

August 11, 2021

Town of Berne
Town Board
1656 Helderberg Trail
Berne, NY 12023

Attn: Sean Lyons, Supervisor
Dennis Palow, Deputy Supervisor
Bonnie Conklin, Council –3
Leo Vane, Council – 4
Joel Willsey, Council –2

RE: Helderberg Lake Proposed Tax District

Dear Board Members:

Please find below a list of questions we have regarding the above proposed tax district.

- As of date, we still do not know cost of this project to repair the Dam.
- Has DEC approved this project?
- How much will our taxes increase, what is the interest rate?
- What is the duration of this Tax District?
- Can money be used for anything other than repairing the Dam?
- In the Petition it states in Schedule C, last bullet "Develop a Plan for use of a permanent siphon or high-capacity temporary pumps". According to Engineers report, cost has been added to include adding a Siphon System. Should the petition be revised?
- Can Helderberg Lake Community Association (HLCA) amend petition at any time, and do they need to notify all parties involved?
- Bob and I were NEVER emailed, or approached to sign this petition.

Thank you very much for your time, and I look forward to receiving a response to the above questions at your earliest convenience.

Sincerely,

Bob and Liz Smith
205 Pinnacle Road
(518)872-1972, email Lizzy266@aol.com

RE: 2021 Helderberg Lake Tax District Proposal & Petition - Follow up to 8/25/21 Town Board Meeting - 2nd Correspondence

Sean Lyons <Supervisor@berneny.org>

Thu 9/2/2021 3:04 PM

To: Leonard, Lauren (DMV) <Lauren.Leonard@dmv.ny.gov>; Anita Clayton <clerk@berneny.org>

Cc: Dennis Palow <Council-1@berneny.org>; Joel Willsey <Council-2@berneny.org>; Bonnie Conklin <Council-3@berneny.org>; Leo Vane <Council-4@berneny.org>; Javid Afzali <JAfzali@HarrisBeach.com>

Lauren, Paula

Sometimes research is needed to formulate the proper legal responses, I apologize if the response time has caused you inconvenience.

Your request is not a FOIL question but one for the board that I can answer.

There is no financial information "missing" from the petition (i.e. the petition contains the statutory required information). However, before the Town board can hold the public hearing, it needs to determine (and publish in the notice) the "cost of the district to a typical property," and/or the cost to the "typical one or two family home," defined in Town Law §193. To calculate these costs, the Town has to identify a bank / lender and get an interest rate and first year payment for the bond type that is contemplated. Once we know what the interest rate would be, we'll be able to calculate the "costs" and publish it in the notice. This information is not required to be in the petition and getting it does not bind the Town Board in anyway. The Board is still required to follow all of the procedural requirements for determining whether forming a district is in the best interest of the town, the requirements for obtaining a bond, and requirements for approving construction to the dam.

Respectfully,

Sean S Lyons

From: Leonard, Lauren (DMV) <Lauren.Leonard@dmv.ny.gov>

Sent: Thursday, September 2, 2021 2:51 PM

To: Sean Lyons <Supervisor@berneny.org>; Anita Clayton <clerk@berneny.org>

Cc: Dennis Palow <Council-1@berneny.org>; Joel Willsey <Council-2@berneny.org>; Bonnie Conklin <Council-3@berneny.org>; Leo Vane <Council-4@berneny.org>; jafzali@harrisbeach.com

Subject: FW: 2021 Helderberg Lake Tax District Proposal & Petition - Follow up to 8/25/21 Town Board Meeting - 2nd Correspondence

Importance: High

Good Afternoon,

Attached, please find the original email I sent to the Town of Berne; board members and town clerk.

The only response to this email I received was from Bonnie Conklin.

At this time, I am again sending an email to all of the board members, town clerk, and the attorney representing the Town of Berne; Mr. Javid Afzali.

My mother and I are requesting to be informed of what missing "financials" prevented the Town Board from proceeding to set the date for the public hearing regarding the 2021 Helderberg Lake Tax District Proposal & Petition.

As stated in the attached email, we requested these "financials" directly from the HLCA. We were told by HLCA President, Tom McQuade, that the only item the Town Board was missing was information regarding a Bond Counsel.

If there is financial information missing from the petition, the residents who either signed or refused to sign were not fully informed.

At this time, I am officially requesting any financial information that was not submitted for the Town of Berne's approval form the HLCA regarding the 2021 Helderberg Lake Tax District Proposal & Petition as a FOIL.

Thank you,
Lauren Leonard & Paula Leonard

From: rsmith8671@aol.com,

To: supervisor@berneny.org, council-3@berneny.org, council-1@berneny.org, council-2@berneny.org, council-4@berneny.org,

Subject: Proposed Helderberg Lake "Park District"

Date: Thu, Sep 9, 2021 8:40 pm

Attachments: Letter.pdf (109K), 2018 Map.pdf (871K), 2020 Map.pdf (412K), Rules.pdf (185K)

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DEC 07 2021

BERNE TOWN CLERK

Supervisor Lyons
Deputy Supervisor Palow
Bonnie Conklin
Leo Vane
Joel Willsey

My name is Robert Smith, my wife and I reside at 205 Pinnacle Rd., Voorheesville, NY Town of Berne. I am writing because I have some concerns, questions and objections regarding the proposed Park District being considered by the Town of Berne to fund repairs to the Helderberg Lake Dam. My home is not located on Helderberg Lake, but I do have deeded lake rights to access the lake via Lake Association property. I would like to begin by saying that it was very concerning at the August 11th Town Board Meeting the Attorney proposing the Petition was allowed to address the Board, while those against the Petition were not given an opportunity to speak.

As I understand it, a "Park District" is supposed to be fair and equitable to all. This proposed Park district is far from fair and equitable. As a Non-Lake front property owner I do not receive the same benefit of the lake that Lake Front property owners have;

- I cannot enjoy the lake from my home
- My lake access is shared with several other families
- If I'm at the lake and need to use a restroom, I need get in my vehicle and return to my home.
- For the same reason as above, it is difficult if not impossible to host a party at the lake. - Those with Lake Frontage have 24 hour unrestricted access to the Lake while those that have Lake Rights don't
- While using Association Property to access the lake I am subject to rules (See Attachment titled "Rules"). Families that access the Lake from their property are not subject to these rules.

My first concern is with the method that the tax will be calculated. If the tax is based on assessed property values, my tax burden will be 2.2 times more than the average lake front property. Wouldn't a benefit tax create a more fair and equitable tax district?

Secondly I have recently been informed that I can no longer access the lake being that I am no longer a member in "good standing". (See Attachment titled "Letter") Why should I be expected to pay taxes to fund work at a lake that I can not utilize? Can I really be taxed and then be told that I can not utilize the facilities that I am being taxed for? I have never heard of a "Park" that the people that are taxed for it's existence can not use. Could the Town become part of litigation brought

forward regarding this matter?

Can taxpayer dollars be used to fund a private organization that the Town has no control over?

We do not know how the proposed work will impact the (2) designated lake access points. Will they exist, will they be usable? Or will we be forced to pay taxes for a lake that has no points that can be used for access.

At sometime between 2018 & 2020 the Lake Association Board reclassified one of the Lake ROW access points to an easement for Lot #68. What is to prevent the Lake Association Board from re-classifying the remaining ROWs, blocking all access to the Lake?

Based on some crude calculation(s) that I have done, everyone will be looking at a 35-42%+ tax increase plus administrative fees charged by the Town. This is an astronomical increase for a lake that we can no longer use,

The Lake Association has known that dam repairs have been needed for 10+ years, and they have elected to do nothing. Now they have decided that they want to move forward with dam repairs and don't have the funds to make repairs. The Helderberg Lake Community Association (HLCA) Board has decided to request a Park District to make the Town the "Bad Guy" in this matter. This is not the Town's problem, it is Helderberg Lake's problem.

The Lake Association has other options, such as sale of property owned by the Lake Association.

Communications between HLCA and NYSDEC have been FOILED and nothing has indicated that NYSDEC is considering moving forward with removal of the dam.

Thank you for listening

Bob Smith



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DEC 01 2021

BERNE TOWN CLERK

Helderberg Lake Community Association

October 20, 2021, 2021

Town of Berne
1656 Helderberg Trail
Berne, NY

Dear Board Members,

This letter is being sent from the Helderberg Lake Community Association Board of Directors.

As members of the HLCA board we feel it is with great importance that we request your assistance to secure a special tax district for the purpose of repairing our dam.

Helderberg Lake is a privately-owned lake in the Town of Berne with a dam that has an enormous impact on the safety of our neighbors residing downstream, specifically to the Hamlet of Clarksville, as well as the Town of Berne. The dam is a Class "C" or "High Hazard" dam which means failure may result in widespread or serious damage to home(s), damage to main highways, industrial or commercial buildings, and/or important utilities, including water supply, sewage treatment, fuel, power, cable or telephone infrastructure; or substantial environmental damage; **such that the loss of human life or widespread substantial economic loss is likely.**

We, the HLCA Board of Directors, have been working diligently with the NYS DEC, engineers, our attorney and our members to determine what must be done to meet the DEC requirements for the necessary repairs. We have also researched many different avenues in an attempt to secure the funding needed for the repairs. Unfortunately, as a private lake we have not been eligible for any funding assistance through a grant, or any other means. We are a small community with a limited number of members. Our members are generous and more than willing to take responsibility for this expense, however providing the entire upfront cost is not possible.

The majority of our members have signed a petition indicating their commitment to repairing the dam and confirming they are in favor of a special tax district. It is widely understood that a special tax district, resulting in bond funding, is our best and only option.



Helderberg Lake Community Association

As you know, securing this funding will ensure the safety of our neighbors and town. Property and lives will be at great risk should the dam be breached. We cannot neglect our duty and responsibility to our community and neighbors.

Thank you for your attention to this matter, we hope that you will support us in this extremely critical endeavor.

Sincerely,

Tom McQuade, President

Krina Danckert, Vice President

Tami Bloom, Secretary

Gail McQuade, Treasurer

William Scotti, Board Member

Joshua Weinstock, Board Member

Barry Zwack, Board Member

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DEC 01 2021

BERNE TOWN CLERK



Helderberg Lake Community Association Helderberg Lake Dam

1

Introduction



- The Helderberg Lake Dam (State ID 190-1924) is used for recreation.
- The dam was originally constructed in 1926 and is an earthen dam with a concrete core wall and spillway.
- The dam was overtopped during an event in 1938, causing a failure of the downstream slope. The dam was reconstructed in 1944.
- An Engineering Assessment and Safety Inspection were performed in 2016 by PRIME AE Group.

NEW YORK Department of Environmental Conservation

New York State Inventory of Dams
Name of Dam: Helderberg Lake Dam
State ID: 190-1924

Hazard Code: C
See below for hazard code definition

Year Completed: 1944
Most Recent Inspection: 8/21/2018

Location Information			
County	Main Facility	Area of Interest	Latitude / Longitude
Ulster	Helderberg Lake	W. ONONDAGA/ULSTER CREEK	42.897222222222 -74.616111111111

Type	
Type of Construction	Primary Purpose
Off-Crest Concrete Gravity	Earth Retention, Water Control - Secondary

Technical Information	
Federal ID Number	NYS-0275
Dam Length (feet)	343
Dam Height (feet)	35
Concrete Width (feet)	52
Maximum Discharge (cfs)	2100
Maximum Storage (acre-feet)	530
Normal Storage (acre-feet)	172
Operational Surface Area (acres)	27
Storage Area (square miles)	2.33
Basin	LOWLAND HILLS/ONONDAGA
Date of Dam Failure	8/20/1938
State Condition Rating	UNSATIS-Fair

Note - The Hazard Code denotes the downstream hazard potential in the event of a dam failure:

- C = High Hazard
- B = Intermediate Hazard
- A = Low Hazard
- Φ = Not a hazard code assigned

Also Note - This data was imported from DEC's database on 3/05/2019. Updates to data that occurred after 3/05/2019 are not reflected here.

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Safety Inspection



- During PRIME AE's November 2016 Safety Inspection, the following deficiencies were noted:
 - The concrete core wall was observed to be leaning towards the lake.
 - Cracks and spalling observed in the concrete core wall and spillway walls.
 - The earthen embankment should be restored to its original slope.
 - Areas of seepage observed should be monitored to ensure the rate of seepage does not progress.



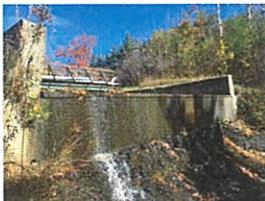
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Engineering Assessment



- The Engineering Assessment reviewed the dam's spillway capacity, structural stability, and an evaluation of the dam's outlet works capacity.
- The findings of the Engineering Assessment are presented on the following slides.



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Outlet Works Capacity



- NYS DEC's *Guidelines for the Design of Dams* require that a low level outlet or drain "for emptying or lowering the water in case of emergency; for inspection and maintenance of the dam, reservoir, and appurtenances; and for releasing water to meet downstream water requirements" be provided with the capacity to drain the lake 90% within 14 days.
- A 20-inch low level outlet pipe and valve were installed during the 1944 reconstruction work, however no such valve or pipe could be located.
- There is currently no means for lowering the lake in accordance with the *Guidelines*.

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Required Repairs



- To address the noted deficiencies, the following actions are required:
 - Install 1' extension of the concrete core wall to reduce the risk of overtopping.
 - Install rip rap on the downstream slope to add stability and flatten the slope to meet DEC requirements for a minimum of a 1 on 2 slope.
 - Patch and seal deteriorated concrete sections of the spillway, core wall, and spillway walls.
 - Buttress the leaning core wall with stone fill on the lake side.
 - Installation of a siphon, or development of a plan to access equipment to lower the lake level in the event a situation develops requiring the water level to be dropped.
 - Investigate/Abandon existing 20" low level outlet pipe and drainage tunnel per DEC.

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Alternate – Remove Dam



- As an alternate to repairing the dam, the dam can be removed, and the stream channel returned to a natural water course.
- A slot would be cut through the center of the dam to allow for the stream to pass and return to a natural watercourse.
- Dam removal would result in a wetland area where the lake currently sits.



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Cost Estimate for Dam Removal



Description	Unit	Quantity	Unit Price	Extension	Subtotals
General Requirements					
Mobilization, Demobilization	LS	1	\$30,000	\$30,000	
Insurances, Bonds	LS	1	\$30,000	\$30,000	
					\$60,000
Environmental & Traffic Protection					
Traffic/Public Protection	LS	1	\$5,000	\$5,000	
Erosion Measures	LS	1	\$10,000	\$10,000	
Stream Protection	LS	1	\$10,000	\$10,000	
Flow Bypass/Cofferdam	LS	1	\$10,000	\$10,000	
					\$35,000
Dam Breach					
Removes 30' Wide Section of Dam	CY	8,300	\$20	\$166,000	
Rip Rap Cut Dam Section	CY	900	\$75	\$67,500	
Site Restoration	LS	1	\$40,000	\$40,000	
					\$273,500
				Construction Subtotal	\$368,500
Summary					\$368,500
				Construction Subtotal	\$368,500
				Construction Subtotal	\$368,500
				Contingency @ 15%	\$55,275
				Construction Total	\$423,775
				Construction Total	\$424,000

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NYS DEC Enhanced Safety Program



- An Enhanced Safety Program may consist of one or more of the following at the discretion of NYS DEC
 - An inspection and maintenance plan, emergency action plan, and engineering assessment report, each of which is in compliance with this Part;
 - A regular schedule of safety inspections;
 - Reservoir restrictions;
 - Financial assurance associated with the cost of breach or removal of the dam
 - Other measures which the department determines are necessary to protect public safety.

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What is Financial Assurance?



- Financial assurance means a dam owner establishes and maintains financial security that is payable to the department in an amount sufficient to pay for the breach or removal of the dam by the department, should such breach or removal be deemed necessary.
- The amount of the financial security is sufficient if it is adequate to fully cover the costs associated with a breach or removal of the dam
- The form of the financial security shall be one or more of the following: a surety bond, irrevocable letters of credit, a trust fund established for the benefit of the department, a policy of insurance that provides the department with acceptable rights as a beneficiary, one or more annuities, one or more certificates of deposit, or any other form which the department determines to be acceptable.

18

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Questions



- Questions?

21

21



22

November 11, 2021

Town of Berne
P.O. Box 57
1656 Helderberg Trail
Berne, NY 12023

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NOV 28 2021

BERNE TOWN CLERK

Attn: Anita Clayton, Town Clerk

Dear Board Members,

As a Town of Berne tax payer for over 13 years, please consider this a plea for bond funding to make necessary repairs to the Class C, High Hazard dam located in the Town of Berne. As a small private community we do not have the funds to make critical repairs to the Helderberg Lake Dam, which is classified as "unsound" by NYSDEC – i.e. safety of the dam cannot be assured. A Class C Dam is defined by the New York State DEC as:

*Class "C" or "High Hazard" dam: A dam failure may result in widespread or serious damage to home(s); damage to main highways, industrial or commercial buildings, railroads, and/or important utilities, including water supply, sewage treatment, fuel, power, cable or telephone infrastructure; or substantial environmental damage; **such that the loss of human life or widespread substantial economic loss is likely.** Source: https://www.dec.ny.gov/docs/water_pdf/togs315.pdf*

As we are not a 501c3, we are barred from available funding resources via the NYS Grants Gateway. We have contacted the Army Corp of Engineers, Albany County, NYSDEC, government representatives... for financial assistance ...to no avail. As evidenced by the signed petitions and required criteria met, we are imploring the board to assist in providing access to a bond whereas, we can be financially responsible dam owners through tax assessments and make the necessary repairs to an unsound dam. The bond should have no financial impact on town residents that are not part of this special district.

With 40+ years of risk management experience, I have seen too often known deficiencies ignored with resultant property damage, injuries, death and countless lawsuits. I was also a Helderberg Lake Community Association board member for several years as well as former secretary. During this time and up to present, no one in the Helderberg Lake community has presented a sound actionable plan for funding, despite numerous requests to community members over many years (this was again requested at the June 25, 2021 association meetings and documented that town bonding was our *only option* to preserve the dam and our lake).

Lastly, I would like to underscore the critical importance of securing this funding to ensure the safety of town and county resident lives and property should the dam be breached due to conscious neglect. We have a solution that is supported by the majority of the lake community that will ensure we act as responsible citizens and need your support to access funding to realize this safety endeavor in a responsible manner.

Thank you for your time and hope that you support our efforts to adhere to NYSDEC as well as preserve the safety of our community.

Sincerely,



Lorraine & Mark Emerick, 90 East Shore Drive, East Berne, NY

Nov. 15, 2021

To: Town of Berne



Myself and husband, Barbara and Ralph Miller, have been residents of Helderberg Lake Association for over 22 years.

It is very important to us as well as HLA members to save the dam before it collapses. This also ^{will} have an effect on our property value if there is no lake.

We hope at this time the Town of Berne will realize the dire situation we are all in. The dam is in very poor condition and do not know how many more winters and severe rain storms the dam can handle.

Thank you for addressing this important matter,

Sincerely,

Barbara and Ralph Miller

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NOV 22 2021

BERNE TOWN CLERK

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DEC 01 2021

BERNE TOWN CLERK

November 29, 2021

Town of Berne
Board Officers
Supervisor Lyons
Deputy Supervisor Palow
Leo Vane
Joel Willsey

RE: Helderberg Lake Proposed Tax District

Dear Board Officers:

Thank you for giving us the opportunity to express our concerns regarding the "Proposed Tax District".

Our property has deeded lake rights. We do not have lake frontage and have to drive approximately 2 miles to the lake access point. In the proposed tax district, we are the highest assessed property and will be paying the most increased taxes with NO benefit to the lake. These lake rights gave us access via Lake Association property right of ways (ROW). In recent years, Helderberg Lake Community Association (HLCA) took away one of these ROW's (see attached maps). What guarantee do we have that the rest of the ROW points will also not be removed? Will the construction have a negative impact on the access points?

On July 27, 2021 we received an email from Tami Bloom , Recording Secretary for HLCA (see attached) stating that if you are not a dues paying member in good standings, you DO NOT legally have access to use the lake/HLCA property. You will be considered trespassing and legal action could be taken. In a phone conversation with Tom McQuade, President of HLCA on September 28, 2021, I was told HLCA is working to legally remove our rights if we do not pay dues. How can we be taxed on a lake that we have no rights to use?

As per a letter sent to the Town Board on September 9, 2021 (see attached), we could be looking at a 35-42% tax increase plus administrative fees charged by the Town. Since the Public Notice was issued, our concerns have been confirmed. Our Taxes will be increased by 42%. We will be paying approximately \$36,000 in additional taxes over the course of 30 years. This is an astronomical increase in our taxes for a lake that we can no longer use. This increase in taxes will put a burden on many people. Some are on fixed incomes, some will have to delay retirement. If you want to sell your home, the additional cost in taxes will negatively impact your off lake property values.

The Lake is owned by the Association, who should bare the cost of the Dam repairs. If we are not members of the Association, how do we bare responsibility for these repairs. The Park District is inequitable as proposed, as it fails to address the difference between parties directly on the lake, parties

with lake rights and properties where owners with lake rights elect not to use the lake. Is this the correct way to tax land owners as this is not a Park and is considered Private?

In reviewing the filing that Prime Engineers submitted to NYSDEC, we noticed that the Siphon System is an Alternate Bid. It indicates in the description (see attached) that if there is extra money after the bids have come in, at that point they will develop a plan for the Siphon System. We have been told all along that the system is required and that it is included in the \$350,000 estimate (see attached email dated June 30th).

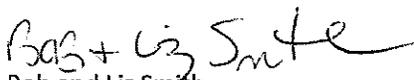
As per our letter previously sent, HLCA has known for 10+ years that repairs were needed to the Dam and elected to do nothing. There could have been fund raising, donations and possible sale of HLCA land to help offset the cost. As per the last paragraph in the June 30th email (attached), we are being told that the cost for DEC to come in and decommission the dam or make repairs could be up to 5X more than if HLCA fixes it themselves. That the cost would be passed from DEC to every property owner with lake rights. That DEC will attach a lien on every property. Nowhere have we received documentation showing that this has been communicated from DEC to HLCA. All communications from 2010 to present have been FOILED with NYSDEC. As of date, nothing has indicated that NYSDEC is considering moving forward with the removal of the dam.

In reviewing the petition, we came across some errors. Some examples are as follows:

- Tony Haas signed the petition, but sold his home prior to the petition being filed.
- The Wright's are listed as primary residence. This home is inhabitable.
- Signature's where the individual never included date signed
- Signature's using a 2020 signed date

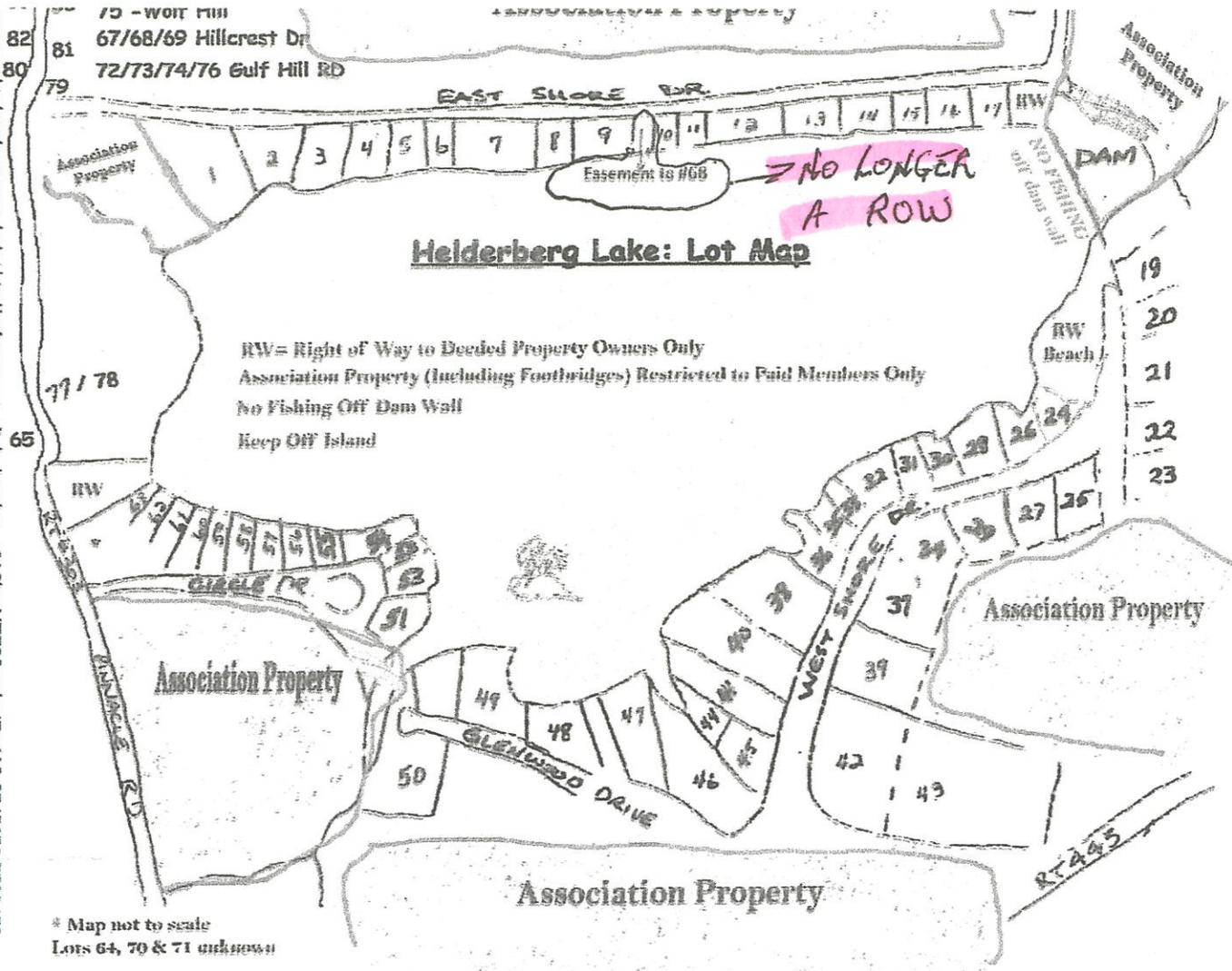
We urge the Town of Berne NOT to approve this petition. There is no way to know the cost until actual bids have been received. A Park District should be Fair and equitable to ALL, which this district is not.

Regards,


Bob and Liz Smith
205 Pinnacle Road
Voorheesville, NY 12186
Lizzy266@aol.com

CC: Wayne Smith, Jr, Esq

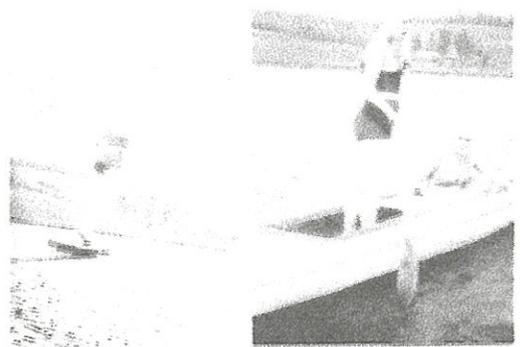
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Updated



Please join our Facebook page <https://www.facebook.com/helderberglake/> (join community group as well!)

