

Statement from the Dobbs Ferry Board of Education

February 15, 2022

As many of you are aware, since 2018 there has been an ongoing litigation and tax certiorari proceeding between The Landing on the Water at Dobbs Ferry and the Town of Greenburgh, the Dobbs Ferry School District and the Village of Dobbs Ferry. The dispute centered around the Landing's attempt to convert to condominium status in April 2018, whether and when that conversion met all of the legal requirements, whether the Landing was owed refunds on property taxes already paid for each year dating back to 2018, and how the Landing would be taxed going forward.

We, the members of the Board of Education, have a fiduciary duty to analyze carefully every decision we are called upon to make, consult with the experts and advisers available to us, and take the course of action that we believe is in the best interests of the district, its students and our taxpayers. We treat all these decisions with the utmost seriousness.

Please understand that the legal situation with the Landing is much more complicated than what you may have heard. While many say there were verbal assurances from the developers that they would never seek to change the Landing's tax status, that was not codified in writing and is not legally binding in a court of law. We may not like it, but as of April 2018, the law allowed developments such as this to convert to condo status.

Is it morally wrong for one set of taxpayers to take advantage of a law that enables them to lower their tax burden, thereby raising the tax burden on everyone else? Perhaps. But a court of law does not make decisions based on the morals of a situation. The court's role is to apply the facts and the law as it was written.

We have been fighting this and litigating it for nearly four years. We and our attorneys have looked at it from every angle. We argued that the Landing's attempt to convert to condo status – while theoretically allowed by New York State and local law at the time – was technically deficient because of errors they made when they filed their papers. These deficiencies were not related to requirements that were codified in the law and no court in New York State has ever denied a condo conversion based on these types of deficiencies.

Is there a chance we might have won on these arguments? Sure. Does anyone know what our odds of winning would have been? Absolutely not.

All three entities – the Town, the Village and the Board of Education – rejected previous settlement offers that were not as advantageous as this one. When the latest, very different offer came to the table – and after many hours of debate, analysis, and questioning – all three entities were ultimately advised by their separate legal counsel that this settlement was in their best interest over continuing to litigate this case and risk losing outright.

As a school district and as a Board, it is our obligation to plan and be prepared for any outcome. In this instance, if we kept fighting this case and it dragged on for another 3 years, which is what the likely timeline would have been, and then we lost – the results for our District’s financial position and our taxpayers would have been disastrous. We would suddenly be obligated to pay about 7 years of refunds, amounting to more than \$6 million in School District funds alone being owed to the Landing. And we would not have reserves at our disposal to soften the blow of a sudden tax increase to our other taxpayers.

After carefully considering all of this information, the advice of our counsel, and the risk to our taxpayers if we ultimately lost, tonight we are announcing that the school district, along with the Village and the Town, have reached a settlement agreement with The Landing. The approval of that settlement is on our agenda today. The settlement will result in the following:

- No refund will be paid to the Landing for 2018.
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- Those 2 years of waived refunds represent a combined savings of \$2.6 million for the District, the Village and the Town.
- There will be a refund for only 2020 amounting to \$1.3 million, of which \$877,339.90 is the School District’s portion, but interest payments that normally accrue for a refund are waived.
- Because the School District has set aside funds in reserve to cover this potential tax certiorari, this 2020 refund payment will not negatively impact the District’s operations or budget in any way.

- Because the School District had also set aside funds in reserve to cover the potential tax refunds for 2018 and 2019, those funds can help us reduce the impact on taxpayers in the years to come.
- The settlement acknowledges the Landing's condominium status as of 2018.

We want you to know that we hear and understand your anger and frustration. We are angry and frustrated too. But as school board members, our job is to set aside our emotions and make the decision that – after hours and hours of careful analysis and debate – we believe to be in the overall best interest of the school district.

Finally, If you feel that the law that allows condominiums to be taxed at roughly 40% less than other homes is morally wrong, I suggest you contact your legislative representatives in Albany. Although in October 2018 the School District removed the ability of homeowners in Dobbs Ferry to convert to condominium status in this way, existing condominiums or newly built condominiums are still assessed in a way that reduces their property taxes by about 40%. The New York State School Boards Association has been advocating for a change to this law for years. Albany is where real change for this situation can and must take place.