

## **Lake of the lawsuit.**

Lake's health spurs suit

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POINT PLEASANT BEACH — Residents living near the Lake of the Lilies are suing the borough, claiming the lake's health is deteriorating because the borough has not dredged it.

The lake has been the subject of several public discussions. The majority wants it restored but disagree over cost, effectiveness and environmental results of plans.

One issue is the phragmites australis, reeds that grow around the lake. Some have cut them down to provide a better view, while others argue the reeds keep geese away, are a habitat for other animals and stop erosion.

Save Lake of the Lilies, a nonprofit corporation, and residents Frank and Barbara Costa filed a complaint Tuesday against the borough for failing to dredge the lake.

The ownership of the lake is divided between the borough and 11 private owners.

The borough acquired the lake in 1974 from George Makin by a deed executed in 1965 which states the lake should be maintained in "a healthy condition for use and enjoyment of the wildlife of the area, and the spiritual, moral and psychic enrichment of the people of the community."

According to the complaint, the lake's depth, originally, 5 to 6 feet, is now closer to 1 foot.

The complaint cited a 2000 study done by Bay Pointe Engineering, now Schoor-DePalma, that recommended dredging. However, in February, a Schoor DePalma study recommended removing the phragmites with herbicides and mowing.

The plaintiffs assert the borough violated the Makin deed, making agreements that don't include the 11 landowners, and disregarding the first study that recommended dredging. They also claim the borough

violated New Jersey Open Public Meeting Act by discussing an agreement with the U.S. Department of Fish and Wildlife in an executive session.

They seek the invalidation of the resolution and legal fees.

"What my clients want to know is why is the municipality seemingly turning a blind eye to what needs to be done?" asked attorney Stuart Lieberman.

"They've known for quite a long time they have to dredge," he said. "Why is it they are only working on aesthetic issues?"

He cited fish kills in the last five years and the borough's proposal to remove the vegetation and install concrete sidewalks and viewing platforms.

Mayor Thomas Vogel said the borough is still in the process of learning what the residents want, a process that will be harmed by this suit.

Meetings have been held to elicit public feedback and studies have been performed to determine facts in the matter, he said.

"It's disheartening this will limit the ability of others to come to the table and talk," he said.

The borough filed for a permit with the U.S. Department of Fish and Game to cut vegetation, which could include the reeds, he said. The resolution was required by the DEP so there would be an agency to advise the borough on the matter.

"(The suit is) a waste of taxpayers' money," he said. "This money is needed to tackle projects like this and instead it's wasted on legal matters."