We would love to see your old photos! Please send to Lorraine Emerick lemarick1234@gmail.com and put Helderberg Lake in subject line. If you don't have a way to scan, just let me know and I can help. Thank you!

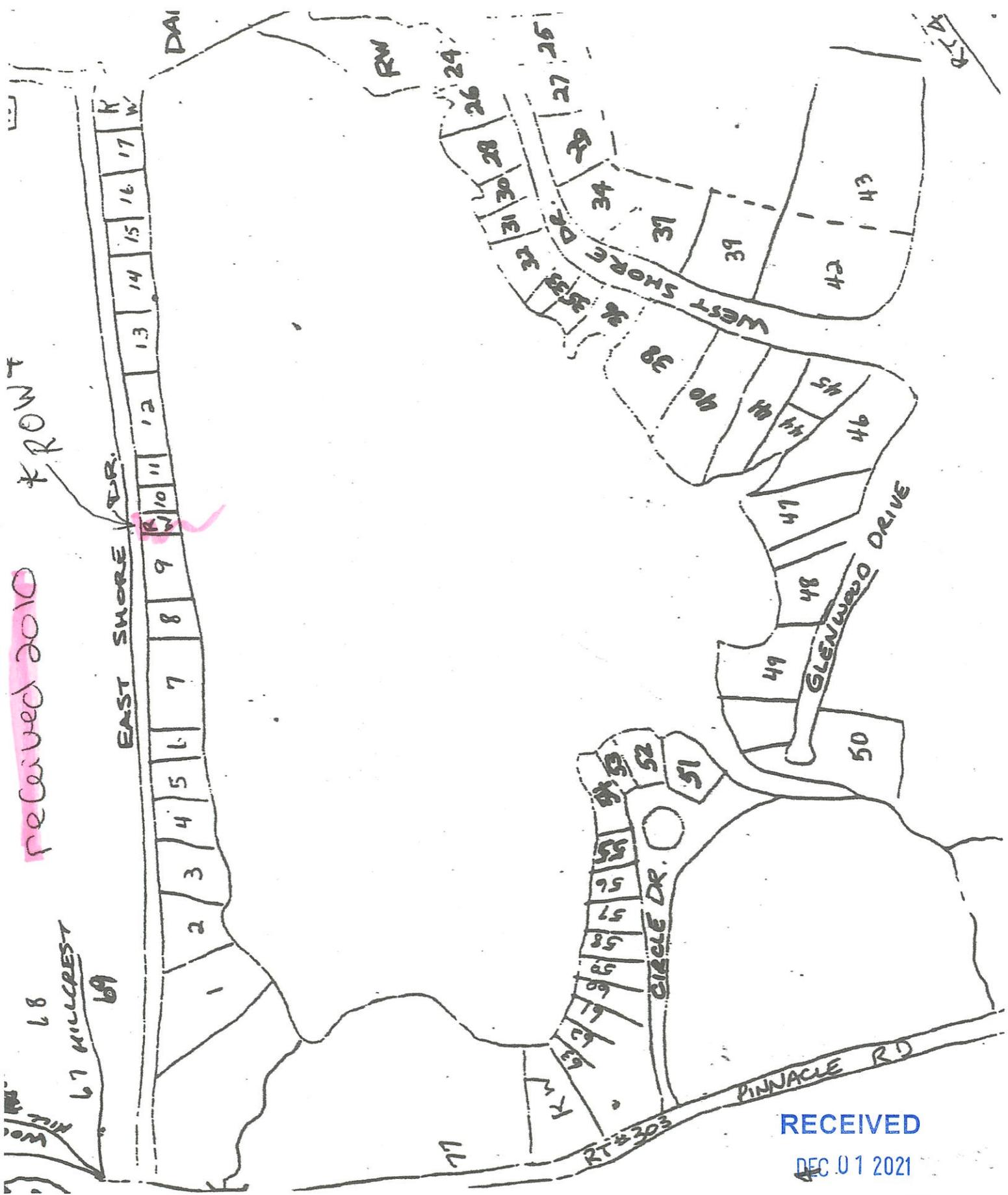
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DEC 01 2021

BERNE TOWN CLERK

received 2010

FRONT



RECEIVED

DEC 01 2021

BERNE TOWN CLERK

From: tamisbloom@gmail.com,
To: tamisbloom@gmail.com,
Bcc: rsmith8671@aol.com,
Subject: Notice from the Heldeberg Lake Community Association Board
Date: Tue, Jul 27, 2021 8:57 am

As a reminder, Heldeberg Lake is a man-made lake that is owned, operated, maintained, and insured by the Heldeberg Lake Community Association (HLCA).

Your HLCA dues go to paying the property taxes and insurance on the lake and the associated outlying lands. Membership provides access to all of those areas to you and your guests. Activities include boating, swimming, fishing, ice fishing, ice skating, hunting, use of the beach and raft, etc. Dues are also used to maintain the dam in accordance with New York State Department of Environmental Conservation (DEC) requirements as well as attorney fees.

Lake rights are deeded to members in good standing, and their guests, and that requires the payment of Lake Association dues. Those properties that fail to pay dues are not legally allowed to access and use the lake or other HLCA properties, and would be considered to be trespassing, and legal action could be taken.

Payment of your dues provides membership to the HLCA. As a member you can share your opinions at the meetings, vote on the future of the lake, and run for the board. You will have the power to shape the lake and its operation.

Please join us. Together, we can work to maintain this lake and our community.

Thank you for your consideration.

HLCA Board

RECEIVED

DEC 01 2021

BERNE TOWN CLERK

RECEIVED

DEC 01 2021

Young / Sommer LLC

BERNE TOWN CLERK

ATTORNEYS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205
Phone: 518-438-9907 • Fax: 518-438-9914

www.youngsommer.com

David C. Brennan, Esq.
Writer's Telephone Extension: 224
dbrennan@youngsommer.com

**PRIVILEGED AND CONFIDENTIAL MEMORANDUM
ATTORNEY WORK PRODUCT**

TO: Helderberg Lake Community Association - Executive Board

FROM: David C. Brennan

DATE: June 22, 2021

RE: New York State Department of Environmental Conservation - Jurisdiction of Dam Safety Program

You have asked me to provide some additional information on how the New York State Department of Environmental Conservation regulates dams in New York State, as well as their jurisdiction and authority. Please accept this memo as a brief description and overview on that topic.

In basic terms, the New York State Department of Environmental Conservation ("DEC") regulates dams by regulations located at 6 NYCRR Part 673 ("Dam Safety Regulations"). These regulations were substantially revised in August 2009. This memo does not address the permitting requirements for initial construction of a dam, use of waters, and the like which are found at 6 NYCRR Part 608, as well as other regulations such as those dealing with freshwater wetlands, fish and wildlife law or the State Environmental Quality Review Act.

The Helderberg Lake dam is assigned State ID# 190-1294. It is further assigned Hazard Code C and its last condition rating was "unsound-fair." The Hazard Code denotes the downstream hazard potential in the event of a dam failure. Categorization as a Class C (or High Hazard) Dam means that:

A dam failure may result in widespread or serious damage to home(s); damage to main highways, industrial or commercial buildings, railroads, and/or important utilities, including water supply, sewage treatment, fuel, power, cable or telephone infrastructure; or substantial environmental damage; such that the loss of human life or widespread substantial economic loss is likely.

6 NYCRR 673(b)(3). The Helderberg Lake dam has been given a rating of unsound, which is defined in the regulations as dams with deficiencies of such a nature that the safety of the dam cannot be assured. 6 NYCRR 673.16(b)(2).

The owner of a dam that is assigned a condition rating of "Unsound" is in violation of ECL article 15, section 507 and 6 NYCRR Part 673 and the DEC may pursue formal enforcement proceedings to compel the prompt correction of deficiencies. 6 NYCRR 673.16(f).

If the DEC finds that the dam is not being maintained and it is necessary to safeguard life or property or protect natural resources, after a hearing on due notice, the DEC may issue an Order directing the owner of the dam to either remove the dam or construct, reconstruct or repair the same within such reasonable time and such manner as described in the DEC's Order. 6 NYCRR 673.17(a).

If that Order is violated, the DEC may enter upon the lands for the purpose of either removing the dam or repairing it or take such further actions as are deemed necessary to protect life and property. 6 NYCRR 673.17(d). If the DEC does the work, the regulations provide that the DEC will add the costs to the property tax bill of the owner of the dam. 6 NYCRR 673.17(e). In addition, the Environmental Conservation Law provides other avenues for the Department to seek penalties and payment of the costs (i.e. a direct lawsuit).

An owner of a dam means any person or local public corporation who owns, erects, constructs, reconstructs, repairs, breaches, removes, maintains, operates, or uses a dam. 6 NYCRR 673.2(t). A person means any individual, firm, co-partnership, association or corporation other than the State and a public corporation as is set forth in ECL Article 1, Section 0303, Subdivision 18. 6 NYCRR 673.2(u). In this case, the Helderberg Lake Community Association is the owner of the dam. The persons who own property along the lake or otherwise have lake rights are the individuals that make up the Association. In such a case, it is expected, based upon the caselaw, that all of the properties around the lake or with lake rights will be assessed a proportionate share of the removal costs. In a similar case where a dam was not maintained, the DEC has commenced an action in Supreme Court naming all property owners around a lake as defendants.

In summary, the DEC has a detailed dam safety program, particularly for dams the failure of which would cause significant damage to property or loss of life. The Helderberg dam falls into that category. Should the residents around the dam ignore the required repairs, the DEC has the power to come in and breach the dam and lower the lake or repair the dam. In either event, the residents who are users of the lake will be required to pay for the work done by the DEC, which will be added to their tax bill and constitute a lien on their real property.

From: hardpanacres@aol.com,
To: lizzy266@aol.com,
Subject: Fwd: HLCA Response to your Questions
Date: Thu, Jul 1, 2021 1:09 pm
Attachments: DEC - Jurisdiction of Dam Safety Program - June 22, 2021.pdf (146K)

RECEIVED

DEC 07 2021

BERNE TOWN CLERK

-----Original Message-----

From: tamisbloom@gmail.com
To: hardpanacres@aol.com <hardpanacres@aol.com>
Sent: Wed, Jun 30, 2021 7:04 pm
Subject: HLCA Response to your Questions

Good Evening,

I hope you are both well and enjoying the summer so far.

I want to apologize for not responding to your questions sooner.

Please find below your questions and the board's responses.

Has the plan for dam repair been approved by the DEC?

Yes, the DEC approved the engineering firms plan and design for dam repair. The DEC is in possession of our permit application and we are waiting for the permit to be issued.

What is the duration of the tax district?

The duration of the tax district will be determined by the Town of Berne and the NYS Comptroller once the tax district is approved and finalized. We believe that the duration will most likely be 20 years, however it is possible that it may be 30 years. It is the intent of the Town and NYS Comptroller to determine a term that will keep the tax burden on all property owners as minimal as possible.

How is this being funded? What is the interest rate and annual principal and interest payment?

The Town of Berne will loan us the funds through a bond. The interest rate and payment information will be determined once the petition is finalized and approved. It is expected that the average amount to be paid by property owners will be approximately \$500.00 per year depending on the tax assessment value of the property. The amount will be part of the property tax and is tax deductible. This is only a rough estimate at this time and not official.

Will the Town of Berne charge as an administration fee? If so how much?

Yes, there will be a minimal administration fee. The town will determine the fee and inform us once the petition is finalized and approved.

If the costs exceed \$500,000 what is the plan?

The estimated cost is approximately \$350,000, but we will not know for sure until all bids are received. We do not anticipate the repairs to come anywhere close to \$500,000 but are requesting \$500,000 to be sure we have a large buffer and do not have to begin this process again.

Under Schedule C of the petition the last bullet states "Develop a plan for use of a permanent siphon or high

capacity temporary pumps." Does this mean that the siphon or pumps are a future expense or are they included in the \$500,000?

No, the cost of the syphon is included in the estimate of \$350,000.

What steps if any have been taken prior to this to offset the cost of \$500,000? Was there a committee to research other funding sources, different ideas etc?

Yes, we did have 2 members that researched the possibility of a grant to assist with funding. Those members were unsuccessful at this time.

However, Lorraine Emerick and myself have met with Paul Tonko's office and were given some good information and direction. We will be pursuing funding by requesting help through our NYS Legislature. We are hopeful that we will be able to secure a grant at some time, but of course there are no guarantees. Another board member proposed an idea for a fund raiser but has not provided any additional information or followed up.

Were title searches done to determine if there are other unknown properties with "lake rights"?

Yes, our attorney has performed title searches.

We would also like to let you know that if we do not move forward and repair the dam, the DEC will step in and either decommission the dam by draining the lake and removing the dam, OR repair the dam. If this happens, all costs incurred by the DEC, which we are told could be up to 5x more than if we fix the dam ourselves, would be passed from the DEC to every property owner with lake rights. The DEC would attach a lien on every property and payments would be directly linked to and come from our town property taxes. Please see the attached letter.

I hope the above responses are helpful. Is it possible to setup a day and time for 2 of our board members to drop by to further discuss this with you?

Thank you,

HLCA Board of Directors

Sent from [Mail](#) for Windows 10

Short Environmental Assessment Form
Part 1 - Project Information

Instructions for Completing

Part 1 – Project Information. The applicant or project sponsor is responsible for the completion of Part 1. Responses become part of the application for approval or funding, are subject to public review, and may be subject to further verification. Complete Part 1 based on information currently available. If additional research or investigation would be needed to fully respond to any item, please answer as thoroughly as possible based on current information.

Complete all items in Part 1. You may also provide any additional information which you believe will be needed by or useful to the lead agency; attach additional pages as necessary to supplement any item.

Part 1 – Project and Sponsor Information				
Name of Action or Project: Helderberg Lake Dam Repairs				
Project Location (describe, and attach a location map): Helderberg Lade Dam at the south end of Helderberg Lake, approximately 2,300 feet south of the intersection of Pinnacle Road and East Shore Drive.				
Brief Description of Proposed Action: Repairs to existing Helderberg Lake Dam including installation of stone fill on downstream side to increase slope stability, stone fill on upstream side to buttress existing core wall, raise existing concrete core wall, and repairs to existing concrete core wall and spillway. Project also includes an alternate to install a permanent siphon dependent on the available project budget. If budget does not allow a permanent siphon, a plan will be developed to access an alternative means of draining the lake.				
Name of Applicant or Sponsor: Helderberg Lake Community Association		Telephone: E-Mail: tpmcquade1@gmail.com		
Address: PO Box 154				
City/PO: East Berne		State: NY	Zip Code: 12059	
1. Does the proposed action only involve the legislative adoption of a plan, local law, ordinance, administrative rule, or regulation? If Yes, attach a narrative description of the intent of the proposed action and the environmental resources that may be affected in the municipality and proceed to Part 2. If no, continue to question 2.			NO <input checked="" type="checkbox"/>	YES <input type="checkbox"/>
2. Does the proposed action require a permit, approval or funding from any other government Agency? If Yes, list agency(s) name and permit or approval: NYSDEC & USACE			NO <input type="checkbox"/>	YES <input checked="" type="checkbox"/>
3. a. Total acreage of the site of the proposed action?		1.25 acres		
b. Total acreage to be physically disturbed?		0.75 acres		
c. Total acreage (project site and any contiguous properties) owned or controlled by the applicant or project sponsor?		1.25 acres		
4. Check all land uses that occur on, are adjoining or near the proposed action:				
5. <input type="checkbox"/> Urban <input type="checkbox"/> Rural (non-agriculture) <input type="checkbox"/> Industrial <input type="checkbox"/> Commercial <input checked="" type="checkbox"/> Residential (suburban)				
<input checked="" type="checkbox"/> Forest <input type="checkbox"/> Agriculture <input checked="" type="checkbox"/> Aquatic <input type="checkbox"/> Other(Specify):				
<input type="checkbox"/> Parkland				

Anita Clayton, Town Clerk
P.O. Box 57
Town of Berne, NY 12023

RECEIVED
NOV 28 2021
BERNE TOWN CLERK

RE: HLCA Special Tax District Letter of Support

Dear Ms. Clayton,

I am writing this letter in support for the Helderberg Lake Community Association's (HLCA) application to create a Special Tax District. I am a home owner at 25 West Shore Drive and am an active member in the HLCA. The bid to create a special tax district to enable the repair of the dam on the lake is an extremely important issue that I have been involved with for many years. I strongly recommend that the Select Board allow the creation of the HLCA Special Tax District in order to preserve the wonderful resource of Helderberg Lake.

I am a professional planner and have spent many years supporting the Planning Board, Conservation Commission, and many other Boards and Committees in the Town of Amherst, MA. I have a deep understanding of the complexities and issues facing the Town of Berne. I am grateful that the State of New York Land Use Law allows for the creation of such Special Tax Districts as I see it is one of the few ways of equitably supporting a "private" resource such as Helderberg Lake. While it is always difficult for people to vote to tax themselves, this effort has garnered overwhelming support within the Helderberg Lake Community Association because we understand the value of the Lake to our properties and see this as the only fair way to enable the expensive dam repairs.

My worst fear is that we are unable to create this Special Tax District and therefore cannot finance the expensive dam repairs which would force the New York State Department of Environmental Conservation to take extreme measures like removing the dam. This would dramatically decrease the value of our properties and be a significant revenue loss for the Town of Berne. I am grateful for the opportunity to spend time on Helderberg Lake located in such a scenic and beautiful town. I strongly recommend that the Select Board support the creation of the HLCA Special Tax District so that we can preserve this valuable community resource.

Thanks for your consideration.

Sincerely,

Niels la Cour

Anita Clayton

From: Anina laCour <adlacour54@gmail.com>
Sent: Sunday, November 28, 2021 3:54 PM
To: Anita Clayton
Subject: Helderberg Lake Tax District

RECEIVED

NOV 28 2021

BERNE TOWN CLERK

To Anita Clayton and the Town Board,

I own property on Helderberg Lake and I am writing in support of the proposed Helderberg Lake Park Tax District. And I am in favor of the bond initiative for funding repairs to the Helderberg Lake Dam.

It appears that this is the only way to fund the mandated repairs to the dam and save the lake. I understand that it will add to my yearly property taxes to pay back the bond.

But what people need to understand is that if we do not repair the dam, the DEC will take it down and charge a similar increase on our taxes to pay for that. Then we will have increased taxes but NO lake.

Thank you for your attention.
Anina laCour

Sent from my iPad

Anita Clayton

From: Larry Knox <knox1017@gmail.com>
Sent: Monday, November 29, 2021 12:28 PM
To: Anita Clayton
Subject: Larry Knox support for HLCA Dam upgrades

RECEIVED
NOV 28 2021
BERNE TOWN CLERK

Hello Anita

I am writing to voice my support for the proposed work to the Helderberg Lake Dam. I own 56 West Shore Dr. My family built the camp in 1965 where I enjoyed summers growing up. I have owned the camp since 1982. I would like to see the lake maintained and understand we are being pressured to upgrade the dam to meet current building practices.

Sincerely
Lawrence D Knox
358 W Corral Dr
Oroville, WA 98844
(509)322-5209
LarryKnoxemail@gmail.com

**ALLEN F MAIKELS
56 EAST SHORE DRIVE
EAST BERNE, NY 12059**

November 29, 2021

RECEIVED

NOV 28 2021

BERNE TOWN CLERK

Berne Town Board:

I am writing this letter in support of the creation of a special tax district for the Helderberg Lake Community Association. The Dam that created Helderberg Lake is in need of extensive repairs to be in compliance with New York State Environmental Conservative Department regulations. The best way to finance these repairs and ensure that they are done to the correct specifications is by the creation of the special tax district under the supervision of the Town of Berne. Thank you for your consideration in this matter.



Allen F Maikels

Anita Clayton

From: Bob Marriott <builderbob69@rocketmail.com>
Sent: Tuesday, November 30, 2021 11:06 PM
To: Anita Clayton
Subject: Helderberg Lake dam remediation

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NOV 30 2021

BERNE TOWN CLERK

To the Berne Town Board:

My family has owned a camp at Helderberg Lake (#29, at 40 West Shore Drive) for about 60 years. I spent my summers "growing up" at the lake, fishing for sunfish, listening to the big bullfrogs' deep "jug-o-rumf", and, of course, swimming. None of this would have been possible without the dam that created the lake.

Since my father was active with the Helderberg Lake Community Association as treasurer for many years, and I have a degree in engineering and spent my career in the construction industry, I was more aware than many of the construction of the dam and the efforts and cost of repairs that were done to the dam over the years to keep it serviceable- necessary maintenance that *was* done.

Due to a very few dam failures around the state, and country, as well as increasingly severe storms, regulatory agencies decided it was necessary to inspect all dams, and more stringent requirements have come into force. In order to comply with these requirements, Helderberg Lake Community Association was advised that remedial work was necessary on our dam. The Association has retained an engineering firm to prepare plans, specifications, and contract documents to ensure that the necessary work will be done.

The remedial work will be expensive. Since everyone who owns property around the lake will benefit from

keeping the dam in good repair and in compliance with all regulations, it is important that every property owner share in the cost of the repairs. New York State has established guidelines as to how the costs of such projects can be equitably distributed among all property owners who will be effected and will benefit from the work. The members of the Association voted to ask the Town of Berne to establish a special tax district to fund these necessary repairs and distribute the costs to all owners following the State guidelines and have the repayment of the costs be spread out over a suitable number of years so as to not be too large a financial burden in a short period of time.

I am joining with my neighbors in asking that the Berne Town Board vote **YES** to form the special tax district and work to make available the necessary funding so that the remediation project can be completed in 2022.

Thank you for your consideration.

Robert Marriott

Anita Clayton

From: Joyce Keenan <keenan490@aol.com>
Sent: Wednesday, December 01, 2021 3:49 PM
To: Anita Clayton
Subject: Tax District

Dear Anita, As a long time member of the Helderberg Lake Community Association, my husband and I would like to express our support for making our Lake Community a special tax district. This will enable us to maintain the dam and protect our property as we venture on in compliance with the many rules that have been placed upon us. I had hoped to attend the meeting this evening but due to sudden health issues, we will not be there. Joyce and Dan Keenan

Sent from my iPad

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DEC 22 2021
BERNE TOWN CL

Town of Berne
Board Members
Supervisor Lyons
Deputy Supervisor Palow
Leo Vane
Joel Willsey

Re: Helderberg Lake Proposed Tax District

Dear Board Members:

My family has owned property on Helderberg Lake since 1950. We purchased the property, which now serves as our primary residence, from my parents' estate in 2015. I have a lifetime of precious memories growing up on the lake and have nothing but its best interest at heart.

Mark and I agree that the Helderberg Lake dam is in need of maintenance and repair. We are not opposed to the idea of a tax district as a supplemental funding source to repair the dam, but disagree with the way it is currently proposed.

The HLCA has known for over 10 years that dam repairs were needed, but to the best of our knowledge, took no significant steps to address the repairs or secure funding until approximately 2019. On behalf of the HLCA, I volunteered to pursue a FEMA Grant administered through NYS DEC; due to the fact that HLCA was not classified as a Not-For-Profit Organization, they did not qualify. In an effort to raise money to fund the repairs, various HLCA members have suggested alternative ways (sale of HLCA property e.g.) to raise funds in an effort to eliminate or reduce the amount of the tax district bond. Unfortunately, these ideas were not put to a membership vote, despite several requests to do so.

Of primary concern, is the method being used to calculate the tax. The HLCA Board proposes to base the tax on assessed property values rather than a tiered, benefit or flat rate tax. We believe this is unfair to residents who have deeded lake rights, but do not reside directly on the lake. Many of these off-lake residents have higher assessed values and, as such, will carry a greater financial burden without the benefit of lake front property.

It should also be noted that several property owners did not pay their voluntary dues in 2021 because of growing concerns that the HLCA is being mismanaged. Those who did not pay dues were recently informed by the HLCA Board that they can no longer access HLCA property, as they are no longer members "in good standing." (Please see attachment A.) We fail to understand how these residents can be included in the tax district based on the fact that they have lake rights, while simultaneously being told that they can no longer access the HLCA property if they do not pay their dues.

In our opinion, this proposal would have met less opposition had the HLCA pursued various funding sources (as suggested by the membership) to offset the tax district, in addition to using a tiered, benefit or flat rate tax. Therefore, we disapprove of the tax district, as currently structured, and request that the Town Board does not move forward with this proposal.

Respectfully,
Jean and Mark Horn
36 East Shore Drive
East Berne NY 12059

RECEIVED

DEC 01 2021

BERNE TOWN CLERK

Attachment A

From: tamisbloom@gmail.com,
To: tamisbloom@gmail.com,
Bcc: Ginamarie1959@aol.com,
Subject: Notice from the Heldeberg Lake Community Association Board
Date: Tue, Jul 27, 2021 8:57 am

As a reminder, Heldeberg Lake is a man-made lake that is owned, operated, maintained, and insured by the Heldeberg Lake Community Association (HLCA).

Your HLCA dues go to paying the property taxes and insurance on the lake and the associated outlying lands. Membership provides access to all of those areas to you and your guests. Activities include boating, swimming, fishing, ice fishing, ice skating, hunting, use of the beach and raft, etc. Dues are also used to maintain the dam in accordance with New York State Department of Environmental Conservation (DEC) requirements as well as attorney fees.

Lake rights are deeded to members in good standing, and their guests, and that requires the payment of Lake Association dues. Those properties that fail to pay dues are not legally allowed to access and use the lake or other HLCA properties, and would be considered to be trespassing, and legal action could be taken.

Payment of your dues provides membership to the HLCA. As a member you can share your opinions at the meetings, vote on the future of the lake, and run for the board. You will have the power to shape the lake and its operation.

Please join us. Together, we can work to maintain this lake and our community.

Thank you for your consideration.

HLCA Board

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DEC 01 2021

BERNE TOWN CLERK

December 1, 2021

To the Town Board of Berne:

I am writing in support of the special tax district proposed for Helderberg Lake. My family has been on Helderberg lake since 1937. I am the third generation to commit to the Helderberg Lake Association. Our family has been willing to take on any of the obligations and responsibilities that the community requires.

The dam repair is the largest project to date. It will take the commitment of the entire Lake Association to get this essential project completed. A special tax district is the only viable way to make this crucial endeavor possible.

We have collected signatures of our members to show everyone's willingness to accept the financial responsibility necessary in order for this project to move forward in a timely manner. We, as members, are willing to take on all the expenses of the dam repair.

My commitment to Helderberg Lake is lifelong. I have enjoyed the hill town of Berne my entire life. I am asking you to please approve this special tax district so that we can be compliant with the latest state mandates on dam regulations. Please help us to be safe and to make our surrounding community safe as well.

Thank you for your help.

Respectfully,
Krina Danckert

RECEIVED

DEC 01 2021

BERNE TOWN CLERK

RECEIVED

DEC 01 2021

BERNE TOWN CLERK

December 1, 2021

Town Council
Town of Berne
1656 Helderberg Trail
Berne, NY 12023

Re: Helderberg Lake Special Tax District

Dear Mr. Supervisor and Council members:

We are writing this letter to express our opposition to the Tax District being proposed by the Helderberg Lake Community Association (HLCA). The purpose of the district is to fund dam repairs required by the New York State Department of Environmental Conservation (DEC) to protect downstream properties and individuals from the effects dam failure and to ensure the continued existence of the lake. As structured by the HLCA, the financial burden for the proposed district is to be borne solely by property owners in the Town of Berne who by virtue of their property's location on the lake or by the inclusion of lake rights in their property deed or chain of title for their property or properties.

