in a Community Association, but as this guidance exists and the Board has a fiduciary obligation to make good faith decisions in the best interest of the members, we recommend following the requirements. Additionally, if you do elect to open the Fitness Center, in addition to the requirements beginning on page 14 of the Order, we recommend that you comply with the signage and Order requirements listed above with a ** in addition to enforcing social distancing.

In summary, our current position is that the amenities should remain closed as the potential liability of opening them greatly outweighs any risk from keeping them closed. Of course, we also suggest the board continue to

monitor the situation closely as it changes almost on a daily basis. New facts may arise that allow a change in this policy including any legislation from the state or federal government limiting an individual's ability to sue a property owner for contraction of the virus or a significant decrease in new cases for an extended period of time. Please note that there is no statutory or case law on this subject, which further complicates the issue as there is no legal guidance on the subject. Further, the current Order is set to expire June 30, 2020. There may be additional guidance from the Governor in the coming weeks. Please do not hesitate to reach out again as facts and guidance changes.