Our opposition is based primarily on two points. Most importantly, we question the legitimacy of the designation of the district as park. A park affords all users both equal access to it and use of its features. The HLCA's proposed Tax District provides neither. The benefits of access and use of the lake by the proposed property owners who will ultimately be responsible for funding the district varies considerably.

Our second point of opposition is that the application submitted by HLCA is rife with errors and should be rejected.

The HLCA has chosen to pursue an ad volorem Tax District rather than a benefit type Tax District. Ad volorem districts operate on the premise that all members of the district receive equal benefit from the district. Tax bills in this type of district are determined by applying the same tax rate to the total assessed value of each property. The benefit Tax District recognizes that all members may not receive the same or equal benefit and consequently uses different tax rates reflective of the actual benefit received to determine a property's tax bill.

The proposed tax payers clearly do not receive equal benefit from the proposed Tax District. Access to the lake and the convenience of that access varies tremendously based on a variety of circumstances. Primary among these is the physical location of the tax payer's property.

The majority of properties are either on the lake or within a short distance of it. Many of these properties run to the high-water mark of the lake. Many others are separated from the lake by a narrow parcel of HLCA property which they are granted use of to access the lake. Both of these types of properties have immediate access to the lake as well as 24/7 use of lake from their doorstep for boating, fishing and swimming. The nearby off-lake properties lack the immediate and convenient access and view that the shoreline properties enjoy and must use the HLCA beach; a beach without toilet facilities. A third class, distant off lake property owners, must travel on county and state

highways to reach the beach and are up to two miles from it. Similarly, the distant off lake properties are limited to daytime use of the beach and lake.

We have two final points regarding the benefit Helderberg Lake provides. First, the HLCA changed their rules regarding lake use by non-members of the association such as ourselves last summer. The new rules deny non-members any use of the lake and threaten arrest of those attempting to exercise their lake rights. Second, the HLCA has repeatedly alleged that lake rights increase our property value. I have talked to a couple of real estate agents and a tax assessor in another town. All stated we receive little if any increase in our property value due to the distance of our property from the lake. Those conversations were before an estimate of the tax our property will incur was released in the notice of public hearing for the proposed Tax District. Being denied use of the lake by the HLCA and facing an approximate \$1000 dollar tax bill from the proposed Tax District, the only property value benefit we receive from our lake rights is a negative benefit.

Our secondary points in opposition to the formation of the Tax District revolve around the series of errors contained in the application submitted to the Town. First, the proposed Tax District does not appear to include all properties with lake rights.

Our property is a subdivision of a parcel sold to one of the partners of the development company, Helderberg Park, Inc. (HPI), when the corporation was dissolved. Four of the five properties that were subdivisions out of the larger parcel all are included by HLCA in the proposed Tax District based on the lake rights conveyed to the partner by HPI. The fifth property was sold to Tennessee Gas and was ineligible for lake rights. A second parcel sold at the same time to the same partner also conveyed lakes rights. That parcel was subdivided, into at least five properties, yet only one is included in the proposed Tax District. How can this be? (see "Excluded Properties – map #1", and deed dated January 23, 1961, HPI to David W. Becker, parcels #4 and #5)

At least one other partner in HPI also purchased property with lake rights from HPI when it was dissolved. That property was also subdivided into multiple properties yet none of the resulting properties, including one that includes lake rights in the current owners' deed, are included by HLCA in the proposed Tax District. (see "Excluded Properties – map #2", deed dated January 23, 1961, HPI to Edward J. Bedell, parcel #4 and deed of Downey to McVoy dated November 11, 2017) Yet another parcel purchased with lake rights by Mr. Bedell from HPI on July 3, 1940 was later subdivided. Only three of the five resulting properties are included in the proposed Tax District. (see "Excluded Properties – map #2")

There are many errors in the application submitted by the HLCA. These include the use of the wrong tax value for some properties and the mistaken characterization of properties. Veterans' credits were applied in some instances and incorrect tax values were transcribed from the tax rolls. In other instances, the value listed for a primary residence included distinct non-residential property of the same owner. One property was included in the application even though the individual who signed the petition no longer owned the property at the time the application was submitted. Other errors included missing dates and a failure to indicate whether the property was a primary residence or not.

On a related note, numerous signatures on the petition were those of family members of the owners. How did HLCA verify the validity of signatures on the petition?

In summary:

The designation of the proposed Tax District as a park is questionable. None of the allowable special Tax Districts seem applicable to this situation. HLCA is attempting to pound a square peg into a round hole.

If permitted, designation as a park bears a special burden in regards to benefit to the taxpayers. All are entitled to benefit equally. That is clearly not the case with this proposal.

All properties meeting the qualification for inclusion in the Tax District are not included. There are numerous properties with lake rights in their chain of title that are not in the proposed Tax District.

The application has many errors. Examples of major errors include the listing of the wrong tax value and designation of vacant land as a primary residence. An example of a lesser error would include undated signatures and the lack of a property type on a form.

Did HLCA verify the authority of individuals to represent the property they were signing for?

Thank you in advance for your diligent consideration of our concerns. Our hope is that the Board rejects the HLCA's application altogether. If the Board determines the proposed Tax District is eligible for establishment, we strongly believe the Town Board must direct the HLCA to do title searches on all properties derived from the original properties of HPI to ensure all eligible properties are included in the proposed Tax District. It is our further belief that the Town Board also require the HLCA to provide notice of the estimated tax levy to all property owners both prior to and at the time the gather signatures for the new petition.

Sincerely,

Kathie A. Bruso 12/1/21

Kathie A. Bruso

*David A. Bruso
12/1/21*

David A. Bruso

267 Pinnacle Road

Voorheesville, NY 12186

hardpanacres@aol.com

Supporting Documentation for presentations and letter submitted to the Town of Berne Board by David and Kathie Bruso at the Helderberg Lake Community Association Special Tax District Public Hearing on December 1, 2021.

Maps

- Excluded Properties – Map 1 (Attachment 1)
- Excluded Properties – Map 2 (Attachment 2)

Deeds

- Book 1688, Page 93 deed dated January 23, 1961 HPI to David W. Becker, parcels (Attachment 3)
- One copy of complete certified deed dated January 23, 1961 HPI to David W. Becker, parcels given to the Town Clerk only to enter into the record (Attachment 3a)
- Deed dated 11/11/2017 of Downey to McVoy (Attachment 4)

Conditional Access Dependent on Membership

- Revised By-Laws 7/31/15, Page 1, Sections 1 and 2 (Attachment 5)
- HLCA website page (Attachment 6)
- 7/27/2021 email from Tami Bloom, Board Secretary representing the HCLA Board (Attachment 7)

Helderberg Lake Provides No/Unequal Benefits

- 7/27/2021 email from Tami Bloom, Board Secretary representing the HCLA Board (Attachment 7)
- HLCA Rules and Regulations last paragraph (Attachment 8)

Lakefront Property Tax Increases with Benefits Versus Our Property Tax Increase with No Benefits

- Land Parcel 92.4-1-14 is described as a one family seasonal waterfront residence assessed for \$95,000. The additional taxes under the Park Tax District will be approximately \$508.00 annually. (Attachment 9)
- Land Parcel 92.4-1-26 is described as a seasonal residence waterfront assessed at \$68,000. The additional taxes under the district will be approximately \$364.00. (Attachment 10)
- Land parcel 92.4-58 is described as 1 family residence waterfront assessed at \$102,000. The estimated tax increase would be \$546. (Attachment 11)
- Property recently sold at 132 Pinnacle Road which is directly on the lake was listed on Realtor.com as having 350 feet of lake frontage. The estimated tax increase will be \$910.00 per year. (Attachment 12)
- Property recently sold at 119 Pinnacle Road directly across from the lake including vacant property on the lake was listed by Realtor.com as having 120 feet of lake front property. Estimated tax increase of \$886.00. (Attachment 13)
- Property recently for sale at 56 West Shore Drive is described as a 3-season home with direct access to the lake. Estimated increase in taxes for the tax district will be approximately \$476.00. (Attachment 14)

Respectfully submitted for the record,

Kathie Bruso

David Bruso

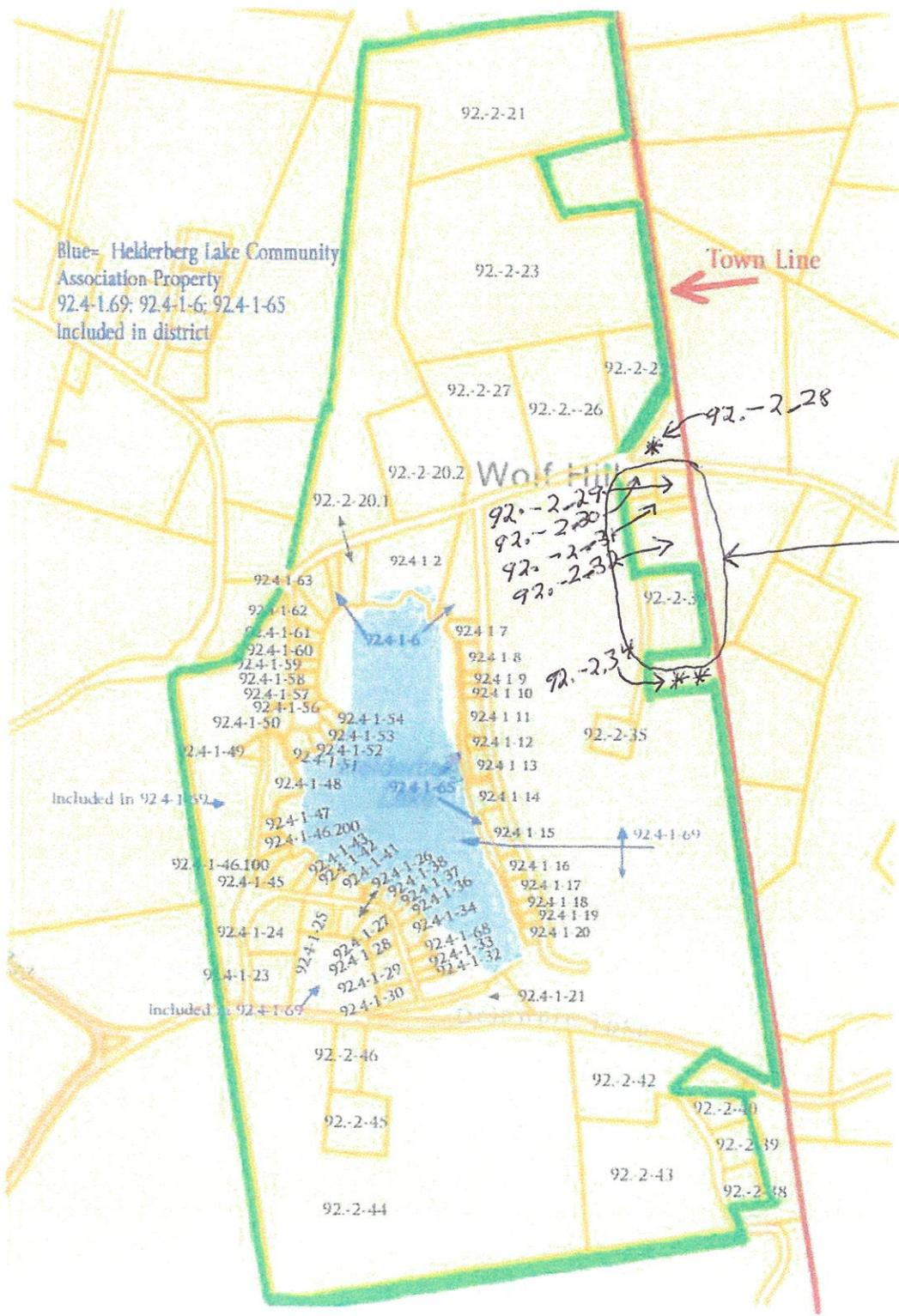
Kathie and David Bruso

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DEC 01 2021

BERNE TOWN CLERK

EXCLUDED PROPERTIES - Map #1
(Lake rights under dispute)



Parcel # 4
 Helderberg Park, Inc.
 to
 David W. Becker
 January 23 1961
 with lake rights

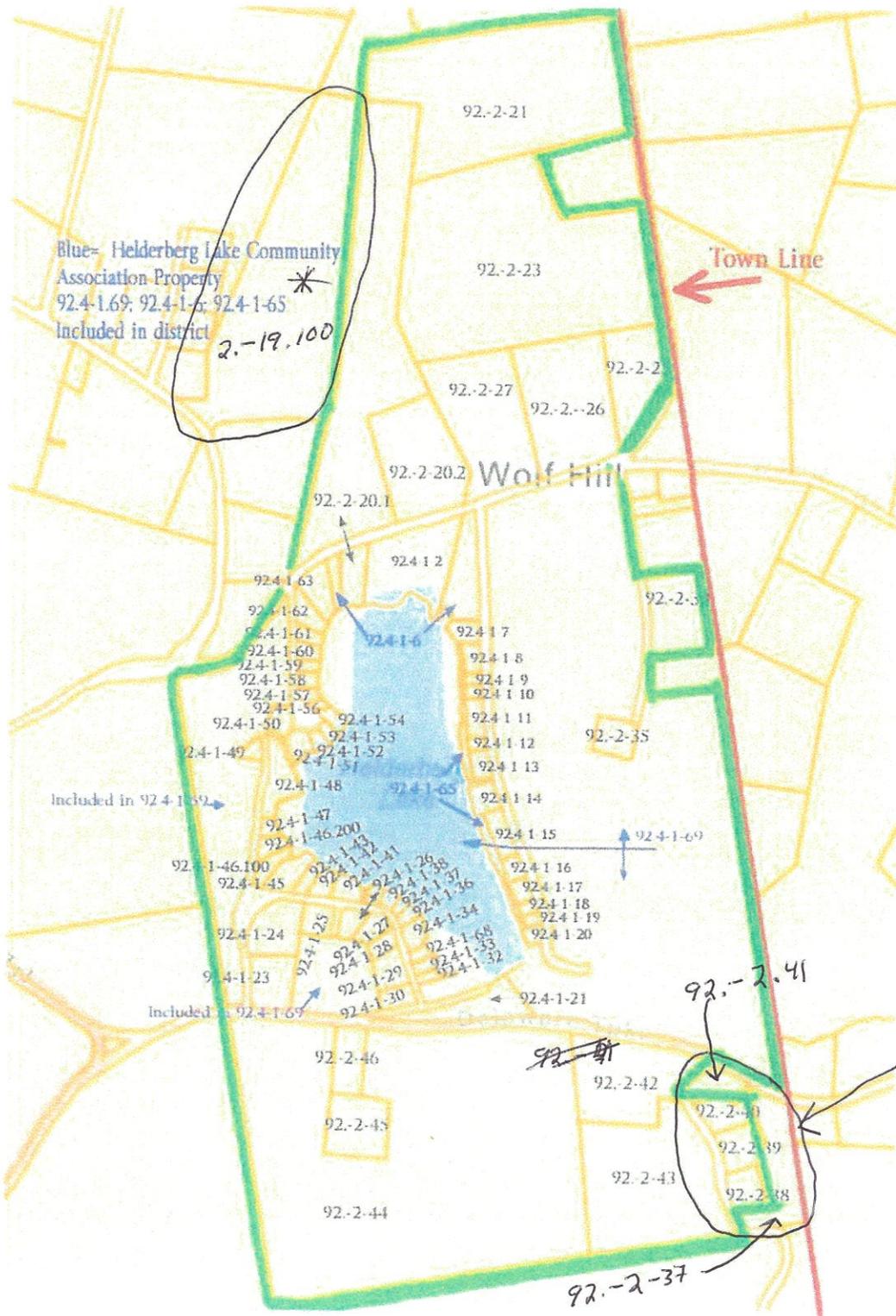
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* 92.-2.28 recently purchased from Albany County - lake rights status unknown
 ** 92.-2.34 a portion of this property may be included in the tract conveyed by Helderberg Park Inc., to Becker

EXCLUDED PROPERTIES - Map #2
(lake rights under dispute)



Blue- Helderberg Lake Community Association Property
92.4-1.69; 92.4-1.6; 92.4-1-65
Included in district 2.-19.100

Town Line

Wolf Hill

Helderberg Park, Inc to Edward J. Bebell July 3, 1940 with lake rights

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* Downey et al to McYoy (Trustee) November 11, 2017 with lake rights (lake right status of adjacent and nearby parcel is unknown; but these properties may have lake rights attached to them)

the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions and easements of record.

LIBER 1688 PAGE 93

PARCEL #4

ALSO ALL that certain piece or parcel of land situate, lying and being in the Town of Berne, County of Albany, State of New York bounded and described as follows:

All land belonging to Helderberg Park Inc. located north of Camp Pinnacle county road - east of old Hungerford schoolhouse road and west of lands of Paul Hennig.

Beginning at S.W. corner of Paul Hennig land intersection of northerly line of Camp Pinnacle Road; thence northerly along westerly boundary line of Paul Hennig to its furthest N.W. point; thence westerly 700'± to a point; thence southwesterly 800'± to a point; thence southeasterly 750'± to a point; thence southerly 750'± along easterly side of old Hungerford schoolhouse road to a point; said point being N.E. point of intersection of easterly side of old Hungerford schoolhouse road and northerly side of Camp Pinnacle Road; thence easterly along northerly side of Camp Pinnacle Road 500'± to the point or place of beginning.

Together with one family rights at all times to the privileges of using Helderberg Lake at existing or assigned ingress and egress to Lake from off of lake area and this covenant shall run with the land for the benefit of the above described premises.

Together with the right to the party of the second part his heirs and assigns to use in common with others the privilege of boating, fishing and bathing in the Lake of Helderberg Lake and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions and easements of record.

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND HOLD the premises herein granted unto the party of second part, his heirs and assigns forever.

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BERNE TOWN CLERK

D E E D

THIS INDENTURE made the 23rd day of January, 1961 between HELDERBERG PARK INC., a corporation organized under the Laws of the State of New York and having its principal place of business at Town of Berne, Albany County, New York, party of the first part, and DAVID W. BECKER of 110 Helderberg Avenue, Altamont, New York, party of the second part,

WITNESSETH, that the party of the first part, in consideration of ONE (\$1.00) DOLLAR, lawful money of the United States paid by the party of the second part, does hereby grant and release unto the party of the second part, his heirs and assigns forever,

PARCEL #1

All that certain piece or parcel of land situate, lying and being in the Town of Berne, County of Albany, State of New York, bounded and described as follows:

Beginning at a point of intersection at westerly line of East Side Drive and Sklar lot (N.E. Sklar corner); Thence 100'± to high water line of Helderberg Lake (Sklar N.W. point); Thence northerly 130'± along high water line of Lake to a point; Thence easterly 150'± to a point of intersection with westerly line of East Side Drive; Thence 120' southerly along westerly line of East Side Drive to point of beginning.

This plot to be subdivided into not more than 2 campsites.

Together with the right to the party of the second part his heirs and assigns at all times to use in common with others the privilege of boating, fishing and bathing in Lake of Helderberg Lake and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

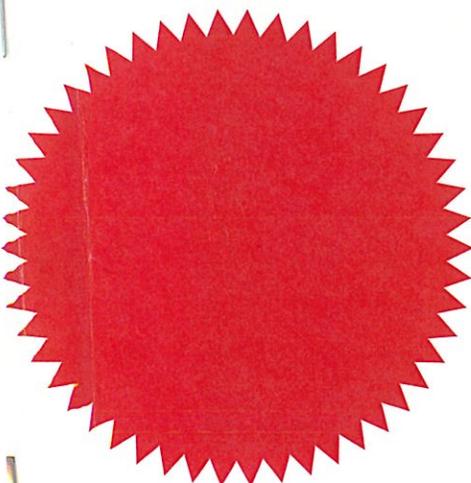
Subject to any enforceable covenants, conditions, restrictions, building restrictions and easements of record.

STATE OF NEW YORK }
COUNTY OF ALBANY CLERK'S OFFICE } SS.:

I, BRUCE A. HIDLEY, Clerk of the said County, and also Clerk of the Supreme and County Courts, being Courts of Record held therein, DO HEREBY CERTIFY that I have compared the annexed copy Cert Deed with the original thereof filed in this office on the 23rd Day of January, 1961 and that the same is a correct transcript therefrom, and of the whole of said original.

IN TESTIMONY WHEREOF, I have hereunto set my name and affixed my official seal, this 18th day of August, 2020

[Signature]
Clerk



BERNE TOWN CLERK

S. E.

Beginning at a point on westerly side of East Side Drive, said point being S.E. corner of Decker lot; Thence westerly along southerly line of Decker lot 100'± to high water line of Lake; Thence southerly along high water line of Lake to a point (N.W. corner of Gordon lot) 140'±; Thence easterly along northerly line of Gordon lot 100'± to point of intersection with westerly line of East Side Drive (Gordon N.E. point); Thence northerly along westerly side of East Side Drive 140'± to point of beginning.

This plot to be divided into not more than 2 campsites and to be subject to any enforceable rights of others to cross same for ingress and egress to lake privileges.

Together with the right to the party of the second part his heirs and assigns at all times to use in common with others the privilege of boating, fishing and bathing in Lake of Helderberg Lake and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions, building restrictions and easements of record.

LIGER 1688 PAGE 84

FARCEL #3

All that certain piece or parcel of land situate, lying and being in the Town of Berne, County of Albany, State of New York, bounded and described as follows:

Beginning at a point on westerly side of East Side Drive, said point being S.E. point of Hummel lot; Thence westerly along southerly line of Hummel lot 100'± to a point on high water line of Helderberg Lake; Thence southerly 60'± along high water line of Helderberg Lake to a point (said point being 50'± from easterly end of Lake Dam); Thence easterly 100'± on a line parallel with Hummel southerly line to a point on westerly side of East Side Drive; Thence northerly 60'± along westerly side of East Side Drive to the point of beginning.

Together with the right to the party of the second part, his heirs and assigns at all times to use in common with others the privilege of boating, fishing and bathing in Lake of Helderberg Lake and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions, building restrictions and easements of record.

PARCEL #4

All that certain piece or parcel of land situate, lying and being in the Town of Berne, County of Albany, State of New York, bounded and described as follows:

Beginning at a point on the southerly side of Wolf Hill Road, said point on division line between Town of New Scotland and Town of Berne; Thence southerly 1000'± along line of division (Town of New Scotland and Town of Berne) to a point; Thence westerly at right angles to line of division to a point 400'±, said point being the N.E. point of parcel of land (Feeney-Hotaling); Thence northerly along easterly line of road leading to (Feeney-Hotaling) lands to the point of intersection with southerly line of Wolf Hill Road; Thence easterly 300'± along southerly line of ~~Camp Pinnacle~~ Road to place of beginning.

Together with the right to the party of the second part his heirs and assigns at all times to use in common with others the privilege of boating, fishing and bathing in Lake of Helderberg Lake and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions, building restrictions and easements of record.

1688 VOL 85

PARCEL #5

All that certain piece or parcel of land situate, lying and being in the Town of Berne, County of Albany, State of New York, bounded and described as follows:

All land belonging to Helderberg Park Inc. located north of Camp Pinnacle Road - also west of Camp Pinnacle Road as it veers from Wolf Hill Road and lying east of lands of Paul Hennig.

Beginning at a point in the northerly side of Camp Pinnacle Road and or Wolf Hill Road at the intersection with the easterly line of Paul Hennig land; Thence northerly along easterly line of Paul Hennig lands to its furthest N.E. point; Thence easterly along northerly line of Helderberg Park Inc. lands to the point of intersection with westerly side of Camp Pinnacle Road; Thence along the westerly side of Camp Pinnacle Road as it curves westerly and joins Camp Pinnacle Road and or Wolf Hill Road to a northerly direction and along northerly side of said road to the place of beginning.

Together with one family rights at all times to the privileges of using Helderberg Lake at existing or assigned ingress and egress to lake from off of lake area and this covenant shall run with the land for the benefit of the above described premises.

Excepting therefrom such portions thereof conveyed therefrom.

Together with the right to the party of the second part his heirs and assigns at all times to use in common with others the privilege of boating, fishing and bathing in Lake of Helderberg and the right at all times of ingress and egress thereto. Together with the right at all times of using roadways in common with others.

Subject to any enforceable covenants, conditions, restrictions, building restrictions and easements of record.

LIBER 1688 PAGE 86

TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises.

TO HAVE AND HOLD the premises herein granted unto the party of second part, his heirs and assigns forever.

That said corporation, Helderberg Park Inc. is not indebted to anyone. That after disposing of the assets of said corporation the stockholders thereof, are contemplating dissolution of said corporation.

That the stockholders of Helderberg Park Inc. a corporation organized under the laws of the State of New York owning and holding the numbers of shares of capital stock of said corporation set opposite their names respectively, viz:

Name	Number of shares
W. David W. Becker	<u>120</u>
Alton C. Rowe, Jr.	<u>60</u>
Edward J. Bedell	<u>60</u>

being all the shares of the capital stock of said corporation outstanding, entitled to vote thereon; and said stockholders do hereby consent that said corporation Helderberg Park Inc. execute and deliver to David W. Becker this deed of the 5 parcels described herein for the consideration of \$1.00; and said stock-

holders do hereby also sign this deed for the purpose of consenting thereto.

LIBER 1688 PAGE 87

IN WITNESS WHEREOF, the party of the first part has caused its corporate seal to be hereunto affixed, and these presents to be signed by its duly authorized officers the day and year first above written.

HELDEBERG PARK, INC.

By David W. Baker
President

By Edward J. Bodell
Vice President

By Alton C. Rowe, Jr.
Treasurer



David W. Baker
David W. Baker

Alton C. Rowe, Jr.
Alton C. Rowe, Jr.

Edward J. Bodell
Edward J. Bodell

State of New York
County of Albany
I, Edward J. Bodell
Secretary of the Heldeberg Park, Inc.
do hereby certify that the foregoing is a true and correct copy of the original as the same appears from the records of the Heldeberg Park, Inc.
Witness my hand and the seal of the Heldeberg Park, Inc. this 29th day of August, 1968.

Edward J. Bodell

STATE OF NEW YORK
COUNTY OF ALBANY SS.:

On the 4th day of May ~~December~~ 1960 before me came

ALTON C. ROWE, Jr

to me known, who, being by me duly sworn, did depose and say that he resides at 5 Roweland Avenue, Delmar, New York; that he is the Sec - Treas of Helderberg Park Inc. the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of Directors of said corporation; and that he signed his name thereto by like order.

LIBER 1688 PAGE 88

Robert Jackson
Notary Public of the State of New York
Qualified in Albany County
My commission expires March 30, 1963.

STATE OF NEW YORK
COUNTY OF ALBANY SS.:

On the 1st day of April ~~December~~ 1960 before me came

W. DAVID ~~W.~~ BECKER

to me known, who, being by me duly sworn, did depose and say that he resides at 110 Helderberg Avenue, Altamont, New York; that he is the President of Helderberg Park Inc. the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation; and that he signed his name thereto by like order.

Robert Jackson
Notary Public of the State of New York
Qualified in Albany County
My commission expires March 30, 1963.

STATE OF FLORIDA

UGER 1688 PAGE 89

COUNTY OF Pinellas

SS.:

On the 25th day of January 1961 before me came

EDWARD J. BRONIL

to me known, who, being by me duly sworn, did depose and say that he resides at 1800-60th St. So., Dunwoody Florida; that he is the Vice-President of Halderberg Park Inc. the corporation described in, and which executed, the foregoing instrument; that he knows the seal of said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the Board of Directors of said corporation; and that he signed his name thereto by like order.

Edward J. Bronil
Notary Public of the State of Florida
Florida, Qualified in Pinellas County
My commission expires March 30, 1961
October 24, 1961

13789

STATE OF FLORIDA 188
COUNTY OF PINELLAS 1

I, Avery W. Wilkerson, Clerk of the County of Pinellas, and also Clerk of the Circuit Court of the said County, do hereby certify that the foregoing instrument is subscribed by the persons of the name of the instrument and thereon written, was at the time of taking such proof and acknowledgment, a Notary Public in and for said County, residing therein, duly commissioned and sworn, and authorized by the laws of said State to take the acknowledgments and proofs of deeds or conveyances, or land transactions or settlements, in said State, to be recorded therein. And further, that I am well acquainted with the handwriting of such Notary Public, and verily believe the signature to said certificate of proof or acknowledgment is genuine; that I have compared the impression of the seal affixed thereto with a specimen impression thereof filed or deposited in my office, and that I believe the impression of the seal upon the original certificate is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of the said Court and County, this 25th day of January, 1961.

AVERY WILKERSON, Clerk Circuit Court
by Richard A. Wilkerson
Deputy Clerk

STATE OF NEW YORK
ALBANY COUNTY

I, Bruce A. Hidley, Clerk of the County of Albany of the County Court of said County and of the Supreme Court, both being courts of Record having a common seal, DO HEREBY CERTIFY that I have compared this copy with the original

DESCRIPTION: DEED
DATE: 11/15/2017
INSTRUMENT#: R2017-27541

filed, recorded, or entered in this office and that the same is a correct transcript thereof and of the whole of said original.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County and Courts on

Date: 11/16/2021



Bruce A. Hidley
Albany County Clerk

By: 

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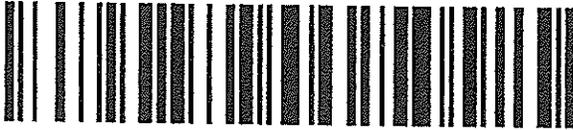
DEC 01 2021

BERNE TOWN CLERK



ALBANY COUNTY – STATE OF NEW YORK
 BRUCE A. HIDLEY COUNTY CLERK
 16 EAGLE STREET, ALBANY, NEW YORK 12207

COUNTY CLERK'S RECORDING PAGE
 THIS PAGE IS PART OF THE DOCUMENT – DO NOT DETACH



INSTRUMENT #: R2017-27541

Receipt#: 20170187795
 Clerk: KT
 Rec Date: 11/15/2017 12:31:04 PM
 Doc Grp: D
 Descrip: DEED
 Num Pgs: 3
 Rec'd Frm: MCVOY ELIZABETH

Party1: DOWNEY FRANCIS A
 DOWNEY SANDRA L
 NICHOLS SANDRA L FKA
 Party2: MCVOY ELIZABETH AMY TRUSTEE
 Muni: BERNE TOWN

Recording:

Cover Page	5.00
Recording Fee	30.00
Cultural Ed	14.25
Records Management - Coun	1.00
Records Management - Stat	4.75
TP584	5.00
RP5217 - County	9.00
RP5217 All others - State	241.00

Sub Total: 310.00

Transfer Tax
 Transfer Tax - State 0.00

Sub Total: 0.00

Total: 310.00

**** NOTICE: THIS IS NOT A BILL ****

***** Transfer Tax *****
 Transfer Tax #: 2594
 Transfer Tax

Total: 0.00

Record and Return To:

SASE/FLETCHER

THIS PAGE CONSTITUTES THE CLERK'S
 ENDORSEMENT, REQUIRED BY SECTION 316-a (5)
 & 319 OF THE REAL PROPERTY LAW OF THE
 STATE OF NEW YORK.

Bruce A. Hidley
 Albany County Clerk

2017
Berne

THIS INDENTURE, made the 11th of November, Two
Thousand 2017,

Between Francis A. Downey and Sandra L. Downey f/k/a Sandra L. Nichols, residing at 813
Delaware Avenue, Delmar, New York 12054, party of the first part, and

Elizabeth Amy McVoy as Trustee of The Francis A. Downey and Sandra L. Downey Irrevocable
Trust U/A dated November 11, 2017, with a mailing address of c/o Downey, 813 Delaware Avenue,
Delmar, New York 12054, party of the second part,

WITNESSETH, that the party of the first part, in consideration of One and 00/100 _____
Dollars (\$1.00), lawful money of the United States and other good and valuable consideration, paid
by the party of the second part, does hereby grant and release unto the party of the second part, the
heirs or successors and assigns of the party of the second part forever,

ALL THAT CERTAIN LOT, PIECE OR PARCEL OF LAND, lying and being in the Town of
Berne, County of Albany, State of New York bounded and described as follows:

BEGINNING at S.W. corner of Paul Hennig land intersection of northerly line of Camp
Pinnacle Road; thence northerly along westerly boundary lines of Paul Hennig to its furthest
northwest point; thence westerly 1100' more or less to a point; thence southwesterly 800' more or less
to a point; thence southeasterly 750' more or less to a point; thence southerly 750' more or less along
easterly side of Old Hungerford Schoolhouse Road to a point; said point being northeast point of
intersection of easterly side of Old Hungerford Schoolhouse Road and northerly side of Camp
Pinnacle Road; thence easterly along northerly side of Camp Pinnacle Road; thence easterly along
northerly side of Camp Pinnacle Road 500' more or less to the point or place of beginning.

Together with one family rights at all times to the privileges of using Helderberg Lake at
existing or assigned ingress and egress to Lake from off of lake area and this covenant shall run with
the land for the benefit of the above described premises.

Together with the right to the party of second part his heirs and assigns to use in common with
others the privilege of boating, fishing and bathing in the Lake of Helderberg Lake and the right all
times of ingress and egress thereto. Together with the right all times of using roadways in common
with others.

Subject to any enforceable covenants, conditions, restrictions and easements of record.

Excepting and reserving all that certain lot, piece or parcel of land, situate, lying and being in
the Town of Berne, County of Albany and State of New York and more particularly bounded and
described as follows:

Beginning at a point on the east side of Hungerford Road in the Town of Berne, Albany
County and State of New York, said point being also the northwest corner of the lands now or
formerly of Maurice T. & Dagny M. Hurley; thence along the east side of Hungerford Road the
following 4 courses: (1) N 07° 00' 59" E 86.43 feet to a point; thence (2) N 03° 54' 06" E 106.15 feet
to a point; thence (3) N 00° 97' 37" W 74.16 feet to a point; thence (4) N 10° 12' 51" W 71.83 feet to a
point thence through the lands of Howard & Birdie Hurley the following 4 courses: (5) N 30° 22' 47"
E 53.35 feet to a point; thence (6) N 60° 05' 23" E 30.51 feet to a point; thence (7) S 80° 40' 39" E
288.20 feet to a point; thence (8) S 76° 49' 29" E 241.63 feet to a point; said point being on the
easterly boundary of lands now or formerly of Howard & Birdie Hurley; thence along the said
boundary: (9) S 25° 07' 00" W 45.31 feet to a point; thence (10) S 25° 27' 00" W 274.76 feet to a
point, said point being the northeast corner of the aforementioned lands of Maurice T. & Dagny M.
Hurley; thence along the said boundary: (11) N 63° 54' 00" W 396.2 feet to the point of beginning,
being 5.0 acres, more or less.

Being the same premises conveyed to Francis A. Downey and Sandra L. Nichols, parties of the

first part, by deed from Howard C. Hurley dated January 16, 1992 and recorded in the Albany County Clerk's Office on February 19, 1992 in Liber 2454 of Deeds at page 471.

Subject to any and all enforceable covenants, conditions, easements and restrictions of record.

Together with the appurtenances and all the estate and rights of the party of the first part in and to said premises,

To Have and to Hold the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

And the party of the first part covenants as follows:

FIRST, That the party of the second part shall quietly enjoy the said premises;

SECOND, That the party of the first part will forever WARRANT the title to said premises.

THIRD, the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose.

The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

In Presence of:

Francis A. Downey L.S.
Francis A. Downey

Sandra L. Downey L.S.
Sandra L. Downey f/k/a Sandra L. Nichols

STATE OF NEW YORK
COUNTY OF ALBANY

} ss.:

On the 11th day of November, 2017, before me, the undersigned, a Notary Public in and for said State, personally appeared Francis A. Downey and Sandra L. Downey f/k/a Sandra L. Nichols, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose names are subscribed to the within instrument and they acknowledged to me that they executed the same in their capacities, and that by their signatures on the instrument, the individuals, or the person upon behalf of which the individuals acted, executed the instrument.

Judith E. Colantonio
Notary Public, State of New York
My commission expires

PLEASE RECORD AND RETURN TO:
Bellanca J. Fletcher, Esq.
P.O. Box 352
Feura Bush, New York 12067

JUDITH E. COLANTONIO
Notary Public, State of New York
No. 01CO4893794
Qualified in Rensselaer County
Commission Expires 5/11/2019

BY-LAWS OF THE HELDERBERG LAKE COMMUNITY ASSOCIATION, INC. OF
EAST BERNE, NEW YORK
(Revised 07/31/15)

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DEC 01 2021

BERNE TOWN CLERK

ARTICLE I

Title

The name of the Association shall be the "Helderberg Lake Community Association, Inc."

ARTICLE II

Object

The Object of this Association shall be to maintain the quality of the waters of the lake; to care for the property of the Lake Association; to provide for proper maintenance of the dam; to make such rules as are necessary to the residents thereof; to represent the members in discussions with New York State and/or agencies of New York State and with other political subdivisions and/or their agencies; and to promote harmony among the residents of the community.

ARTICLE III

Members

Section 1. The membership of the Association shall be limited to owners of clearly defined lots of real property within the boundaries of the original Helderberg Park, Inc. who are entitled to use the waters of the Lake.

Section 2. Any such property owner shall be eligible to membership, provided that he or she apply for membership to the Board of Directors, that the Board of Directors approve the application, and that the applicant pay the annual dues.

Section 3. The annual dues per dues-paying property shall be determined by majority vote at the annual meeting and shall remain until changed by majority vote at another meeting.

Section 4. No member shall hold more than one office at a time and only members in good standing as of the annual meeting shall be eligible to hold office.

Section 5. One member per dues paying property in good standing is eligible to vote on proposals at member meetings.

Section 6. Only one elected office may be held per dues paying property.

ARTICLE IV

Meetings

Section 1. The regular meetings of the Association shall be held on the last Friday of each June, July, and August, unless otherwise ordered by the Association or by the Board of Directors.

Section 2. The regular meeting on the last Friday in July shall be known as the annual meeting and shall be for the purpose of electing officers or board members, receiving reports of officers and committees, approving the annual budget and for any other business that may arise.

Section 3. Special meetings can be called by the President or by the Board of Directors and must be called if ten members present a written request for a meeting. The purpose of the meeting shall be stated in the call. Except in cases of emergency, at least three days' notice shall be given.

Section 4. One third of the current dues paid members of the Association shall constitute a quorum.

Section 5. Written notice shall be given to members entitled to vote for each meeting of the membership. Notices shall state the place, dates and hours of the meeting, and unless it is an annual meeting or convention, shall also indicate that it is being issued by or at the direction of the person(s) calling the meeting. Notice of a Special Meeting shall also state the purpose(s) for which it is being called. A copy of the notice of any meeting shall be given, personally or sent via electronic mail to the members electronic mail address maintained by the Secretary, or by first class mail not less than ten (10) nor more than fifty (50) days before the date of the meeting, or by another class of mail or facsimile or bulk electronic mail to the members electronic mail address maintained by the Secretary, not less than thirty (30) nor more than sixty (60) days before such date.

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DEC 01 2021

BERNE TOWN CLERK

MEMBER INFORMATION**PLEASE READ LAKE RULES**

The Helderberg Lake Community Association, Inc. is a non-profit that was formed to promote stewardship of Helderberg Lake by protecting water quality, regulating the use of common areas and community care of waters, shorelines and association property as well as promoting safe recreational use.

Having members in good standing is critical to keeping our community looking great and maintaining all of our property values. As the entire Helderberg Lake community is significantly impacted by lack of participation, it is strongly encouraged that property owners join the association. Good neighbors' actions support our community by looking out for others and provides a strengthened sense of pride in our home and neighborhood.

2021 DUES

Payable to HLCA \$400

Send to :

Gail McQuade,
P.O. Box 132, Voorheesville, NY 12186

NOTE: Please do your part to support our community and neighbors by submitting your dues timely. We have the cost of dam repairs, insurance, taxes, legal fees... and need your help.
THANK YOU FOR BEING A GOOD NEIGHBOR!

What we do...

- Maintain common area landscaping;
- Contract with subcontractors to perform services for the Association as needed;
- Pay all expenses required to maintain and operate the Association;
- Establish and collect dues as required, to fulfill the Association's financial obligations;
- Maintain the beauty, harmony, integrity and appearance of the Helderberg Lake community;
- Insurance costs; Legal costs, Dam Expenses, Taxes.
- Organize volunteer participation to offset financial costs (*Volunteer Day* is twice a year. Please get involved - we need your help!)

Members of the board are homeowners just like you who volunteer their time to serve the Helderberg Lake community.

Officers:

- **President, Tom McQuade**
 - **Vice President, Tony Haas**
 - **Treasurer, Gail McQuade**
 - **Secretary, Tami Bloom**
- ## Board Members
- **Krina Danckert**
 - **Stu Morrison**

The screenshot shows a web browser window displaying the Heidelberg Lake Community Association website. The browser's address bar shows the URL helderberglake.org/assoc.htm. The website has a blue and white color scheme with a background image of a cloudy sky. On the left side, there is a navigation menu with links for Home, History, Member Information, Lake News, Emergency Preparedness, Photos, and Contact Us. The main content area is titled "MEMBER INFORMATION" and includes a "PLEASE READ LAKE RULES" section. Below this, there is a "2024 DUES" section with a "Send to:" box containing the name Gail McQuade and the address P.O. Box 132, Voorheesville, NY 12146. A "NOTE" section follows, asking members to support the community by submitting dues. The "What we do..." section lists various services provided by the association, such as landscaping, maintenance, and insurance. Finally, the "Officers" and "Board Members" sections list the names of the association's leadership.

Heidelberg Lake Community Association

Home
History
Member Information
Lake News
Emergency Preparedness
Photos
Contact Us (Please put "Heidelberg Lake" in subject line)
Like Heidelberg Lake on Facebook

CONTACT US
EMAIL US
info@helderberglake.org

MEMBER INFORMATION

PLEASE READ LAKE RULES

The Heidelberg Lake Community Association, Inc. is a non-profit that was formed to promote stewardship of Heidelberg Lake by protecting water quality, regulating the use of common areas and community care of waters, shorelines and association property as well as promoting safe recreational use.

Having members in good standing is critical to keeping our community looking great and maintaining all of our property values. As the entire Heidelberg Lake community is significantly impacted by lack of participation. It is strongly encouraged that property owners join the association. Good neighbors' actions support our community by looking out for others and providing a strong sense of pride in our home and neighborhood.

2024 DUES
Payable to HLCA \$400
Send to:
Gail McQuade,
P.O. Box 132, Voorheesville, NY 12146

NOTE: Please do your part to support our community and neighbors by submitting your dues timely. We have the cost of dam repairs, insurance, taxes, legal fees, and need your help.
THANK YOU FOR BEING A GOOD NEIGHBOR!

What we do...

- Maintain common area landscaping.
- Contract with subcontractors to perform services for the Association as needed.
- Pay all expenses required to maintain and operate the Association.
- Establish and collect dues as required, to fulfill the Association's financial obligations.
- Maintain the beauty, harmony, integrity and appearance of the Heidelberg Lake community.
- Insurance costs, Legal costs, Dam Expenses, Taxes
- Organize volunteer participation to offset financial costs (Volunteer Day is twice a year. Please get involved - we need your help!)

Members of the board are homeowners just like you who volunteer their time to serve the Heidelberg Lake community.

Officers:

- President: Tom McQuade
- Vice President: Tony Haas
- Treasurer: Gail McQuade
- Secretary: Tami Bloom

Board Members

- Krina Danckert
- Stu Morrison

From: tamisbloom@gmail.com,
To: tamisbloom@gmail.com,
Bcc: hardpanacres@aol.com,
Subject: Notice from the Heldeberg Lake Community Association Board
Date: Tue, Jul 27, 2021 8:57 am

RECEIVED

DEC 01 2021

BERNE TOWN CLERK

As a reminder, Heldeberg Lake is a man-made lake that is owned, operated, maintained, and insured by the Heldeberg Lake Community Association (HLCA).

Your HLCA dues go to paying the property taxes and insurance on the lake and the associated outlying lands. Membership provides access to all of those areas to you and your guests. Activities include boating, swimming, fishing, ice fishing, ice skating, hunting, use of the beach and raft, etc. Dues are also used to maintain the dam in accordance with New York State Department of Environmental Conservation (DEC) requirements as well as attorney fees.

Lake rights are deeded to members in good standing, and their guests, and that requires the payment of Lake Association dues. Those properties that fail to pay dues are not legally allowed to access and use the lake or other HLCA properties, and would be considered to be trespassing, and legal action could be taken.

Payment of your dues provides membership to the HLCA. As a member you can share your opinions at the meetings, vote on the future of the lake, and run for the board. You will have the power to shape the lake and its operation.

Please join us. Together, we can work to maintain this lake and our community.

Thank you for your consideration.

HLCA Board

Rules and Regulations of the
Helderberg Lake Community Association, Inc.

1. Boats

Gas-motored vessels are not allowed on the lake.

All boats and canoes shall bear the number corresponding to their property. Numbers shall be a minimum of 4 inches high and not larger than 8 inches in height. A minimum of 2 sets of camp numbers are required for a boat.

Only boats bearing official camp numbers shall be permitted on the lake.

2. Roads

On West Shore, Glenwood, Circle, East Shore and Hillcrest Drives the highly recommended speed limit shall be 15 MPH.

No unlicensed motorized vehicles are allowed on these roads.

3. Fishing-Swimming-Hunting

New York State laws must be strictly adhered to.

It shall be unlawful to liberate live minnows and other small bait fish to any waters excepting those from which they were originally taken. The taking of frogs is absolutely prohibited.

Fishing and swimming will be permitted to guests only if the owner or tenant is in residence.

Hunting is permitted on Association property for members only. Guests may hunt only when accompanied by a member. Waterfowl hunting is not permitted.

Guests of owners and tenants must carry an official guest card.

Guests of owners or tenants are not allowed any privileges at the Association beach unless attended by same owner or tenant or an adult guest bearing a guest card.

4. General

No motorized vehicles are allowed on the frozen lake. Electric handicapped vehicles may be used by permit.

It is imperative that property owners keep off the concrete dam walls and spillway and instruct their guests accordingly.

Only guests having guest cards are allowed on Association property.

The disposal of trash, rubbish or garbage on Association property is strictly prohibited. The burning of garbage or table refuse is strictly prohibited.

Upon renting of a camp, it is mandatory that a copy of these rules and regulations be posted in a conspicuous place so that any and all tenants shall be fully aware of our rules.

The island is at all times off-limits to everyone.

Ducks or desirable wildlife shall at no time be molested or abused.

Association property is for the enjoyment of all members and may not be altered or changed without permission of the Association.

Lake shore property owners are urged not to use herbicides or fertilizers.

Should there be any doubt in interpretation of these rules and regulations, please consult your President or any member of the board of directors for clarification.

No display of alcoholic beverages allowed at the beach or dam area.

Pets should be leashed when in the beach and dam area.

The Association beach and parking areas close at dusk.

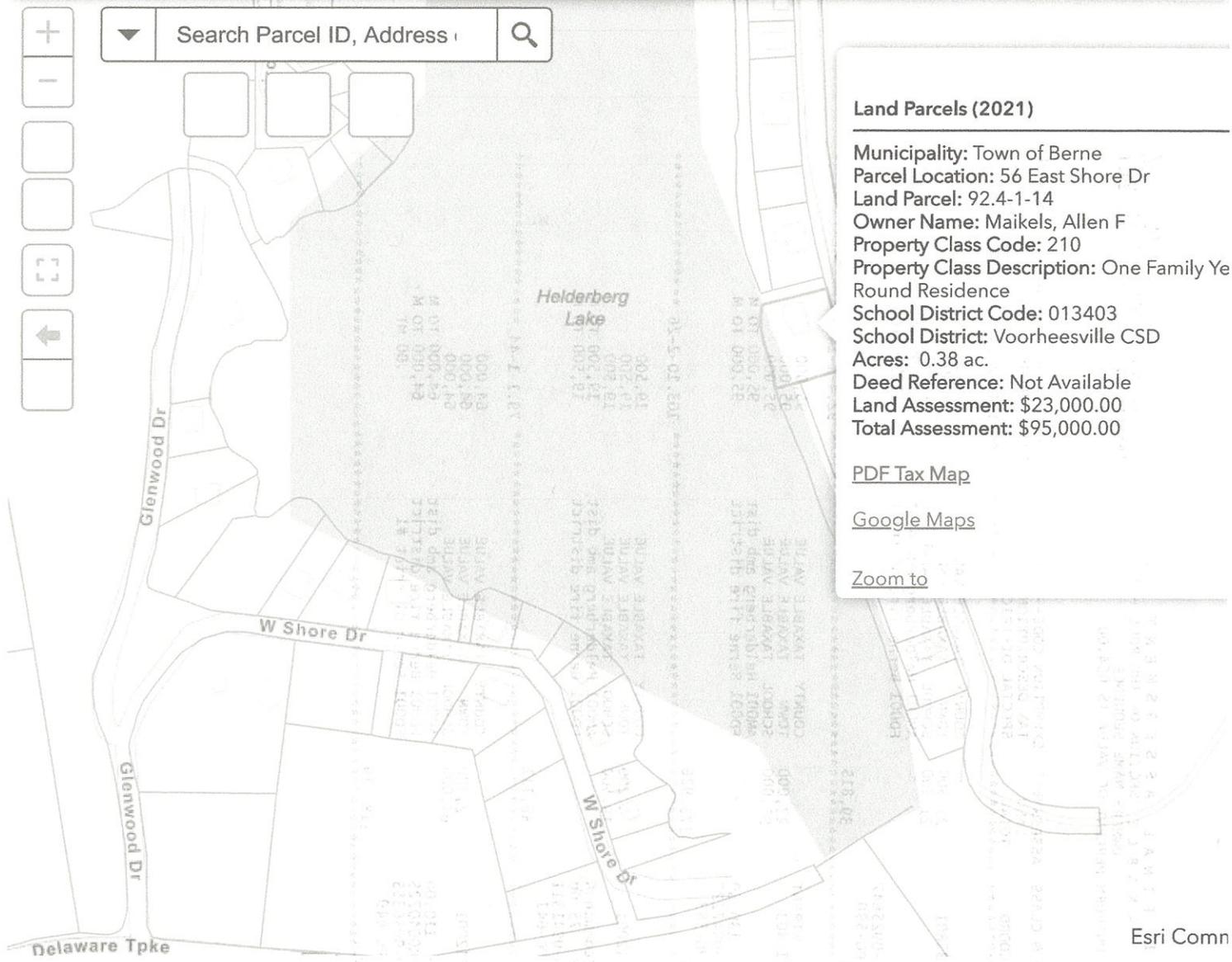
RECEIVED

DEC 01 2021

BERNE TOWN CLERK



Search Parcel ID, Address



Land Parcels (2021)

Municipality: Town of Berne
Parcel Location: 56 East Shore Dr
Land Parcel: 92.4-1-14
Owner Name: Maikels, Allen F
Property Class Code: 210
Property Class Description: One Family Ye Round Residence
School District Code: 013403
School District: Voorheesville CSD
Acres: 0.38 ac.
Deed Reference: Not Available
Land Assessment: \$23,000.00
Total Assessment: \$95,000.00

[PDF Tax Map](#)

[Google Maps](#)

[Zoom to](#)

Esri Conn



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DEC 01 2021

BERNE TOWN CLERK



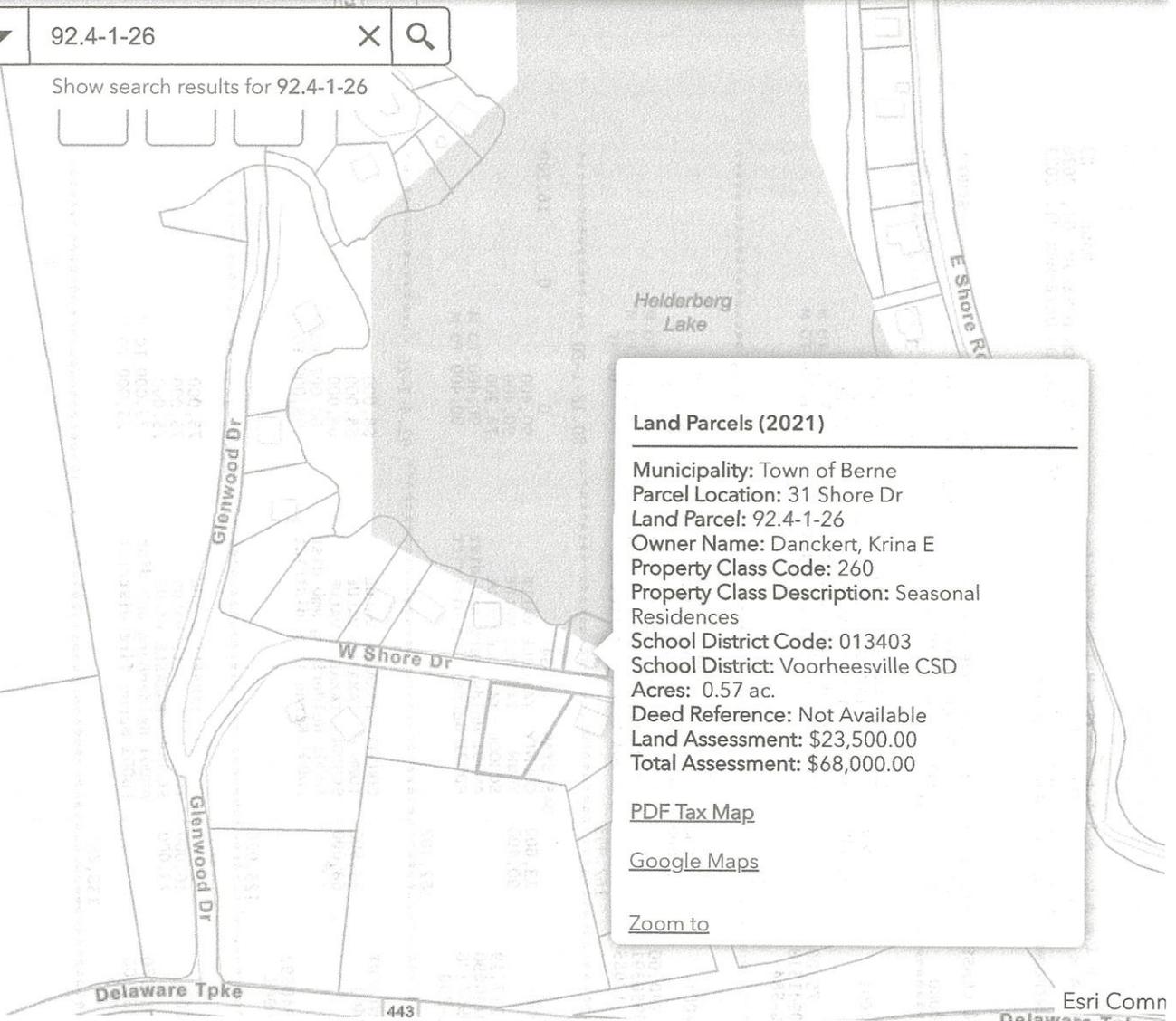
Albany County Interactive Mapping

In Scope



▼ 92.4-1-26 X Q

Show search results for 92.4-1-26



Land Parcels (2021)

Municipality: Town of Berne
 Parcel Location: 31 Shore Dr
 Land Parcel: 92.4-1-26
 Owner Name: Danckert, Krina E
 Property Class Code: 260
 Property Class Description: Seasonal Residences
 School District Code: 013403
 School District: Voorheesville CSD
 Acres: 0.57 ac.
 Deed Reference: Not Available
 Land Assessment: \$23,500.00
 Total Assessment: \$68,000.00

[PDF Tax Map](#)

[Google Maps](#)

[Zoom to](#)

300ft
-74.010 42.601 Degrees

RECEIVED

DEC 01 2021

BERNE TOW.

TAX MAP PARCEL NUMBER	PROPERTY LOCATION & CLASS	ASSESSMENT	EXEMPTION CODE	COUNTY	TOWN	SCHOOL
CURRENT OWNERS NAME	SCHOOL DISTRICT	LAND	TAX DESCRIPTION	TAXABLE VALUE		
CURRENT OWNERS ADDRESS	PARCEL SIZE/GRID COORD	TOTAL	SPECIAL DISTRICTS			
103.10-1-3 Cuzdey Gary Green Michae J 11 Feramac St Albany, NY 12205	783 Woodstock Rd 582 Camping park Berne-Knox-West 012001 1.-14-1 Lot 2 FRNT 40.00 DPTH 75.00 EAST-0566902 NRTH-0941518 DEED BOOK 2991 PG-584 FULL MARKET VALUE	5,200 15,200	COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district	103.10-1-3		
78.-3-25 Dajey Christine M Dajey Robert J 158 Sche11 Rd Berne, NY 12023	1784 Helderberg Tr1 210 1 Family Res Berne-Knox-West 012001 1.-8-10 FRNT 143.00 DPTH 240.00 EAST-0549969 NRTH-0956391 DEED BOOK 2019 PG-12085 FULL MARKET VALUE	8,000 88,000	COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district SD001 Sewer District #1	78.-3-25		
80.18-1-20 Dancer Craig I 5 Pine Knolls Ln East Berne, NY 12059	5 Pine Knoll Ln 210 1 Family Res Berne-Knox-West 012001 1.-57-9 FRNT 87.00 DPTH 217.19 BANK0140690 EAST-0569272 NRTH-0954206 DEED BOOK 2721 PG-300 FULL MARKET VALUE	13,600 90,400	BAS STAR 41854 COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district	80.18-1-20	0	16,200
92.4-1-26 Danckert Krina E Danckert Paul Henry 27 Rovers Hill Rd Feura Bush, NY 12067	31 W Shore Dr 260 Seasonal res - WTRFNT Voorheesville C 013403 & 92.04-1-39.00 Seasonal ACRES 0.57 EAST-0585454 NRTH-0946593 DEED BOOK 2814 PG-941 FULL MARKET VALUE	23,500 68,000	COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district	92.4-1-26		
70.-1-52 Daniels David 6 Summit Ave Albany, NY 12209	705 Beaver Dam Rd 210 1 Family Res Berne-Knox-West 012001 1.-15-2 ACRES 5.00 BANK0010070 EAST-0580621 NRTH-0961400 DEED BOOK 2976 PG-456 FULL MARKET VALUE	16,000 75,000	COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district	70.-1-52		

Albany County Interactive Mapping In Scope

+ - ↶ ↷ ↺ ↻ ⬅

▼ 92.4-1-58 X Q

Land Parcels (2021)

Municipality: Town of Berne
 Parcel Location: 17 Circle Dr
 Land Parcel: 92.4-1-58
 Owner Name: Lawyer, Pauline
 Property Class Code: 210
 Property Class Description: One Family Year-Round Residence
 School District Code: 013403
 School District: Voorheesville CSD
 Acres: 0.19 ac.
 Deed Reference: Not Available
 Land Assessment: \$20,400.00
 Total Assessment: \$102,100.00

[PDF Tax Map](#)

[Google Maps](#)

[Zoom to](#)

Esri Conn

RECEIVED
 DEC 01 2021
 BERNE TOWN CLERK

300ft
 -74.016 42.601 Degree:

STATE OF NEW YORK
COUNTY - Albany
TOWN - Berne
SWIS - 012000

2021 FINAL ASSESSMENT ROLL
TAXABLE SECTION OF THE ROLL - I
OWNERS NAME SEQUENCE
UNIFORM PERCENT OF VALUE IS 054.00

PAGE 211
VALUATION DATE-JUL 01, 2020
TAXABLE STATUS DATE-MAR 01, 2021

TAX MAP PARCEL NUMBER	PROPERTY LOCATION & CLASS	ASSESSMENT	EXEMPTION CODE	TAXABLE VALUE	TOWN	SCHOOL
115.-1-19	210 1 Family Res	14,500		146,100		
Lawyer Pauline	Berne-knox-west 012001	146,100		146,100		
168 Cole Hill Rd	ACRES 4.00 BANK3200200			146,100		
East Berne, NY 12059	EAST-0567797 NRTH-0933677			146,100 TO M		
	DEED BOOK 2020 PG-2599			146,100 TO M		
	FULL MARKET VALUE	270,556				
17 Circle Dr						
92.4-1-58	210 1 Family Res - WTRFNT	20,400	AGED - ALL 41800	20,420	20,420	20,420
Lawyer Pauline	Voorheesville C 013403	102,100	ENH STAR 41834	0	0	38,180
17 Circle Dr	1.-6-18		COUNTY TAXABLE VALUE	81,680		
East Berne, NY 12059	FRNT 80.00 DPTH 105.00		TOWN TAXABLE VALUE	81,680		
	EAST-0585225 NRTH-0947797		SCHOOL TAXABLE VALUE	43,500		
	DEED BOOK 2845 PG-224		AM001 Helderberg amb dist	102,100 TO M		
	FULL MARKET VALUE	189,074	FD001 Berne fire district	102,100 TO M		
1372 Switzkill Rd				102,100 TO M		
102.-2-5	240 Rural res	41,300	BAS STAR 41854	0	0	16,200
Le Clair Margaret Ann	Berne-knox-west 012001	85,300	COUNTY TAXABLE VALUE	83,300		
1372 Switzkill Rd	1.-8-12		TOWN TAXABLE VALUE	83,300		
Berne, NY 12023	ACRES 41.00 BANK0120125		SCHOOL TAXABLE VALUE	67,100		
	EAST-0558899 NRTH-0940452		AD001 Ag district 1	41.00 AC		
	DEED BOOK 2534 PG-685					
	FULL MARKET VALUE	154,259	AM001 Helderberg amb dist	83,300 TO M		
			FD001 Berne fire district	83,300 TO M		
103.-1-61	314 Rural vac<10	14,700		103.-1-61		
Lee Djanna	Berne-knox-west 012001	14,700				
24 Filkins Hill Rd	1.-82-6.8		COUNTY TAXABLE VALUE	14,700		
East Berne, NY 12059	ACRES 7.29		TOWN TAXABLE VALUE	14,700		
	EAST-0571065 NRTH-0943427		SCHOOL TAXABLE VALUE	14,700 TO M		
	DEED BOOK 2551 PG-44		AM001 Helderberg amb dist	14,700 TO M		
	FULL MARKET VALUE	27,222	FD001 Berne fire district	14,700 TO M		
24 Filkins Hill Rd						
103.-1-60	210 1 Family Res	16,200	ENH STAR 41834	0	0	38,180
Lee Djanna L	Berne-knox-west 012001	195,600	COUNTY TAXABLE VALUE	195,600		
24 Filkins Hill Rd	1.-82-6.9		TOWN TAXABLE VALUE	195,600		
East Berne, NY 12059	ACRES 5.15		SCHOOL TAXABLE VALUE	157,420		
	EAST-0570971 NRTH-0943106		AM001 Helderberg amb dist	195,600 TO M		
	DEED BOOK 02546 PG-00278		FD001 Berne fire district	195,600 TO M		
	FULL MARKET VALUE	362,222				

11/16/21, 4:32 PM

132 Pinnacle Rd, East Berne, NY 12059 - realtor.com®

realtor.com®

Seller represented by:
Daniel J Demers with Sell Your Home Services, Llc

Buyer represented by:
Gabriel August C M Fox, LLC



Last Sold for **\$391,000**



Map

3 beds **2** baths **2,180** sq ft **3.7** acres lot



FEMA



View up to 3 home estimates

Commute Time

132 Pinnacle Rd,

East Berne, NY 12059

Zone
X
(est.) •
Flood
Factor



1/10

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DEC 01 2021

BERNE TOWN CLERK

11/16/21, 4:35 PM

119 Pinnacle Rd, East Berne, NY 12059 - realtor.com®

realtor.com®

Seller represented by:

Jennifer Bettini-Bergeron with Albany Realty Group, Llc

Buyer represented by:

Sandy Evans Albany Realty Group, Llc



Last Sold for **\$410,000**



Map

4 beds **2** baths **2,952** sq ft **16.0** acres lot

Commute Time

119 Pinnacle Rd,
East Berne, NY 12059



FEMA

Zone

X

(est.)

Flood

Factor



1/10



View up to 3 home estimates

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DEC 01 2021

BERNE TOWN CLERK

11/16/21, 4:38 PM

56 W Shore Dr, East Berne, NY 12059 - realtor.com®

realtor.com®



Interested in selling your home?

See your selling options

Map
 4 beds
 1 bath
 1,518 sq ft
 1.63 acres lot
 FEMA Zone X (est.) • Flood Factor TM 1/10

Commute Time **56 W Shore Dr,**
 East Berne, NY 12059

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DEC 01 2021

BERNE TOWN CLERK

11/16/21, 4:38 PM

56 W Shore Dr, East Berne, NY 12059 - realtor.com®

Property Overview - 1.6 wooded acres overlooking beautiful, private, Helderberg Lake. Expansive, spacious decks on this 3-season country/rustic cabin give elevated view of the entire lake. Start making your own memories here, fishing, sailing, kayaking, canoeing. Direct access to beach for best swimming on the lake. Hike and picnic at nearby Thacher Park with spectacular views of the Helderberg Escarpment. Enjoy gorgeous fall foliage in this forested, country setting just 30 minutes from Albany, 2 hours from NYC.

This property overview is from the previous listing when the home was listed for sale in May 26, 2021.

\$184,900

Neighborhood
Median Price

Own this home?

Check out your owner dashboard to:

- Track your home's value and comps
- Update the important details and photos
- Easily compare similar homes in your area

Property History

This property was not sold in less than a year.

Today



Price Unavailable

TAX MAP PARCEL NUMBER
 CURRENT OWNERS ADDRESS
 PROPERTY LOCATION & CLASS
 SCHOOL DISTRICT
 PARCEL SIZE/GRID COORD
 TOTAL LAND
 ASSESSMENT TOTAL
 EXEMPTION CODE
 TAX DESCRIPTION
 SPECIAL DISTRICTS
 COUNTY TAXABLE VALUE
 TOWN TAXABLE VALUE
 SCHOOL TAXABLE VALUE
 AM001 Heldeberg amb dist
 FD001 Berne fire district

69.-2-39.11
 Knapp John M
 Knapp Darcy R
 PO Box 368
 Ajtumont, NY 12009

Thompsons Lake Rd
 322 Rural vac>10
 Berne-Knox-West 012001
 1.-2-3
 West Side-Rt 157
 ACRES 140.40
 EAST-0575183 NRTN-0963535
 DEED BOOK 3022 PG-737

126,296
 68,200
 68,200
 68,200
 68,200 TO M
 68,200 TO M

69.-2-39.11
 68,200
 68,200
 68,200 TO M
 68,200 TO M

ACCOUNT NO.

79.-2-7
 Knopp Werner
 Knopp Linda C
 1436 Heldeberg Tr1
 Berne, NY 12023

1436 Heldeberg Tr1
 210 I Family Res
 Berne-Knox-West 012001
 1.-51-13
 ACRES 1.00
 EAST-0557863 NRTN-0956164
 FULL MARKET VALUE

174,630
 10,000
 94,300
 174,630
 10,000
 94,300
 174,630
 174,630
 174,630 TO M
 94,300 TO M
 114.-1-11

79.-2-7
 23,575
 0
 70,725
 70,725
 54,525
 94,300 TO M
 94,300 TO M

23,575
 0
 70,725
 70,725
 54,525
 94,300 TO M
 94,300 TO M

24,300
 16,200

114.-1-11
 Knowles Robert E
 Knowles Janice A
 1085 Switzki11 Rd
 Berne, NY 12023

1085 Switzki11 Rd
 210 I Family Res
 Berne-Knox-West 012001
 1.-2-2
 ACRES 1.50
 EAST-0560456 NRTN-0933971
 DEED BOOK 2150 PG-00127
 FULL MARKET VALUE

220,741
 10,800
 119,200
 220,741
 10,800
 119,200
 220,741
 220,741
 119,200 TO M
 119,200 TO M
 114.-1-12

29,800
 0
 89,400
 89,400
 78,700
 119,200 TO M
 119,200 TO M

29,800
 0
 89,400
 89,400
 78,700
 119,200 TO M
 119,200 TO M

24,300
 16,200

114.-1-12
 Knowles Robert E
 Knowles Janice A
 1085 Switzki11 Rd
 Berne, NY 12023

1081 Switzki11 Rd
 312 Vac w/impv
 Berne-Knox-West 012001
 1.-39-21
 ACRES 20.30
 EAST-0559820 NRTN-0933638
 DEED BOOK 2366 PG-00095
 FULL MARKET VALUE

30,926
 15,200
 16,700
 30,926
 15,200
 16,700
 30,926
 15,200 TO M
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92.-4-1-21
 Knox Lawrence
 838 Havittah Hill Rd
 Tonasket, WA 98855

56 West Shore Dr
 260 Seasonal Res - WTRFRNT
 Yootheesv11le C 013403
 1.-50-10
 4 Lots
 ACRES 1.60
 EAST-0586062 NRTN-0946169
 DEED BOOK 2256 PG-01021
 FULL MARKET VALUE

164,630
 31,000
 89,900
 164,630
 31,000
 89,900
 164,630
 31,000 TO M
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 88,900 TO M



RECEIVED

DEC 17 2021

12/1/2021 Public Hearing Talking Points for the Helderberg Tax District

BERNE TOWN CLERK

While we consider the dam repair essential to the safety of those who live downstream and to meet New York State requirements, this Tax District places an unfair tax burden on us and other off lake properties.

We oppose this funding mechanism to raise money for dam repairs as it does not take into account the disproportion of benefits between lake front and off lake properties. Lake rights in and of itself **do not** provide equal benefits.

We live on Pinnacle Road 2 miles by car from the Helderberg Lake beach area.

We are not members of Helderberg Lake Community Association. We own a camp on a different lake we use from May through October. We have not used Helderberg Lake in over 10 years and we will never use the lake in the future. Yet we were always willing to donate to the repair of the dam.

The Park Tax District does not function as a "Park" where all people have the same benefits and same access to amenities.

Lake front properties have more benefits available to them that a house/camp offer such as 24-hour lake access from their own properties, bathrooms, parking, the ability to cook and eat while on the lake.

We have to drive approximately 2 miles to use a beach consisting of a grassy strip of land with limited hours of use, no bathrooms, limited parking and none of the other amenities provided to lake front properties..

Now, per the 7/27/21 HLCA email we are denied access to HLCA property, use of the lake and the board has threatened us with arrest if we do so.

I could go to Thompson Lake State Park and Thatcher State Park that are within a 5 miles radius of our house. We can spend \$80.00 for an Annual Empire Pass or pay a parking fee for \$7.00 and have use of the same benefits these parks offer everyone including bathrooms, eating and cooking areas, beach, hiking trails and other year around recreational activities. At much lower cost than our tax increase.

Our taxes will increase by \$990.00 annually, approximately a 42% increase. Because of the proximity of our house to the lake, lake rights do not add to the value of our house. The additional taxes are a deterrent to our property especially if we choose to sell the house.

While I realize the taxes are calculated based on the value of the property, looking at it strictly from the point of benefits, we will pay the 3rd highest tax increase (\$990) and receive no benefits. While this tax calculation may work for lakefront front properties that share the same level of benefits it fails those who live off lake.

For example, lakefront properties may pay an increase of \$346.00, \$508 and even \$910. They all start with the same benefits. We will pay approximately \$990 annually to drive about 2 miles to use a grassy strip of land with none of amenities as I described. Of course now we face arrest if we enter HLCA property which leaves us with no benefits. Do you call this fair taxation? Do you call this equal benefits?

Anita Clayton

From: Leonard, Lauren (DMV) <Lauren.Leonard@dmv.ny.gov>
Sent: Tuesday, December 07, 2021 3:20 PM
To: Sean Lyons
Cc: Anita Clayton; Dennis Palow; Joel Willsey; Leo Vane
Subject: Public Hearing - Helderberg Lake Proposed Tax District
Attachments: Public Hearing Statement 12.1.21.docx

Importance: High

Good Afternoon,

First, I would like to thank the Town Board for the opportunity to read my statement for the record at the Public Hearing held 12/1. I have included a copy for the record.

Second, I would have another question that should be added to the record.

If the Lake Association owns property that is going to be included in the tax district, who is going to pay those taxes? Are we, the residents, going to have additional debt put upon us because the association is broke? Where is their tax money going to come from?

And finally, I would like to respectfully request that the Town Board reconsider holding a continuation of the 12/1 Public Hearing on 12/22. This date is just days away from Christmas, and then New Year's to follow. I'm sure quite a few families have plans to travel or have loved ones coming in from out of town, including yourselves. The DEC hasn't even approved the plans for the dam project yet, so couldn't the continuation of the Public Hearing be postponed until the new year?

Thank you,
Lauren Leonard & Paula Leonard
Lsquared78@gmail.com

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DEC 22 2021

BERNE TOWN CLERK



Nancy B. Clemente

518- 858-3738 nancybclemente@gmail.com

RECEIVED

DEC 20 2021

BERNE TOWN CLERK

December 9, 2021

Supervisor Sean Lyons
Board Members
Town of Berne

Dear Supervisor Lyons and Board Members,

My family has owned the property at 15 West Shore Drive on Helderberg Lake since 1983. It was my parent's summer home for decades. My sisters and I now own the property and enjoy the camp and the lakefront benefits with our families. We are longstanding members of the Helderberg Lake Association.

I have been aware of the situation with the deteriorating dam for many years. I understand that there are limited options for property owners to pay for repairs that New York State is requiring at this time according to their regulations for Class C dams. I am writing to you in support of creating a tax district to help us spread the payments over time instead of having to pay out a large sum of money at once.

After attending the December 2nd public hearing on this matter and listening to the speakers I also feel that it would be in every property owner's best interest to set up some type of tier system for percentage of payments. Perhaps those property owners directly on the lake pay the most and those off the lake without access pay the least. This is a fair option.

Thank you for your consideration in this matter.

Sincerely yours,

Nancy B. Clemente

369 Brunswick Road, Troy, NY 12180

December 14, 2021

Sean S. Lyons, Supervisor
Dennis Palow, Deputy Supervisor
Leo Vane
Joel Willsey

Dear Berne Town Board Members,

On Thursday, June 24, 2021, a 12 story beach front condominium, Champlain Towers South, partially collapsed killing 98 people. Structural problems had been reported in 2018 and noted as "much worse" in April 2021. A \$15 million program of remedial work had been approved before the collapse, although no main structural work had been undertaken. The similarities of Champlain Towers South and the Helderberg Lake Dam are eerily similar:

- Both are privately owned man-made structures with known structural issues.
- Remediation for both structures are projected to be costly.
- Discussions regarding remediation for both structures have been lengthy.

It is our civic responsibility, the Helderberg Lake Community Association (HLCA) and the Town of Berne, to remedy the Helderberg Lake Dam issue before a breach occurs. The HLCA has approached the Town Board with a viable solution and the time to act is now. Our downstream neighbors, friends and communities are counting on us to do the right thing in a timely manner. Please approve the tax district now so that construction can begin as soon as possible.

Regards,

Josh Weinstock
HLCA Board Member
119 Pinnacle Road
East Berne, NY 12059

December 15, 2021

Town of Berne
P.O. Box 57
1656 Helderberg Trail
Berne, NY 12023

Attn: Anita Clayton, Town Clerk

Dear Board Members,

Firstly, I would like to thank the board for considering the bond for the Helderberg Lake dam as it is our only option. I was dismayed to read the December 8th article in the Altamont Enterprise and am compelled to comment (<https://altamontenterprise.com/12082021/some-helderberg-lake-residents-oppose-petition-would-create-special-tax-district>).

EXCERPT: "Some residents, like Liz Smith, owner of the most expensive property within the proposed district, argued that those who have lake frontage — meaning their property extends into the lake itself — should pay a higher rate than residents who have only lake access, since those with lake frontage have, essentially, more opportunity to use the lake".

As evidenced below, the Smiths enjoy a low land tax assessment and are not surcharged for having "lake access" for their 21 acres – their land assessment \$29,600 for 21 acres. In contrast, my lakefront property has a land assessment of \$18,600 for less than a quarter of an acre of land. If you extrapolate what the cost per acre of my land, it would be excess of \$75,000 – for 1 acre. As you can see, the lakefront properties already have higher tax costs built in the assessment.

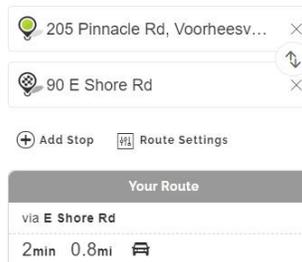
TAX MAP	PARCEL NUMBER	PROPERTY LOCATION & CLASS	ASSESSMENT	EXEMPTION CODE	COUNTY	TOWN	SCHOOL
CURRENT OWNERS NAME	CURRENT OWNERS ADDRESS	SCHOOL DISTRICT	LAND TOTAL	TAX DESCRIPTION	TAXABLE VALUE	TAXABLE VALUE	TAXABLE VALUE
		PARCEL SIZE/GRID COORD		SPECIAL DISTRICTS			ACCOUNT NO.
***** 92.-2-23 *****		205 Pinnacle Rd 240 Rural res Voorheesville C 013403	29,600 219,900	BAS STAR 41854 COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AD001 Ag district 1	0 219,900 219,900 203,700	0	16,200
Smith Robert J Jr. Smith Elizabeth A 205 Pinnacle Rd Voorheesville, NY 12186		1.-27-17 ACRES 21.00 BANK1040280 EAST-0586224 NRTH-0949874 DEED BOOK 2985 PG-795 FULL MARKET VALUE	407,222	AM001 Helderberg amb dist FD001 Berne fire district	219,900 TO M 219,900 TO M		89.-1-18

***** 92.4-1-20 *****		90 East Shore Dr 260 Seasonal res - WTRFNT Voorheesville C 013403	18,600 75,000	COUNTY TAXABLE VALUE TOWN TAXABLE VALUE SCHOOL TAXABLE VALUE AM001 Helderberg amb dist FD001 Berne fire district	75,000 75,000 75,000 75,000 TO M 75,000 TO M		
Emerick Lorraine M 8 Luke St Coxsackie, NY 12051		Seasonal FRNT 100.00 DPTH 100.00 EAST-0586355 NRTH-0946550 DEED BOOK 2019 PG-6375 FULL MARKET VALUE	138,889				

In addition, the Smiths utilize the lake year round. As a seasonal owner, I do not enjoy the same privileges the Smiths have as my primary home is 40+ miles away. Many properties on the lake are seasonal, meaning no heat or running water or toilets for approximately 6 months out of the year. Living less than 1 mile from the lake, affords the Smiths with an opportunity for year round use.

EXCERPT: "Smith, who would be paying an additional \$1,176.47 per year, by Enterprise calculations, said that, although she has lake rights, the nearest access point is two miles away from her property."

This is another misnomer. The Smiths live less than a mile to the access they utilize (Mapquest below).



EXCERPT: "In recent years, Helderberg Lake took away one of those access points," Smith said. "What guarantee do we have that the rest of the right-of-ways will not be removed?"

As a former board officer and property owner since 2008 (prior to the Smiths), this is untrue. Robert Smith (husband of Elizabeth), while a board member, offered the board monies directly to purchase a right of way has been owned by the Keenan family for several decades. He was denied. Mrs. Keenan provided evidence to the board of her ownership.

EXCERPT: "In an effort to raise money to fund the repairs," Horn went on, "various HLCA members have suggested alternate ways, for example the sale of HLCA land in an effort to eliminate or reduce the amount of the tax district bond. Unfortunately, these ideas were not put to a membership vote, despite several requests to do so."

Prior to Jean Horn purchasing property on Helderberg Lake, an association member and attorney, Judge Margaret Adkins, conducted research on what a subdivision involved and advised that it was cost prohibitive. In addition to exorbitant costs associated with a major subdivision, there is also the issue of the steep slope of the land and subsequent impact of the homes below that would be caused by water run-off and heaving structures if trees and roots were removed. This would result in lawsuits.

At the June 2018 HLCA association meeting, Jean Horn (not a dues paying member at that time), inquired about purchasing land for the purposes of a garage. Jean Horn was advised by our VP, Anina laCour, that those interested in purchasing the land could present their research and "*should bear the cost and time*" (documented in June 2018 meeting minutes). At no time in the past three plus years has a cost analysis been provided by Jean Horn. I perplexed as to how she could assert that a membership vote could be proposed without any research information.

Furthermore, instead of doing her due diligence, Jean Horn became a board member, paid her dues and attempted to have the board sell her land directly. As I had voiced interest in purchasing the land, if it was for sale (to protect my property), Jean reached out to me - my notes taken at the time are below. As an aside, I was the secretary of the board in February 2020. I also relayed by concerns to several other board members as well as I found her tactics to be extremely unsettling (i.e. board member Tami, was referenced below).

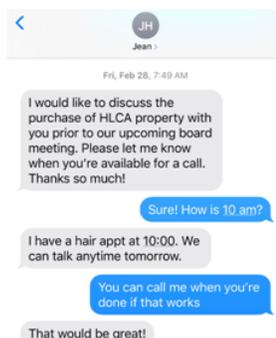
2/28/20

Recd a text from Jean Horn wanting to discuss "purchase of HLCA property prior with you prior to upcoming board meeting" See below screen shot

Recap of conversation:

Jean called about us asking the board to vote to sell us the land at meeting next Saturday. I advised that the board did not have the authority to sell the land. Jean advised that Rob [Way] said that the board did have the authority to sell the land. I advised that it wasn't the board's land, it was the community's land and it would be in violation of the bylaws and cited conflict of interest and abuse of power. Jean replied "but Rob said the board could vote to sell the land". I advised that the bylaws do not give the board that authority - even if it meant we paid more money for land, we have to put the interest of the community above self interest. Jean advised that Mark (her husband) wants a workshop and a garage and if he can't get it, he wants to move. I advised that I was sorry but that is a decision she (Jean) would have to make. Call ended.

As I was extremely uncomfortable with the call, I called Tami and reiterated my conversation and asked if she had heard anything about this. She had not and was uncomfortable as well.

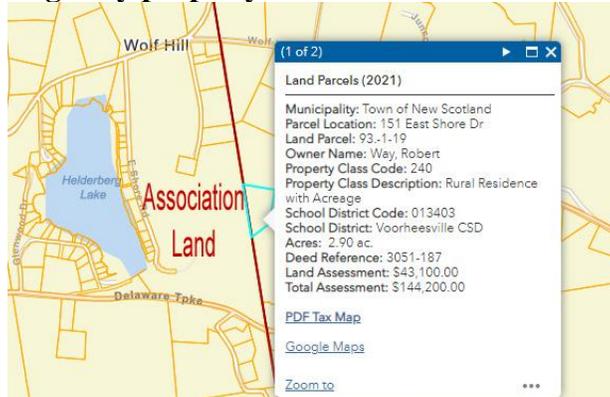


In addition, Robert Way sold his property on Helderberg Lake in 2021 and real estate notes by owner stated that the land could not be developed. The Way family had been in the Helderberg Lake community for several generations (see reference to association land bordering property below).

Realtor notes:

- Lot – 2.9 acres with all HOA land between lot and Helderberg Lake. This HOA land cannot be developed.

Map of association land bordering Way property:



While no one wants to pay higher taxes, there is an inherent responsibility when property is knowingly purchased with lake rights in a community with a private dam. Personal gain and self interest seems to be the theme of a small group opposed to establishment of a tax district. At no time has a viable and actionable plan been proposed by the Smiths, Horns, Brusos or any other property owner that would be affected by the district. As the article stated, the dam has been an ongoing issue for years.

Thank you in advance for allowing comments regarding this critical issue as the safety of our surrounding community is paramount.

Sincerely,

Lorraine Emerick, 90 East Shore Drive, East Berne, NY

ROBERT WAY PROPERT LISTING- SOLD 2021

realtor.com/realestateandhomes-detail/151-E-Shore-Dr_Voorheesville_NY_12186_M91476-28386

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Back Voorheesville, NY New York > Albany County > Voorheesville > 151 E Shore Dr

Presented by:
David Whipple with Helderberg Realty



Be Ready to Buy. How Much Can You Borrow?

■ Pending

\$90,000 Est. [\\$710/mo](#)

4 bed 1.5 bath 1,540 sqft 2.9 acre lot

151 E Shore Dr, Voorheesville, NY 12186

Single Family
Property Type

1890
Year Built

27 Days
Time on realtor.com

\$33/mo
HOA Fees

\$58
Price per sqft



Property Details

3 acre private oasis with dock and Helderberg Lake rights only 30 mins from Albany! As you drive down the winding driveway take in the old Hemlock trees and listen to the Onesquethaw Creek crash over waterfalls in the ravine below. As you approach the house you will smell beautiful lilacs and enjoy the view down the mountain. The grounds of this old home are meticulously maintained and have 1.5 miles of trails cut through the woods. There is a large yard and mature maple, spruce and birch trees. The home is being sold AS IS and has significant foundation issues. Cash or prequalified rehab loans only, will not qualify for FHA or conventional mortgage. The home has functional electricity, well and septic. Voorheesville School district! Make it yours! Call listing agent for documents.

Notes from Owner



- **Well** - 6gpm drilled well 1967. Well cap buried and not far from back door
- **Septic** – redone with 1000 gallon concrete tank
- **Electric** – 200 amp service brought in 1990
- **Trails** – 1.5 miles of trails around the property
- **Driveway** - is an abandoned town road. Was the old Albany Post Road
- **Lake rights** – deeded lake rights from Helderberg Park, Inc – dock location is across from end of driveway on lake frontage owned by Helderberg Lake Community Association
 - Helderberg Lake is a non motor boat lake
- **HOA** - \$400 / year to Helderberg Lake Community Association, Inc.
- **Cable** – house next door and next on the power line has it. Just needs to be extended
- **Zoning** – house can be rebuilt as a 4 bed, 2 bath home where it currently sits per the Town of New Scotland. Per current zoning it is too close to the property line but is grandfathered in
- **Lot** – 2.9 acres with all HOA land between lot and Helderberg Lake. This HOA land cannot be developed.
- **Home** – built approx. 1890. Foundation under half of home.

Estimates

- Tear down house - \$3000
- New Foundation under house - \$50,000

From: [Javid Afzali](#)
To: [Javid Afzali](#)
Subject: FW: Helderberg Special District
Date: Friday, December 17, 2021 2:07:54 PM

From: Sean Lyons <Supervisor@berneny.org>
Sent: Saturday, December 11, 2021 11:15 AM
To: Javid Afzali <Jafzali@HarrisBeach.com>
Subject: RE: Helderberg Special District

Javid,

I share an opinion and my questions/concerns
Go Army!

Sean

As this petition is to establish a park district for the purpose of repair to the dam and keeping Helderberg lake intact for years of benefit to those with the privileged Lake Rights, by definition it is an *ad valorem district* and an ad valorem levy is a charge on benefitted real property. From what I have heard at the public hearing and correspondence, not all the properties included should be considered *benefitted real property*.

I have the following questions

1. How are Lake rights determined?
 - a. who is the governing body of Lake rights.
 - b. If you are denied Lake rights how can they share a benefit of the dam?
 - i. If they cant use the lake why would they care if the lake was gone?
2. How were the boundaries determined?
 - a. Who determined *benefitted real properties*?
 - b. Who decided who is in/out?
3. The repairs didn't seem to be worth \$500K
 - a. Nothing in the engineers report seemed that pressing.
 - b. Nothing in that report seemed to high tech of a repair justifying the expense.
 - c. Shouldn't something of this expense require a second opinion?
4. Do/will all the members of tax district share an equal benefit
5. Does the district have "other" outstanding expenses
 - a. Should they/did they provide a statement of indebtedness
6. Can the petitioners signatures be validated?
7. Can the Public Hearing be extended into the new year?
8. Is it in the public interest to grant this district?
 - a. Town of Berne's Public Interest, or
 - b. Shouldn't Albany County and/or more importantly the Towns of Clarksville and New Scotland be more involved financially? Loss of life in their community will occur if the

dam breaks

9. If a tax district is granted, who determines the makeup of the Board of Directors who will oversee the project and money?
 10. So as a homeowner makes repairs and increases the value of his home within this district
 - a. Will homes in the districts be reassessed and therefore have to pay more to the debt?
 11. If the project goes overbudget what is the contingency?
-

From: [Javid Afzali](#)
To: [Javid Afzali](#)
Subject: FW: Helderberg Special District- AC
Date: Friday, December 17, 2021 2:06:59 PM

From: Anita Clayton <clerk@berneny.org>
Sent: Saturday, December 11, 2021 3:01 PM
To: Javid Afzali <JAfzali@HarrisBeach.com>
Subject: RE: Helderberg Special District

Javid: thank you for including me

I would like to see where all the dues for all these years have gone.
I would also like to see an accounting of how money has been spent; what have they tried to do to obtain money for repairs; something from DEC stating this is absolutely necessary at this time. I also feel that this is more an issue for New Scotland as they would be the town affected if the dam burst. Have they been approached?

Anita

Sandra B. Anderson
518-441-0258
sandrabanderson@icloud.com

December 17, 2021

Supervisor Sean Lyons
Board Members
Town of Berne

Re: Helderberg Lake Tax District

Dear Supervisor Lyons and Board Members:

Please accept this letter as an addendum to my verbal testimony at the public hearing on December 2, 2021.

It is my sincere hope that the Board can see past many of the unfounded accusations that were presented at the hearing. Dealing with money is a very emotional issue and this has rendered an extremely slow resolution of a very serious problem. I want to emphatically state that I have every confidence in the abilities of the current Lake Association Board members. The fact that they were able to finally present a solid proposal in this dysfunctional internal environment should be lauded and not criticized by Lake Association members.

The bottom line is that the dam is officially cited by NYS Department of Environmental Conservation as deficient. We are required to act now to fix it or take it down. Continued inaction means that the state will eventually step in and take down the dam at our cost. In addition, property owners are now on notice of potential liability should damage occur because of our inaction. As a former insurance examiner in a regulatory agency, I know that this risk is a certainty.

I urge the Board to pass the request to create a the Helderberg Tax District so we can finally resolve this issue, move forward with the repair project, be in compliance again with NYS and to relieve this potential liability issue for us property owners.

Thank you for your consideration.

Submitted by,

Sandra Anderson
15 West Shore Drive

Mailing address: 12 Deerwood Ct., Albany, NY 12208

December 18, 2021

Town Council
Town of Berne
1656 Helderberg Trail
Berne, NY 12023

Re: Helderberg Lake Special Tax District

Dear Mr. Supervisor and Council Members:

We are submitting written comments to the Town Board to reiterate our concerns over the proposed Helderberg Lake Community Association (HLCA) Park District. As you can see this issue is extremely important to us. We have stated our objections to the Park District as the method of raising funds for dam repairs as it places an unfair tax burden on us and other off lake properties.

We consider the Helderberg Lake dam repair essential to the safety of those who live downstream and to meet New York State requirements. We are willing to help with the cost of dam repairs but we are not willing to carry the burden of the cost while lake front properties will pay less, in some cases half of our costs, and receive more benefits while we receive little to none. All we are asking is that the funding method be reasonable and fair to all properties with lake rights. Unfortunately, HLCA has chosen not to approach this problem in a fair and equitable manner. Therefore, we cannot support this petition.

Our concerns regarding the Park District boundaries outlined in the petition and the disproportion of benefits between off lake and lake front properties are outlined as follows:

- The Park District petition did not include all properties with lake rights. Other properties may also have lake rights that were not included in the petition. We provided deeds and maps to the Town Board for review to make a determination regarding the Park District boundaries.
- This private lake offers many benefits to lake front house/camps such as 24-hour lake access from their own properties, bathrooms, parking, the ability to cook and eat while on the lake. These benefits are not available to us. We have access to a grassy strip of land next to the dam as the designated beach area. Now, if you are not a member of Helderberg Lake Community Association (HLCA) they will take legal action if you enter their property. How can we be included in a tax district because of lake rights only to have them removed and denied use of the lake?
- The effect of lake rights on our property's value is less than lake front properties because of the proximity to the lake. The determination of "added value" is not clear cut. Value of a property with lake rights is based factors such as; proximity to the lake, view of the lake, ease of access, water quality, and recreational activities offered. We are not located on or adjacent to the lake nor do we have a view of the lake. Our property value will be based on the location to Albany, our pond and upgrades made to our house. We purchased our property because we liked the rural location with easy access to Albany and it had a pond. We were unaware we had lake rights at the time we purchased the property. Use of a lake was never a factor as we own our own camp on a separate lake.

- The additional taxes are a detriment to our property if we choose to sell the house.

We respect your thoughtful consideration of all information presented in writing and during the public hearings. We hope you will consider our concerns and realize we just want to be treated fairly.

Sincerely,

David and Kathie Bruso

References:

How Much Value Does Living the Lakefront Dream Add to a Property? Valerie Kalfrin, published on April 22nd, 2020, Updated on November 24th, 2020.

The Impact of Waterfront Location on Residential Home Values by Collateral Analytics, March 27, 2018.

What is Waterfront Worth? by Zillow Research, September 11, 2014.

Anita Clayton

From: Judith Kimes <judy.kimes@gmail.com>
Sent: Sunday, December 19, 2021 5:44 PM
To: Anita Clayton
Subject: Helderberg Lake Special Tax District

Follow Up Flag: Follow up
Flag Status: Flagged

From: Judith E. Kimes
PO Box 251
Clarksville, NY 12041
(27 Rowe's Hill Rd.
Feura Bush, NY 12067)

December 19, 2021

RECEIVED
DEC 22 2021
BERNE TOWN CLERK

To: Sean S. Lyons, Supervisor
and the Town Board of Berne

I am writing regarding the proposal for the town of Berne to create a special tax district around Helderberg Lake to finance the needed repairs to its dam. As a concerned citizen who lives downstream, I believe that these repairs need to be made in the quickest time frame possible. During Hurricane Irene in 2011, I witnessed the evacuation of Clarksville residents to the elementary school, now the Albany County Sheriff's Office. This evacuation was executed because of the fear that the Helderberg Lake dam could fail. Thankfully, it did not. However, 10 years have passed, and time has taken its toll on the dam. The likelihood of storms such as Irene or worse is ever increasing.

In reading the account in the *Altamont Enterprise* ("Dam Uproar," December 9, 2021) and through listening to friends who have property on Helderberg Lake, it is apparent that the plan to establish a special tax district is the quickest and most workable solution. I applaud the majority of lake residents who realize they have a responsibility to maintain the dam and are willing to shoulder the cost for the project. I appreciate the words of Josh Weinstock who did his homework before recently purchasing property on the lake and realizes that living on a lake comes at a cost, and, as "stewards of the lake" he is willing to bear it. A few residents purchased their properties knowing their deeds included "lake rights" but are now unwilling to share in the cost. "Lake rights" are not just a pleasant add-on to one's deed but carries with it a responsibility to maintain the lake's infrastructure. It is naïve to think purchasing property with rights to a manmade lake which is dependent on a dam is without expense. That is like purchasing a house and thinking no other outlay of funds will ever be necessary.

Anita Clayton

From: Krina Danckert <krinadanckert@gmail.com>
Sent: Monday, December 20, 2021 2:47 PM
To: Anita Clayton

RECEIVED

DEC 22 2021

BERNE TOWN

December 19, 2021

To the Town Board of Berne:

This is one of the most important decisions you will be making in your career. I want to thank you for your careful consideration of this special tax district.

My family has been on Helderberg Lake since 1937. I am a third-generation taxpayer. Ours has always been a summer home, yet we pay taxes as if we live here year-round. Our use of town services has been limited. No complaint here - not everyone utilizes the same benefits from taxes paid. That is no reason to deny this manner of raising funds to repair the dam – a project everyone agrees needs to be done.

Our small lake community has always had dues to be paid and if landowners did not pay these, they could not use the lake and the community properties. Some have made the decision to ignore these rules, saying the rules never existed and there was no penalty for not paying HOA fees. No one took away the rights of any member or any rights-of-way. All rights of way that ever existed still remain for all members.

The residents who disagree with establishing the tax district were on the Helderberg Community Lake Association (HCLA) board within the past ten years. Knowing the dam needed repairs, they chose to kick the can down the road. No ideas, no results. Now they are critical of using this method of raising funds to repair the dam. They are demanding changes unrelated to the dam that are of personal benefit to them and them alone.

Please help us raise the funds to repair the dam. The majority of our residents signed on to work together to make this project possible. We are willing to take on the financial responsibility.

The state is requiring these repairs to be made, and we are asking our local town board to approve this method of financing the project. We are accepting the financial responsibility necessary to protect the surrounding communities.

We all need to cooperate with one another so we can protect each other from any loss of life or property. We are not arguing about what needs to be done. It's about how to get there and the tax district is the only way. Time is of the essence.

Every property owner that has been identified as having deeded lake rights will only benefit from the tax district. Without the tax district and dam repair, property values will plummet, the DEC will decommission the dam and we will no longer have a lake. All costs associated with the decommissioning of the dam will be passed along to all the property owners, regardless if they feel it is fair or not. Not one of us will have any recourse to the action that DEC will take.

Please help us to do the right thing to protect our properties, our neighboring communities and the Town of Berne.

Sincerely,
Krina Danckert

From: [Anita Clayton](#)
To: [Leo Vane](#); [Joel Willsey](#)
Cc: [Javid Afzali](#)
Subject: FW: Comments Regarding Helderberg Lake Community Association Proposal for aTax District
Date: Monday, December 20, 2021 9:02:53 AM

From: Tami Bloom <tamisbloom@gmail.com>
Sent: Monday, December 20, 2021 7:42 AM
To: Anita Clayton <clerk@berneny.org>; Sean Lyons <Supervisor@berneny.org>
Subject: Comments Regarding Helderberg Lake Community Association Proposal for aTax District

Good Morning Sean and Anita,

Please find below my comments regarding the proposal for the Helderberg Lake Community Association Tax District.

Thank you!

Tami Bloom

December 20, 2021

**Town of Berne
1656 Helderberg Trail
Berne, NY**

ATTN: Sean Lyons, Supervisor and the Town of Berne Board

RE: Helderberg Lake Community Association Special Tax District

Dear Board Members,

I am writing in response to remarks that were made at the Public Hearing on Wednesday, December 1, 2021, and the recent article in the Altamont Enterprise regarding the application for the HLCA special tax district.

As much as I would like to say that I was surprised by the remarks that were made by those who oppose the tax district, I cannot. The comments made by the opposers were full of inaccuracy and absolute misinformation.

[Jean Horn remarked that HLCA did not consider different options to finance the dam repairs, stating that association land could be sold but the HLCA Board refused to allow the membership to vote on the sale of land.](#)

Jean Horn began a campaign to attempt to get HLCA to sell her and her husband association land so that they could build a garage in 2018. The board told Jean that she could research exactly what was involved and needed to sell the land and present the information to the full membership. Jean NEVER presented any research/information/cost analysis to anyone. Instead, as a member of the HLCA Board, Jean proceeded to enlist board members in an effort to have the board sell her land directly, without a membership vote. She had no research or facts to share with us, except to say the Town of Berne

approved her to do a “lot line adjustment”. However, if the association land was ever to be sold, it would have to be approved by the full membership.

To this day, Jean still has not presented any facts or cost analysis regarding potential land sale to the board or at any membership meeting, nor has she requested to be put on the agenda. Please note that Jean did not pay her association dues in 2021 or contribute to shared membership expenses.

Therefore – When Jean Horn stated at the public hearing that the land could have been sold, but that the board would not let the membership vote on it, that was fraudulent information.

Jean Horn also discussed the fact that she attempted to apply for a grant to assist with the dam repair costs.

HLCA was notified by the IRS that we are not able to obtain a 501(c) designation and therefore we are NOT eligible to apply for a grant. Jean did obtain a login and password for the Grants Gateway application and uploaded a few documents. Grants Gateway showed errors with those uploaded documents.

Lorraine Emerick and I continued to try to find a way to apply for a grant. We contacted the Army Corp of Engineers, Paul Tonko, Angelo Santabarbara, Albany County, DEC and others struggling to find a solution. We were advised that the only path we can take is to ask the Town of Berne to apply for a grant for us. I was told that there is no one at the Town who is able to do this. Cheryl Rudolf did attend our July association meeting and advised that she would research grants at the town level as she was an employee; however, we have not received an update as to her progress.

Jean and Mark Horn have not paid their dues and continued to use the lake and association land.

Jean Horn stated that she had not paid dues because of mismanagement by the HLCA Board.

Jean Horn served as a member of the board from 2018 - 2020. She is fully aware that the board was working diligently to find a funding source and solution to repair the dam. In September of 2020 Jean Horn resigned from the board. There is no information to substantiate any mismanagement by the HLCA Board in any way.

Liz Smith’s remarks focused on the lack of benefit that she and her husband get from the lake.

Liz Smith and her husband live approximately $\frac{3}{4}$ of a mile from their house on Pinnacle Road to the access point on the lake that they use, not 2 miles as was stated. Liz and her husband are seen using the lake and association land more than any other property owner that resides on the lake and/or have lake rights. They enjoy their kayaks, paddle board and fishing boat all spring, summer and fall. Bob Smith is on the lake ice fishing with friends all winter. However, they refused to pay their dues. If Bob and Liz Smith continue to refuse to pay dues, they will not be allowed to use the lake or land, but they still have a benefit from the lake in that their property has deeded lake rights which are in very high demand and increase the value of the property.

HLCA is a Homeowners Association. All HOA’s have rules and regulations that their members must follow. NO HOA allows non-members the same rights and benefits as dues paying members. Would a country club or a gun club allow a non-member to walk in, use the facilities and have the same benefits as a paying member?

HLCA dues collected from members enables HLCA to pay school and property taxes, insurance, maintenance, etc. It is a small amount of money compared to most other HOA's and is used only for actual, necessary expenses. HLCA has court documentation stating that anyone who has not paid their dues may NOT use the lake or land and is considered to be trespassing. HLCA is within their legal right to pursue legal action. However, the Smith's and Horn's refuse to pay dues and continue to use the lake and land.

Liz Smith stated that HLCA has taken away easements that provide access to the lake for members that live off the lake.

I believe that the easement Liz Smith is referring to is a strip of land located between 2 properties on East Shore Drive. Bob Smith attempted to get the board to directly sell him that land, behind the backs of the entire membership, so that he could have a piece of lake frontage. The land in question is NOT and never was an easement. It is a piece of land that is owned by Daniel and Joyce Keenan. The Keenan's purchased that land from Mr. Becker in the 1960's and have owned it ever since. The Keenan's provided a copy of their deed proving ownership to the membership, including the Smith's. HLCA has NEVER taken away any easement or access and does not ever intend to do so. Doing so would require a full membership vote. Also, it has been clearly explained to all members that the dam repairs would not take away or infringe on lake access for those living off of the lake, before, during or after the construction.

David and Kathie Bruso both accused the HLCA board of inaccurately identifying the properties with lake rights that are required to be part of the tax district.

Extensive research has been done to identify the properties that would be part of the tax district, should the town approve. Not every property, regardless of its location, has deeded lake rights. The subdivision of large parcels of land over the years did not automatically grant lake rights to those properties.

Mr. Bruso also stated that he did not know he had deeded lake rights until the tax district came up.

The Bruso's not only knew they had deeded lake rights, but they actually joined the association and used the lake for a number of years, documented by our Treasurer. After purchasing a camp on a different lake, they stopped paying dues.

Mr. Bruso stated that he can't use the lake because he doesn't want to be "arrested".

If the Bruso's wanted to use the lake or land, they could pay dues and would then be welcome. HLCA has never said anyone using the lake and/or land would be "arrested". However, as of the summer of 2021, the HLCA Board of Directors determined that for the good of the entire membership, we must enforce the court judgment and anyone on the lake or land that is not a member will be considered trespassing and legal action may be taken. This decision and all communications to that effect were communicated effective 2021, and could not be the reason why the Bruso's did not use the lake or pay their dues for the past several years.

The statement made indicating that having deeded lake rights does not add value to the property is clearly incorrect. Even with a dam in need of repair, there are countless families that would do anything and take on a little extra in their taxes to be able to have deeded lake property. This is confirmed by the fact that 4 properties were sold in 2021 with full knowledge of the situation.

It was also confirmed by research using the Town of Berne tax assessments, that the

properties on the lake have a much higher land assessment than properties off the lake. The only reason why the properties off the lake have a higher assessment than most of the properties on the lake is because they are very large, year-round homes that are worth a substantial amount more. Is it not true that no matter where you live, properties that are worth more money are assessed at a higher tax rate?

Victor Procopio spoke. He commented that he has not seen any proof that the dam needs repair.

Extensive facts and information obtained from the DEC, attorneys, engineers, etc. has been disseminated over the past number of years to all property owners. Every bit of information that is obtained is provided to all property owners that would be considered part of the tax district.

The only information that is not provided to non-members is information that pertains to other HLCA business and does NOT have anything to do with the dam or tax district. Of course, non-members would not be privy to that information.

Paula Leonard attempted to discredit the HLCA board stating the board would not know how to manage the funding for the dam and would spend it on things other than the dam.

As the Town Board is fully aware, no funding provided as a result of the tax district would be disbursed to HLCA. Management of all of the funds would be done by the Town of Berne. All bills for all dam repairs and related issues would go to the Town and the Town would pay the bills. HLCA would be responsible to pay the town administrative fees for this service. There is no opportunity for any kind of mismanagement of funds by HLCA. HLCA has NEVER mismanaged any funds, ever. This was explained to the entire membership, including Paula Leonard, several times.

Lauren Leonard said that the board is basically incompetent and has not addressed the dam repair issues for the past 10 years. She also stated the HLCA is bankrupt and only paid the engineering firm \$5000 out of a \$45,000 bill. Lauren also stated that we have provided "blank" treasury reports.

1) The association has been working with DEC for several years. As engineering plans were coming to fruition, the current board has been working diligently for over 2 years to identify funding and continue to address all of the DEC requirements for the dam. I can't speak to the actions of all board members over the past 10 years, but certainly the dam situation was not ignored as evidenced by ongoing communication with DEC, engineering firm and association members.

2) HLCA is not bankrupt. All of our bills and responsibilities are taken care of immediately by our very responsible Treasurer. ALL bills that have been submitted to us from the engineering firm (Prime Engineering) have been paid to date. HLCA has been notified that when work is performed by the engineering firm, they will send us a bill and we will pay it. They have NOT billed us for any work that they have not yet performed.

3) HLCA Treasurer provides treasury reports at every membership meeting. There has never, at any time, been a treasury report that was "blank" as Lauren stated.

Janice Parrot spoke and accused Tony Haas of contacting her and not providing any real information.

Tony is no longer with us, but he was the VP of HLCA and knew the details of everything related to the dam and tax district. Tony is a considerate and compassionate man and always did his best to provide all the facts to everyone.

The Altamont Enterprise states that “ Those who spoke out against the project at the public hearing — about nine people, representing the interests of the additional 17 or so who did not sign the petition — gave various reasons for their opposition, though all agreed that the proposal was inherently unfair in some way. “

1) Not all of the property owners who did not sign the petition are opposed to the tax district. There are circumstances that prevented some who are in favor of the tax district, from being able to sign. One example is that one property owner was hospitalized. Another property was under contract to be sold and the new owner expressed that he is in favor of the tax district and would have signed the petition. To say that this small group who opposes represents everyone who did not sign is not correct.

Despite the very inaccurate remarks made by those opposing the HLCA tax district, I believe that the members of the Town of Berne, like the members of Helderberg Lake Community Association, are intelligent, responsible, good people who want to do the right thing and care about the truth and facts. I believe they also want to protect our community, protect our neighbors and prevent the loss of our lake which will result in plummeting property values. No one wants to pay more in property taxes, but securing the special tax district is our only option, our only hope, to move forward and repair our dam. We have thoroughly and completely exhausted all other avenues to secure funding. In addition to all of our efforts, the HLCA Board of Directors has also communicated to our membership for the past few years, at least, that if anyone has any ideas or any suggestion for alternative funding sources to please let us know. Every response we received was that there is no other way.

Thank you for your time and consideration,

Tami Bloom

From: Dee Jones
Sent: Tuesday, December 21, 2021 6:29 PM
To: Clerk@berneny.org; supervisor@berneny.org
Subject: Helderberg Lake Association

Members of the Board,

My name is Dee Jones and I am a resident of Berne, living on Helderberg Lake. I am a Real Estate Broker with Howard Hanna, and have over 20 years of experience in the Capital Region.

I wanted to address a statement that was made at the last town meeting in reference to the property value on our lake being devalued due to the situation with the dam and impending tax district. Since the dam issue became known to our community, there have been 7 properties sold (all with multiple offers) that are either lake front, or have deeded lake rights. The plan for the tax district was fully disclosed for these properties at the time of sale.

Below, I have provided both the listing price and price sold for all 7 of these properties:

- 1) 47/48 W Shore Dr. list 70k, sold 70k
- 2) 47 West Shore Dr. list 80k, sold 80k
- 3) 53 Glenwood Dr. list 275k, sold 290k
- 4) 50 E Shore Dr. list 76.5 k sold 75k
- 5) 132 Pinnacle Rd. list 395, sold 391k
- 6) 119 Pinnacle Rd. list 395k sold 410k
- 7) 151 E Shore Dr. list 90k sold 110k

On average, these properties sold 4% OVER asking price, with an average of 8 days on the market. This data clearly shows that the property value on the lake is comparable, if not stronger, than other lake communities in this area, and has not been negatively affected by the dam repair and tax district.

If you have any questions, or if there's anything I can assist with, please let me know.

Happy Holidays!

Dee Jones

Town of Berne
Board Members
Supervisor Lyons
Deputy Supervisor Palow
Leo Vane
Joel Willsey

RECEIVED
DEC 22 2021
BERNE TOWN CLERK

Re: Helderberg Lake Proposed Tax District

Dear Board Members:

My family has owned property on Helderberg Lake since 1950. We purchased the property, which now serves as our primary residence, from my parents' estate in 2015. I have a lifetime of precious memories growing up on the lake and have nothing but its best interest at heart.

When I spoke at the December 1st Town Meeting, I shared many concerns regarding the proposed tax district. Ultimately, I truly believe we all want the same outcome. Those of us opposing the tax district, as currently structured, do not oppose the repair of the dam. We agree that these repairs are long overdue.

The proposed Tax District should be fair and equitable to all. The HLCA Board proposes to base the tax on assessed property values rather than a tiered, benefit or flat rate tax. As most of the off-lake properties have higher assessed values, this will place an unfair burden on them, without the benefit of lakefront property. Additionally, many off-lake residents never use the lake, and for those that do, it has become increasingly difficult to do so, as many access points have been removed over the years.

I also want to mention the recent Times Union articles regarding dam safety and the urgent need for additional funding to repair NYS dams. As mentioned in yesterday's article, New York legislators are considering making additional resources available to fund dam repairs across the state. It is our hope that this will happen in the near future, providing the HLCA with the opportunity to access such resources as another means to fund the dam repair.

In summary, we strongly support the dam repair, but disapprove of the tax district, as currently structured. We request that the Town Board not move forward with this proposal, as it is not fair and equitable to all.

Respectfully,
Jean and Mark Horn
36 East Shore Drive
East Berne NY 12059



[Special Report](#)

147 New York dams are ‘unsound’ and potentially dangerous

Thousands of dams have not been inspected in more than 20 years

By [Rick Karlin](#) and [Emilie Munson](#) | Dec. 17, 2021 5:00 a.m. | Updated: December 18, 2021 2:25 PM

FORT ANN — People in this small town still remember the flood of 2005. Mostly, they recall how lucky they were that no one was killed or injured, despite the wreckage.

“We dodged a bullet,” recalled town Supervisor Sam Hall.

That flood was triggered when the new, town-owned Hadlock Pond Dam failed, releasing 520 million gallons of water — enough to fill 788 Olympic-sized swimming pools.

The rush of water washed out a section of Route 149 — a major truck and passenger route to Vermont — and inundated dozens of homes downstream. Many people were not home when the dam burst on a Saturday evening; authorities quickly triggered the dam’s emergency action plan to alert downstream residents, averting injuries or loss of life. The dam was rebuilt in 2008.

Still, the flood caused an [estimated \\$10 million](#) in damage. A raft of lawsuits drew in homeowners, the town and the dam’s builders and engineers. It was 12 years before the last of the litigation was settled.

The courts found that faulty design and construction were behind the accident, highlighting why carefully examining and maintaining dams is so important.

New York is home to more than 7,200 dams. Some of the largest get regular inspections, upkeep and repairs precisely because the cost of a failure would be so high.

But thousands of dams in New York are rarely inspected and their conditions have not been formally assessed by state officials, who are ultimately responsible for protecting the public from expensive and potentially deadly flood emergencies, a Times Union investigation has found.

Of the dams that have been recently evaluated, state records indicate the safety of hundreds of the structures “cannot be assured” — including dozens in the Capitol Region.

Over 500 of the unrated dams also have not been assigned a hazard code, which determines how much damage would result from their failure.

As of June, 3,190 active dams in New York had not been inspected in the past 20 years, despite a state recommendation that they be examined at least once a decade. One hundred forty seven active dams have not been inspected in over 50 years, state records show, including three high-hazard dams in Saratoga County.

The Times Union also found that in some cases state records on dam conditions and inspections appeared out of date or inaccurate.

When asked about the findings, state Department of Environmental Conservation Chief of Staff Sean Mahar stressed that state officials' work is sufficient to prevent serious floods from dams.

"DEC's dam safety program is highly effective at assessing the condition of dams throughout the state and will continue to keep the public safe by immediately addressing any urgent conditions," Mahar said. "Our staff are on call every day of the year to respond to any potential concerns resulting from storms or other damaging impacts as they arise and conduct diligent inspections of state-regulated dams to help prevent issues before they occur."

New York's approach has been to focus its resources mainly on high-hazard dams and attempt to bring those into compliance with safety guidelines. With thousands of dams in the state and a relatively small cohort of inspectors, the state is unable to regularly monitor them all.

The state is still working on assessing the condition of all high-hazard dams in the state (excluding some that are regulated by the Federal Energy Regulatory Commission), said Lori Severino, a spokeswoman for the DEC. For high-hazard dams, 87 percent currently have a condition rating, up from 49 percent in 2018.

"DEC focuses on rating high-hazard dams. However, regardless of whether they're rated DEC inspects high-hazard dams every two years and intermediate (dams) every four years, so we know the condition of the dams," Severino said. "For the thousands of smaller dams throughout the state, many of which are sizes that other states do not even regulate, the dam safety unit monitors their conditions as warranted."

But DEC's own data provided to the Times Union indicates that, as of June, 107 high-hazard dams had gone uninspected for longer than the required two-year window; that's a quarter of all high hazard dams in the state. Most had not been inspected for more than five years. Also, about a dozen of these were found to be unsound by officials at their most recent rating.

DEC said 69 of the dams are overseen by federal agencies and the state's data on when those dams were last inspected is not necessarily up to date nor is the state required to maintain those records. State officials said federal agencies inspect high hazard dams they oversee every year.

For the remaining dams, state officials said there were some delays in inspections due to pandemic related travel restrictions last year but most have since been inspected. They expect to clean their backlog of high hazard dams past due for inspection by the end of next.

Significant injuries and deaths from dam incidents have been rare. At least 15 New Yorkers have died in dam incidents since 1897, according to the Stanford University National Performance of Dams Program.

For many dams in New York, a breach or collapse would not result in a disaster. Many are smaller and are located in remote areas, away from structures and people. For those dams, partial or complete failure would likely result in flooding of a few isolated homes and water spreading across minor roads and land. But even those effects are just as real for the countless people who live below or near the thousands of little dams across the state.

The cleanup can be costly to local municipalities and homeowners — most of whom do not have flood insurance if they live away from coastal areas.

Some experts believe climate change is fueling stronger storms with intense rain in the region, increasing the strain on dams, many of which are a half-century old and were constructed for different weather conditions. Warming weather is also melting snow faster, sending more water into rivers and creeks.

Meanwhile, progress toward repairing and even maintaining aging dams has been limited. In many cases, state officials and property owners are trying to settle disputes about who owns dams and pays for their upkeep, and whether some should be taken down.

“It is a broad societal problem that many might describe it as ‘(It) snuck up on them,’” said David Freyberg, an associate professor of civil and environmental engineering at Stanford University. “You hadn’t really been thinking about what happens when we have this huge fleet of dams that are getting old, and how as a society are we going to deal with the risks associated with that.”

Overtopping

Dean Foster, administrator for the Hoosac School in eastern Rensselaer County, learned in 2017 what it means for a dam to overflow. That year, a beaver dam upstream of the school’s pond dam gave way, causing water to spill over the impoundment, the term for the body of water created by a dam.

“It overtopped catastrophically,” Foster said.

Water cascaded down to Route 22. When the water receded, the new impoundment was a swamp rather than a pond. The dam was rebuilt.

The 25-foot-high Hoosac School Dam is the only dam in the state currently rated “unsafe.” Its failure would cause moderate damage to property, but is not expected to result in human deaths, according to state records.

The DEC said that the structure retains an “unsafe” rating because emergency repairs were conducted by the school to stabilize the dam; long-term remedial measures have not been completed.

Foster disputes the idea that moderate damage would result from failure of the dam, saying there is nothing downstream that would be damaged. The dam’s emergency action plan confirms that the “worst-case scenario” for the dam is a road closure and water rapidly flowing out of the pond through a ravine to a nearby river, with no structures in the flow’s path.

Some dam owners say the ratings can be needlessly alarming to the public. The Summit Street Dam, owned by the town of Philmont in Columbia County, was rated as “deficiently maintained.”

But Deputy Mayor Doug Cropper said that was simply due to some debris around the top of the dam that has since been cleaned up. Like other small dams in that area, the structure was originally built to power textile mills that have closed.

In Troy, the dam that creates the city’s Tomhannock Reservoir was also listed as “deficiently maintained.”

“We didn’t mow the lawn,” Troy Public Utilities Superintendent Chris Wheland said, explaining that grass on the dam must be kept low enough for easy visual inspections for problems such as animal burrows or seepage. (He said the issue has been addressed.)

With about a dozen full-time inspectors, it's a herculean task for the state to inspect thousands of dams. DEC noted that some other employees who don't work on dam safety full-time may contribute field work or information on dams.

New York had a \$1.9 million budget for dam safety in 2018, according to the Association of State Dam Safety Officials (ASDSO). The money budgeted per dam for safety regulation has remained at about half the national average since 1999. Meanwhile, New York's safety inspectors are on average responsible for twice the number of dams as other states, [the association found in 2019](#).

Severino, the DEC spokeswoman, said New York regulates smaller dams than those overseen by some other states. But the ASDSO also noted that New York employees were each responsible for about 10 more high-hazard dams than inspectors in other states.

"They are understaffed," Cropper, the Philmont deputy mayor, said of the DEC's unit.

So inspections are sometimes left up to the owner, who ultimately bears responsibility if something goes wrong, he added.

Swamped

Dam breaches are not always accidental.

The town of Russia in Herkimer County saw homes and businesses flooded during a Halloween 2019 cloudburst. As the storm approached, operators of a New York Power Authority Dam on West Canada Creek and the Hinckley Reservoir had closed their gates to hold back water — but there was too much rain.

"As the storm increased in intensity, the water came over the spillway," said NYPA spokesman Shane Mahar.

"It just went right through the town," Russia Supervisor Fran Donley said, recounting how West Canada Creek rose 20 feet before jumping its banks that day.

Several homes were flooded, but no injuries were reported. The town and nearby village of Poland also experienced flooding, with a campground, auto repair shop and cafe suffering damage.

"It was awful," recalled Mary Hughes, who fled her mobile home in Poland as the water was rising and entering her dwelling. A number of senior citizens who lived in mobile homes next door were also evacuated by the fire department.

"We put what we could on the desks," said Dorreen Heinrich, who runs an auto repair shop with her husband. The water rose so quickly that tires were swept into their front offices and their computer system was wiped out.

With climate change causing more rain and extreme storms like the one that pummeled Russia, new pressures are straining dams' ability to keep watery chaos in check.

The warming planet means that precipitation that once fell as snow is more often falling as rain, changing when and how much water flows through watersheds at various times, explained Freyberg, the Stanford hydrologist. Climate change is also delivering more rain in short, high-intensity events as opposed to longer, lighter storms.

“It may be that the pipes designed to release water downstream are not large enough to deal with a really large inflow of water coming over a short period of time,” Freyberg said. “... That means as you consider what to do about aging components, you really need to be thinking about changed conditions in addition.”

Ninety percent of U.S natural disasters now involve flooding and more of it is occurring away from coastal areas, said Mark Friedlander, director of communications for the Insurance Information Institute.

Few homeowners in upstate New York have flood insurance to protect their property if a dam breach or release causes flooding. Homeowners insurance does not cover damage from floods, and few homeowners opt to purchase the added coverage. Flood insurance premiums do account for the presence and condition of dams in the area, Friedlander said.

One to 3 percent of homeowners in Albany, Rensselaer, Schenectady and Saratoga counties have flood insurance, Friedlander said. The county with the highest rate of flood insurance in the region is Schoharie — which was hit hard by 2011’s Tropical Storm Irene — with 4.5 percent of homeowners covered.

Jon Bombard, who operates the Man of Kent Tavern along Route 7 in Hoosick Falls, said he had no flood insurance to protect him when a beaver dam upstream on Shingle Hollow Creek burst, releasing a torrent of water that reached the foundation of his restaurant — normally 30 feet above the stream. He estimated the damage cost about \$100,000 to repair, with new footings, fill and reinforcements for the foundation.

“We hope that this doesn’t happen again,” he said, “but we’re not in charge of the weather and storms.”

Jon Bombard explains on Dec. 3 how the Shingle Hollow Creek flooded in July 2017 and washed away part of his property behind Man of Kent Tavern, in Hoosick Falls. Damages were estimated to be around \$100,000. Lori Van Buren / Times Union

Ownership

The 240-foot-long Bronck Lake Dam in Coxsackie has not been inspected since 1994, according to state records. State records show the dam is “not rated.”

But the owner, Joseph Garland, said it was inspected within the past 10 years and he made some recommended changes to the dam, which holds back a small lake around which houses are built.

The dam was built by his grandfather, in part, to create a pond to extract ice for a former mushroom-growing operation.

State data on dams can be confusing. Dam owners are supposed to do inspections every two years on high-hazard dams and every four for intermediate-hazard dams, but owners can certify that their dam has been inspected without the state looking at the structures.

The 171-year-old Rensselaer Lake Dam is rated unsound and is a high hazard dam, meaning a breach could cause property damage, injuries or death. Here a measurement stick is seen on a building in the lake at Six Mile Waterworks Park on Nov. 15 in Albany. Lori Van Buren / Times Union

The determination that a dam owner is "strictly liable" for damage from a failure was solidified in the lawsuit that followed the Hadlock Dam collapse, said Albany lawyer Paul Wein, who represented dozens of families whose homes were damaged in the aftermath.

That dam's failure also prompted the state to require all intermediate- and high-hazard dams to file emergency action plans (EAPs) with the state that detail safety and evacuation procedures in case of flooding. Some other states do not require the additional safety step, DEC noted.

But as of June, about one in five intermediate- and high-hazard dams required to have an EAP on file did not have one, according to state records.

In some cases, ownership of dams is in dispute.

In 2018, the DEC sued the city of New Rochelle, two homeowner associations and a private company alleging them to be joint owners of the New Rochelle Reservoir No. 1 Dam and failing to safely operate and maintain the 30-foot structure, which impounds 190 million gallons of water in Lake Isle. Late last year, DEC added more defendants to the ongoing litigation, which now involves the county, three towns, four companies, two homeowners' associations and various individual homeowners.

The high-hazard dam was last rated "unsound," according to state records.

Workers reconstruct the Hadlock Pond Dam on Jan. 17, 2007, in Fort Ann. Town Supervisor Sam Hall says the town has had the rebuilt dam inspected annually even though it's not required. John Carl D'Annibale / Times Union

Damless

There are also dams that have been removed.

Donley, the Russia town supervisor, believes that removal of what had been an additional dam upstream from her town 15 years ago aggravated flooding in the community.

There has been a push to remove dams, which environmentalists view as harming river ecology in many instances.

"It's a public safety issue. It's also an issue for the health of the rivers," said Kelley Tucker, executive director of the Ausable River Association, which works to protect streams and rivers in the Adirondacks.

State records show 1,309 dams have been removed or were otherwise defunct as of June.

Old, deteriorating dams pose a downstream threat due to the possibility of collapse, which is particularly worrisome when the owners have little ability to maintain or repair them. And dams can cause sediment buildup in the reservoirs and reduce the number of pools, or pockets of clear, cold water downstream that make for good fish habitat.

The Adirondacks are full of old dams, holdovers from the 19th Century when the region was heavily logged. Many of the dams were built to create "flows" or waterways through which timber could be floated downstream to railways. Others were used in tandem with water-powered mills for timber cutting, and later for papermaking.

Tropical Storm Irene in 2011 was a pivotal event when it came to how many of these dams were viewed, Tucker and others said. After the devastation to multiple upstate regions, the impetus to remove some dams increased. Storm recovery funds were eventually used to remove the town of Jay's Rome Dam on the Ausable River, which had gone without maintenance since 1971.

Irene also brought the end to the Marcy Dam, a wood and stone structure in the backcountry near Lake Placid.

It was well-known for its scenic view of the manmade lake and Mount Marcy in the distance. After being damaged in Irene, state environmental officials decided to slowly dismantle it.

The state could handle the cost of taking down Marcy Dam on public land, but private property owners considering removal "may not have the money or don't want to spend it," said John Aspland, a Glens Falls lawyer who has been involved in dam-failure damage cases.

The Penfield Historical Society in Crown Point, Essex County, operates a small historical museum that includes a 15-foot high dam, which dates to the region's history as an iron mining center.

"The state would like us to take it out," said David Hall, secretary of the society. "It's been there for 150 years."

The county and state, he said, are trying to piece together grants to help remove the structure, which could cost hundreds of thousands of dollars.

Money to assist with dam maintenance and removal may become more plentiful thanks to the infrastructure bill passed by Congress in November, which includes [\\$3 billion for dam-related projects](#) nationwide. It's unclear how much New York will receive from the allocation.

"New York is primed and ready to get resources to the communities that need it most and address known and emerging threats to the public and the environment," the DEC's Severino said.

In some places, they aren't taking chances. Hall, the Fort Ann supervisor, said the town has had the rebuilt Hadlock Pond Dam inspected annually even though it's not required.

"We do it anyway," he said.

Clarification: After publication of this article online, the state Department of Environmental Conservation clarified that some high hazard dams that have not been inspected two years or more are under the jurisdiction of the Federal Energy Regulatory Commission. The DEC also said the pandemic has affected the state's ability to complete some recent inspections.

'It's disturbing': After Times Union investigation, lawmakers consider actions and funding for dam safety

[Emilie Munson](#), [Rick Karlin](#)

Dec. 20, 2021 Updated: Dec. 20, 2021 7:50 p.m.

ALBANY — New York lawmakers are considering scheduling a legislative committee hearing to revive a push for more funding for dam safety after a Times Union investigation [revealed gaps in oversight of the structures](#) across the state, many of which are in poor condition.

The newspaper's reporting found 147 large and potentially dangerous dams in New York are in "unsound" condition, while thousands of others haven't been inspected in 20 years or more.

In the wake of the story, a bipartisan group of lawmakers are calling for more to be done to ensure the state's dams are safe before a flood occurs.

"We have some sort of climate-related disaster every day around the nation," said Assemblywoman Patricia Fahy, D-Albany. "This needs to be on the list of issues that need to be addressed. It's disturbing."

Assemblyman Steve Englebright, who chairs the Environmental Conservation Committee, said, "it is likely" legislators will push for more state funding to support dam safety in New York. The Democrat from Setauket also said his committee is considering holding a hearing to discuss the safety issues in the coming legislation session.

Gov. Kathy Hochul's office said the administration is looking for ways to bolster dam safety, including through newly-approved federal funds. The recently passed federal infrastructure law included billions for dam projects around the country, but the state Department of Environmental Conservation said it is unclear how much funding New York would get.

"Protecting communities from flooding is an important priority for this administration and we will continue to work with DEC's dam safety experts to ensure the most comprehensive dam safety program and make the best possible use of available funds," Hochul spokesman Matthew Janiszewski said in a statement Monday. "We look forward to working with our federal and state partners to deploy additional funding from the Infrastructure Investment and Jobs Act and identify other future opportunities with all partners to increase investment and expand our efforts even further."

The [Times Union found](#) only 2 percent of dams in New York have been found to have "no deficiencies" by engineers, while 90 percent have not had their condition formally assessed.

DEC said it focuses its efforts on making sure the most dangerous dams in New York — those likely to cause fatalities if they failed — are in good condition through monitoring and enforcement activities, when necessary. The Times Union found some of those high hazards dams, including those regulated by federal authorities, have not been inspected on time and others do not have required emergency plans on file.

Several lawmakers said more must be done to address the state's aging dam infrastructure in the light of the findings.

Assembly Minority Leader William Barclay called dam safety "a decades-old issue that state regulators have struggled to stay ahead of."

"The recent Times Union report certainly raises questions on whether the proper priority is being placed on the condition and inspection of New York's dams," Barclay said in a statement. "Year after year, we've seen state money sent to the MTA (Metropolitan Transportation Authority) while upstate infrastructure gets shortchanged. Our roads, bridges and dams have needed upgrades for years. Achieving greater parity in infrastructure funding would go a long way toward alleviating a dam-safety issue that needs to be addressed."

Utica-area Republican state Sen. Joe Griffo represents the area around Hinckley Reservoir, where a violent 2019 cloudburst caused a dam to overflow, with flooding and damage downstream.

"It is imperative that the state's dams be up to modern standards and that financial resources be made available — through the recent federal infrastructure bill or any other means — to address any deficiencies and shortcomings to ensure safety and functionality," Griffo said.

Fahy questioned if the current dams and impoundments are adequate, given the apparent increase in torrential rainfalls and storm events.

State Sen. Dan Stec, a Republican from Queensbury, said the state could consider using additional funding to produce a comprehensive statewide evaluation of New York's dams.

"I'd like to see a risk assessment and a prioritization of which dams need attention," Stec said. "Of all the infrastructure that we have in our communities, I would guess that dams are probably thought of least often. But if something goes very wrong, there's little that you can do other than evacuate and wait for the damage to be done."

Englebright said DEC has been understaffed for years and some commissioners at some agencies, including DEC Commissioner Basil Seggos, have not advocated for the staffing and resources needed to fully complete their missions. Englebright recounted asking commissioners each year if they have adequate staffing.

"I don't believe he has been allowed to answer in a truthful manner," Englebright said of Seggos.

Seggos said Monday DEC has consistently provided accurate information about staffing, legislative mandates and regulatory requirements.

"Each year, I note DEC continues to meet the increasing demands of its mission with the staffing levels authorized in the budget. We are constantly evaluating the needs for the agency, including growing needs around climate change and clean water, while communicating them to the Executive and Legislature."

DEC will be announcing new grants for improvements to high hazard dams soon, a spokesperson said.

U.S. Rep. Paul Tonko, D-Amsterdam, said the federal infrastructure law includes \$585 million for the most hazardous dams in the nation and \$148 million to support state dam safety offices.

Tonko, Rep. Grace Meng, D-Queens, Rep. Sean Patrick Maloney, D-Cold Spring, Sen. Kirsten Gillibrand, D-N.Y., and other federal lawmakers also back proposed legislation to invest an additional \$21 billion in modernizing, repairing or removing dams across the country.

ENGINEERING REPORT

Attached are the total "FOIL" requests that the NYS Department of Environmental Conservation have issued with relationship to Helderberg lake. In none of these documents is there any notice in order stating that the dam will be destroyed and that the lake will cease to exist. What the correspondence states is that the dam needs to be addressed.

Conspicuously, it appears that the cost to repair the dam is almost equal to the destruction of the dam. This fact alone would make anybody selecting this company think twice about their proposal.

RECEIVED

TAX DISTRICT

DEC 22 2021

Presently, there are several votes in favor of the tax district that are from residents that are no longer property owners on Helderberg lake. Considering there has been a bevy of new information introduced concerning the establishment of a tax district, at bare minimum there should be a vote held for people that are actual owners. There are several inconsistencies with the present signatories and their votes that should be addressed going forward to ensure the statutory compliance of the requirements of the establishment of a tax district.

In the event that the tax district is established, what guarantees will be issued concerning the possibility of cost overruns? If the tax district is being established for a one time fee to repair the dam, what is the mechanism going forward to address the inevitable fee increases?

There should be a onetime payment option so that those of us that have never had debt do not have to incur any further debt for this project that has ballooned in cost from \$200,000 to almost half a million dollars and counting.

ENTITY REQUESTING THE TAX DISTRICT

At present, after 11 years of poor planning and overall ineptitude, the Board and its officers has put forth the idea to establish a tax district for the purpose remanding funds to bring the dam into compliance. Going forward, the mistakes made by this Entity are as follows:

1. The oversight of failing to file tax returns, therefore designating the Entity a nonprofit

This singular mistake has rendered the Entity ineligible for grant money for the construction of the dam. This mistake was discovered by a member of the Helderberg Lake Association when she went to file for these grants. Going forward, if the officers of the Helderberg Lake Association want to act in the best interest of the members, they will file the proper tax returns so that there may be a chance of applying for these grants. What good is having a treasurer and a corporation that does not fulfill their fiduciary duty. If these people cannot file yearly tax returns, how can they be trusted with a half a million dollars? I hereby request of the Town of Berne take this omission into consideration when deliberating whether or not it is a good idea to tax the people involved so that their money will be the providence of people that have readily demonstrated they cannot handle their finances.

2. Inability to gain access to records

Through out the tenure of this Entity, numerous members have requested every item that they are legally entitled to and have been rebuffed with extreme prejudice. As paying members of an incorporated entity, they are legally entitled to these records.

This includes insurance policies, copies of canceled checks for services rendered, correspondence with DEC, bank records, and financial documents such as tax filings. Any and all members have been met with extreme resistance and a lack of transparency that is despicable. As voting members of the Helderberg Lake Association corporation, these people are legally entitled to these documents as shareholders and have received none of it. Again, I petition the town of Berne to take this into account when postulating on leading whether or not these people should be in charge the sum of \$500,000 plus.

NEW YORK STATE DEPARTMENT OF ENVIRONMENTAL CONSERVATION

Division of Water, Bureau of Flood Protection and Dam Safety
625 Broadway, Albany, New York 12233-3504
P: (518) 402-8185 | F: (518) 402-9029
www.dec.ny.gov

May 18, 2020

Thomas McQuade, President
Helderberg Lake Community Association
PO Box 154
East Berne, NY 12059

Re: Helderberg Lake Dam
State ID#: 190-1294
Berne (T), Albany Co.
Small, Class C – High Hazard
Condition Rating: Unsound - Fair

Dear Mr. McQuade:

On April 17, 2020, I conducted a routine visual inspection of the Helderberg lake Dam as part of the Department of Environmental Conservation’s (Department) ongoing Dam Safety Program. I am writing to you because it is my understanding that you represent the owner of this structure. The left/right nomenclature used in this letter and in the enclosed Visual Observation Reports is based on one looking downstream from the center of the crest of the dam.

Inspection

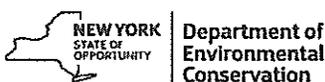
The inspection revealed that the condition of the dam is similar to that observed during recent past inspections. The upstream concrete wall shows signs of deterioration along the waterline and is leaning toward the impoundment. Concrete deterioration was also noted along both spillway training walls. Concrete deterioration should be addressed as part of your routine maintenance program.

Regulations

This dam has a hazard classification of “Small, Class C - High Hazard.” The following table summarizes the current status of compliance for this dam for those sections of the regulations that have specific deadlines for compliance.

Compliance Status Table

<u>Citation</u>	<u>Requirement</u>	<u>Status</u>
673.6	Develop and implement an Inspection & Maintenance (I&M) Plan.	An I&M Plan must be available for review, if requested.



673.7	Develop and submit to the Department an Emergency Action Plan (EAP). Review EAP annually, update EAP as needed and distribute revisions to all EAP document holders.	An EAP dated August 16, 2010 and last updated on January 31, 2020, is on file.
673.8	Submit an Annual Certification (AC) to the Department by January 31 st of each year (covering the previous calendar year).	An AC for calendar year 2019 is on file.
673.13	The first Engineering Assessment (EA) of a Small, Class C dam was due no later than August 19, 2014, and a full Engineering Assessment is due every 10 years thereafter.	An EA, dated August 2017 and last revised in February 2018, is on file and has been accepted.

Condition Rating

The Department assigned a **Condition Rating** of “**Unsound – Fair**” to the Helderberg Lake Dam based on the conclusions presented in the February 2018 Engineering Assessment Report for the dam. This Condition Rating remains unchanged and means that the dam is expected to perform adequately under normal loading conditions. Rare or extreme loading events may result in unacceptable performance. **Please note that the owners of a dam with a condition rating of Unsound are in violation of 6 NYCRR Part 673 and Environmental Conservation Law (ECL), Section 15-0507.** Please provide a written response within 90 days of receipt of this letter, summarizing your plan and schedule for bringing the dam into conformance with all applicable safety criteria.

Please keep in mind that any repair or construction activities related to the dam may require permits from Department. Well before beginning work on the dam, please check with the Regional Permit Administrator at the Department’s Region 4 - Schenectady office at (518) 357-2455 to see if any permits are required.

If you have any questions regarding the above, or the Dam Safety program in general, please contact me by phone at (518) 402-8148, or by email at jennifer.ross@dec.ny.gov.

Sincerely,



Jennifer Ross
Assistant Environmental Engineer
Dam Safety Section

ec w/ enc: S. Lyons, Supervisor, Town of Berne, berne.ny.supv@gmail.com
T. Remmert, Albany Co. EMO, thomas.remmert@albanycounty.com
T. Blanchard, CFM, DEC Region 4, Dam Safety Representative
A. Dominitz, NYSDEC, Section Chief, Dam Safety

bc w/ enc: Project file
Daybook

I:\dow\bfps\damsafety\dam inventory\region 4\albany\190-1294 helderberg lake\2020 inspection\letter.dam.190-1294.2020-05-06.helderberg.lakedam.inspection.docx



Visual Observations

<i>DAM NAME</i>	Helderberg Lake Dam				
<i>STATE ID</i>	190-1294	<i>SECTION</i>	D	<i>HAZARD CODE</i>	C
<i>COUNTY</i>	Albany			<i>INSPECTION DATE</i>	4/17/2020
<i>NEAREST DS CITY/TOWN</i>	Clarksville			<i>INSPECTOR(S)</i>	DMB/JER
<i>OWNER'S NAME</i>	HELDERBERG LAKE ASSOCIATION				
<i>DOWNSTREAM HAZARD</i>	High			<i>TOWNSHIP</i>	Town of Berne
<i>WATER LEVEL BEHIND DAM</i>	2" flow over spillway (by eye)				
<i>DRAIN OPERATION</i>	Unknown				

Upstream:

-Concrete wall shows deterioration along the normal pool elevation and the wall is leaning in towards impoundment.

Dam Crest:

-Well maintained.

Downstream:

-Wet area observed at the right toe.

Service Spillway:

-Some concrete deterioration on the spillway chute.

-Both training walls show signs of concrete deterioration.



Photo 1 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Right spillway training wall

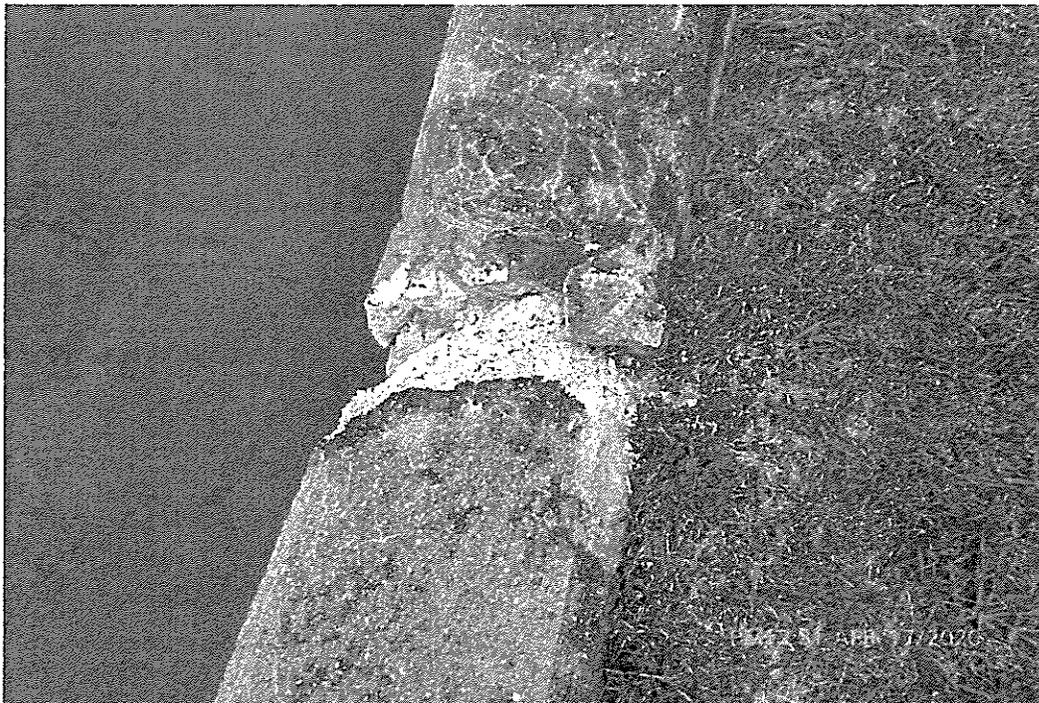


Photo 2 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Concrete deterioration at joint on left spillway training wall



Photo 1 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Right spillway training wall

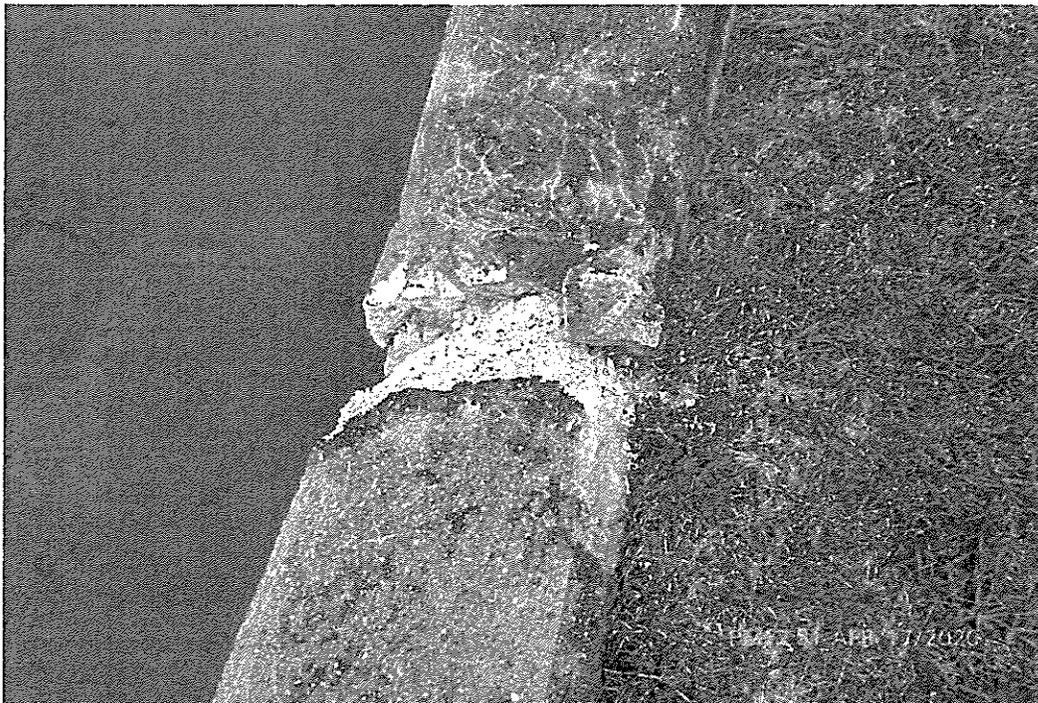


Photo 2 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Concrete deterioration at joint on left spillway training wall



PM12:31 APR/17/2020

Photo 3 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Service spillway apron - note some erosion of concrete in the center of the spillway



PM12:32 APR/17/2020

Photo 4 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Left service spillway training wall



Photo 5 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Dam crest



Photo 6 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Downstream embankment



Photo 7 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Right side of downstream embankment



Photo 8 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Upstream concrete wall



Photo 9 Dam ID# 190-1294 Helderberg Lake Dam 04/17/2020
Concrete deterioration at waterline along upstream wall

Helderberg Lake Tax District
Public Hearing – 12/22/2021
Dale and Toni Koch (Gulf Hill Rd)

RECEIVED

DEC 22 2021

BERNE TOWN CLERK

Hi. I am Toni Koch and I am speaking on behalf of my husband, Dale, and myself. We live on Gulf Hill Road and have deeded lake access to Helderberg Lake.

Back in 2002 my husband was in search of a property that would meet his qualifications: 1.) close enough to his parents in the neighboring town, 2.) within a reasonable driving distance to work, and 3.) somewhere in the woods, if it was affordable. What he wasn't looking for was a home with deeded lake access. The fact that lake access happened to be on the deed didn't even faze him, as he couldn't care less about it. We got married in 2011 and sometime later in 2012 a letter from the Lake Association showed up in our PO Box mentioning dues. I asked him if he had ever paid these dues and he said he hadn't because he doesn't use the lake.

Why don't we use the lake? For us it is way too dangerous to get to. To leave Gulf Hill Road you have to basically risk your life every time you turn onto 443. Making a right is one issue as we have a blind curve to the left with cars flying down 443 in speeds much faster than 55mph. The safest way to make that turn is to open your window and listen for cars. Making a left is far more dangerous, especially if you have a vehicle with poor acceleration. When my husband purchased the house he immediately rented a PO Box as he felt just getting the mail is too dangerous.

Now...I can't remember when we specifically heard about this "tax district" but my first memory of it was when Tony showed up at our home wanting to get Dale to sign the petition to go forward with it. Tony tried to tell me that our property – bank assessed and taxed at \$55k with a questionable full market value of \$102k – would be worth \$140k because of the value of having deeded lake access. I felt this figure was too steep and later felt like he was trying to bribe us for a signature. That figure would increase the value of our property by 40%! So I decided to do some research since then.

According to a HomeLight.com article (*How Much Value Does Living the Lakefront Dream Add to a Property?*), the value of lakefront property is based on several variables:

- 1.) The View - whether you have a full or partially obstructed view
- 2.) Proximity to the water – how close you are to it
- 3.) Water access – whether you can access the water and how easily you can access it
- 4.) Outdoor amenities – whether you have a dock or pier to access the water from your home

To put a price on a view, a NerdWallet.com article (titled *Love That Home's View? See How Much More You'll Pay*) provided data analysis of home estimates in Seattle. Granted Seattle and East Berne are not the same, but the type of views mentioned can give us an idea. According to the article, "a home on flat ground with an unobstructed

view of an open space or a park could add 5-10%". "A home partway up a hill with a partially obstructed water view over neighbors' rooftops could increase the overall price by 10 to 30%". Then they mention a third view, considering "the same home as above, in the same location, but with an unobstructed view". This could increase the overall price by 30 to 50%! Tony was trying to tell me that our house fits into this third "view category" of 30 to 50% rather than where we truly sit, which would be less than 5%! Now I am wondering whom else Tony spoke with, in a similar situation as ours, convincing them to sign the petition, based on this false evaluation.

After discovering the information about variables and percentages, I decided to contact our realtor asking her if having "deeded access" would add any value to our property. She couldn't give me an exact figure but told me that it added VERY little value because of our location and view...or lack there of. If you look at Gulf Hill Road and how it sits in proximity to the lake, our homes aren't even pointed toward the lake and if they were we would have to put our homes on stilts at various heights to even get a glimpse of it as our homes point East and sit at least 500 ft East of the lake.

Finally, I spoke with our property attorney who happens to live in Voorheesville, knows our area well due to owning property in a neighboring town, and is also familiar with the "tax district" proposal. I asked him if having "deeded access" to Helderberg Lake added any value to our property. He advised us that given the proximity to the water, how we have to get there, and the fact that we have absolutely no view at all of the lake doesn't add any value to our home. In fact, if this tax proposal goes through it will actually DE-value our property, as it will have become less desirable to potential buyers with the tax increase.

But here's the thing... if this dam fails it doesn't affect our property at all. We will still have access to our home and our property value will remain. Those on the lake might lose value or maybe there will be damage to their homes. But I ask this question...why aren't you talking with those downstream and further as the failure of this dam could affect their properties as well?

In closing, if the Association and Town cannot find alternative financial ways to fix this dam and take the burden off of the residents, one of two things will happen: either 1.) You will remove our property from the special "tax district", or 2.) we will file a quitclaim deed and remove the lake access from our deed. Because, after working our butts off the last four years to finally pay off all our debt this month, we are not willing to go back into debt – which is really what this is – to pay for something that will never physically affect our property if it fails and will, in fact, decrease the value of it if the tax goes into affect.

We do feel for those who live on the lake, and downstream, as they are faced with a threat of devaluation or damage in this situation, but this is something that should be paid for in a different way, not by unfairly taxing those who aren't affected due to failure.

The condition of the dam on Helderberg Lake has been a known issue for ten years. A DECADE. And now, this proposed tax district; this bond for \$500,000 is the only way out from under according to the HLCA. No other suggestions or ideas for finding funds to repair the dam were followed through on.

So here we are...Residents of Helderberg Lake paying for, LITERALLY with money, the inept decision making and lack of action on behalf of the HLCA officers and board members.

Since this is the precipice we have been forced to stand before, I have a few questions for the record.

1. Can the residents of this proposed tax district be promised this is a fixed rate and payments will not change during the term of the bond?
OR
Will the residents of the proposed tax district be reassessed during the term of the bond? If so, how often, and is there a limit as to the number of reassessments during the term of the bond?

According to the petition, the maximum amount the proposed tax district may finance is \$500,000.

2. Where is money going to come from if something unforeseen happens during the repair and construction of the dam? What if the damage done is something the construction company or engineer is not liable for?
3. What is the contingency plan for additional funds, should the need arise?

I ask these questions because it is believed that the HLCA is in the red. According to monthly Treasurer's reports provided at HLCA meetings, only a \$4000 partial payment has been made to the engineer on a \$45,000 bill.

4. Will the HLCA be allowed to use bond funds to repay prior debts to the engineer or any other entities owed money?

In conclusion, regardless of the issues we are having or how difficult and stressful this has been for many people, I am still hopeful we all desire the same outcome. A safe lake with a proper dam obtained at an affordable and fair price.

Justice Sonia Sotomayor said "I think that the day justice forgets that each decision comes at a cost to someone, then I think you start losing your humanity"

We are a community... and if this proposed tax district is unfair to one resident, it should be known as unfair to all residents.

RECEIVED

DEC 22 2021

BERNE TOWN CLERK

December 22, 2021

Sean Lyons, Supervisor
Dennis Palow, Deputy Supervisor
Leo Vane
Joel Willsey

Dear Town of Berne Board Members,

Regarding the request for the Helderberg Lake tax district, I would respectfully like to address some comments brought forth to the board during the December 1, 2021, town's public hearing.

Only a few members of the Helderberg Lake Community Association (HLCA) are opposed to the tax district at this time. Reasons cited were:

Fundraising Options

- **Grants:** For years, HLCA has already been looking to obtain grants for years. The parties opposed to the tax district, openly admitted and stated at the Dec 1st meeting that we had applied for grants, yet the IRS would not classify HLCA as a 501c3, for the IRS considers us an HOA. Back on 8/31/18, HLCA meeting minutes provide information regarding Tom McQuade speaking with Congressman Paul Tonko, investigating dam funding through a potential loan. **(Attachment # 1 – Line item # 2)** Within the same meeting minutes, Lorraine Emerick and Anina Lacour indicated they spoke with the then Town Supervisor, Kevin Crozier, about the Hazzard Mitigation Plan regarding availability of funds. **(Attachment # 2 – Line item # 4)** Multiple discussions with our lake community have taken place, including this past summer. Lorraine Emerick, a member of our community, stated on 6/26/21, she spoke with Dan McCoy's office regarding grants, and since we are not a 501c, we would have to have a municipality, would have to apply for us. **(Attachment # 3 – Line Item # 14)** Tami Bloom said information she received from the Town of Berne; the town does not have anyone experienced to apply for a grant. Another member of our community, Jerry McGee received information that we may be able to obtain help from NYS Assemblyman, Angelo Santabarbara, regarding grants and emailed him. Tami Bloom and Lorraine Emerick contacted his office but were told there was nothing they could do for us. **(Attachment # 3 – Line item # 12)** Due to HLCA not having a 501c3 status, we do not qualify for the grants we have investigated. **(Attachment # 3 – Line item # 7)**

- **Sale of HLCA Property**: Conversations regarding this endeavor began back in June 2016. Victor Procopio indicated he would investigate the towns zoning laws regarding sub-division of land. (**Attachment #2- Line item # 5**)

Meeting Minutes form 7/29/16, It is noted that Victor Procopio is not in attendance to give a report regarding the possibility of selling small parcels of HLCA land to current landowners. A lengthy discussion was held regarding the feasibility of selling some lots, zoning restrictions,

lack of actual waterfront, expense of subdivision and potential expense of septic were all fiscal disadvantages for HLCA. (**Attachment # 4 – 4th paragraph under Old Business**). At 6/29/18 HCLA community meeting, Jean Horn asked for consideration to purchase land. HLCA

mentioned at this time, the cost of surveying the land would be too costly, that the funds we currently have would be used to pursue dam repairs. Another member suggested parties interested with this pursuit, should bear the cost and time, and not HLCA. (**Attachment # 5- last paragraph under Work/Repairs**) HLCA meeting minutes from 8/31/18, purchase of HLCA was again conversed over. It was discussed that the potential purchaser should bear the cost of any survey. (**Attachment #1 – Line item # 6**).

Fairness of Tax District

- **Deeded Lake Rights for lakeside vs non-lakeside properties**: When establishing the tax district, it is my understanding that HLCA received direction from the Town of Berne, that all lakeside and non-lakeside properties who have deeded lake rights would be in the tax district and apparently HCLA does not control this option. The opponent's objection for the non-lakeside properties with deeded lake rights, is they have either hardly used the lake or never have used the lake. The one question that comes to mind is, while it is a personal option if the property owner choses not to use the lake, what happens if those properties were to be sold? The new owner could then have use of the lake by potentially becoming a paid member of HCLA while never having any responsibility of being in the tax district.
- **Percentage of Tax Structure**: Opponents feel the tax district assessment rate is discriminatory for the residents who do not have property on the lake. Perhaps they are not aware that according to the Town Tax Assessment records, the land belonging to properties on the lake is assessed much higher than the properties off the lake. A member of the HCLA community, Bob Marriott, who supports the tax district, mentioned this at the December 1, 2021, public hearing, however Bob's remarks were met with negative comments from those who opposed the tax district and said he was incorrect, which of course is not the case.
- **Number of Properties Calculated for Tax District**: David Brusio, an opponent of the tax district, was wondering why zig zag lines were on the tax district map. A fair inquiry. At

our June 26, 2021, HCLA community meeting, Lorraine Emerick mentioned that the HCLA had to conduct a few title searches to see if certain properties would be included in the tax district. Lorraine mentioned that part of the petition for the tax district is having a map of all properties in the district. Lorraine stated that some adjacent properties were not originally in our district, and we needed to know why. Lorraine stated that our attorney David Brennan, told us when a property is subdivided, the new property does not obtain the lake rights. The lake rights stay with the original property only. Again, this was mentioned to membership at the 6/26/21 meeting. **(Attachment # 3 – Line item 7)**

Stewardship of Funds

- An opposed person to the tax district, had concerns that HLCA would not be a good steward of the tax district funds. It appears only the few in opposition to the tax district have this concern. As we already know, no funds will be readily available to any one individual, for all invoices for payments must and will be submitted to the Town of Berne. For years, the HLCA board has put in numerous hours investigating competent engineers for the project. The HLCA board with the approval of the membership, has been looking for engineers who have an experience background with projects such as ours as well as looking for reasonable estimates and costs

HLCA RIGHT OF WAY FOR MEMBERS

- Some folks in opposition to the tax district stated that one of the right of way had been taken away from membership (Note: Membership only applies to people who have paid and are current with their HCLA dues), in which they stated how can they be assured as to no other right ways wouldn't be taken away from membership again. *In my opinion, this comment would not be relevant to the financial planning of the tax district, it would be an internal matter with HCLA membership.* However, since this was brought up, it should be noted that in previous years on our membership map, the "right away" in question is between Lot # 9 & Lot # 10 which had been written in as a "right away". **(Attachment # 6)** Apparently, in 2020, this error was observed, then noted as a change on our membership map, to then indicate the land between Lot # 9 and Lot # 10 now reads as an Easement to Lot #68 **(Attachment # 7)** Back in July 2020, Paula Leonard, continuously questioned this and said it was incorrect. Joyce Keenan provided the membership with her deed to verify that this was not an easement, the land is owned by the Keenan's, purchased from Mr. Becker in the 1960's. Again on July 30, 2021, Paula Leonard questioned the easement and erroneously thought the wording "easement for lot #68" should be removed and replaced with the wording "right of way" which would then allow all paid membership access via this route to the lake. This is an access that would have the potential for non-lake front owners to use. Key word here would be "members". Again, Paula was told that membership received a

copy of Joyce Keenan's deed proving that land is owned by the Keenan's. **(Attachment # 8 – Line items # 7,8,9,13,14)**

Lake Rights

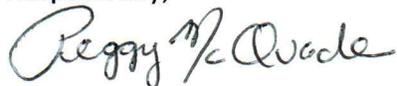
- The few in opposition are of the opinion that HLCA has taken away their given deeded lake rights. Again, *in my opinion, this comment would not be relevant to the financial planning of the tax district, it would be an internal matter with HLCA membership.* However, since this topic was brought up, back in 2001 -2002, HLCA was in court with a legal litigation with a dispute against a member of the HLCA membership. The main reason for this litigation was a dispute over the use of motorized vessels (in this case a snowmobile) on the lake which is prohibited in our by-laws. The judgement was in favor of HLCA. Tami Bloom has informed membership, upon confirming with our attorney, if someone is not a dues paying member, they can not use the association land nor the lake, for the judgement states HLCA owns both the lake and land and Helderberg Lake is private. This is not the first time HLC has enforced this judgement. For years after this judgement has been received, other non-paying members have been issued reminders they do not have the right to use the association property.

It is my hope, that the incorrect statements from the opposition, would not distract and discredit the hard work, time and effort put forth by both the HLCA Board and Community, trying to accomplish compliance with DEC demands by effectively repairing the HLCA water dam, while being fiscally responsible. Whenever monetary discussions are held, it is human nature and understandable that an agreement is not easily obtained; however, it is prudent for everyone to be informed and understand all aspects involved.

As previously stated by members who are proponents of the tax district, the time is now. If under the current conditions the dam is breached, the loss of life, property etc. would be insurmountable. The fact that all property owners with deeded lake rights would still be liable for almost the exact financial amount of the tax district if the DEC would have to decommission the dam, in my opinion, it makes sense to make a reasonable sound decision to use resources wisely and repair the HCLA water dam.

Thank you for your time and consideration of the HLCA Tax District Proposal.

Respectfully,



Peggy McQuade

HCLA Member

14 West Shore Drive, Voorheesville

518-872-9035

cc Anita C. Clayton, Town Clerk



Helderberg Lake Community Association

August 31, 2018 Meeting Minutes



DRAFT

7:00 pm: Meeting commenced;

1 **Moment of Silence:** In memory of Mike Leonard, Ken Marriott, Anthony Iavenditti (Lorraine Emerick's father) & John Emerick (Lorraine Emerick's father in law), we observed a moment of silence as sadly these people passed away in the last few weeks.

2 **July Minutes:** due to the storm on July 27th, meeting was brief and minutes were verbal - the following was summarized: Elected to have bridge painting committee: Rob Way, Mark Horn, Bob Smith and Andy completed power washing and painting of bridge by dam. Tom met with Paul Tonko and was going to investigate dam funding – potential loan. Tonko to look into and get back to Tom.

3 **Dam Update:** Nothing further from DEC on dam. No scope of work provided so we cannot get estimates. Tom said he believed we are 1 of 10 private dams in Albany County with issues. Need to fill pipe with concrete. Tom to call some contractors for a potential range.

4 **Insurance:** Policy was non-renewed by NRA; Lorraine Emerick secured coverage 8/20/18 with Nautilus with small savings.

Miscellaneous

5 • Fire district looking to put a stand point by West Shore Drive to draft water in the event of a fire.

6 • Purchase of association land: Jean Horn, Lorraine Emerick, Rob Way, Victor Proporio and Tami Bloom were interested in purchasing association land if became available. Potential purchaser should bear the cost of any surveys. The Horns are waiting to hear back from the town. Could be a lot line adjustment if adding to existing property. Anina thought East Shore was subdivided years ago. Assoc owns 105 acres.



Helderberg Lake Association Meeting Minutes
Friday, June 24, 2016 ♦ 7:00 pm

2

Next Steps:

- 1 • Need Engineering Assessment (EA) completed – per Gail McQuade , we currently have approximately \$26,936* to pay for service; per DEC, EA must be completed every 10 years
- 2 • Mentioned bringing in Trinity Construction to give an idea of cost -- They indicated there were only a few companies willing to do dam work who carried the necessary insurances - Trinity does not do this work due to the liability but as they live locally offered to give us an idea of cost -- Owner of the company sits on the town board
- 3 • Victor Procopio suggested setting up a “lake district”. Bob Smith has lake rights and not on lake itself – concerned if “lake district taxes” are predicated on home value and voiced that this would not be fair as he only has rights and not lakefront. Jeannette Maikels to investigate.
- 4 • Lorraine Emerick and Anina Lacour spoke individually to Kevin Crozier, Town of Berne Supervisor. There is a Hazard Mitigation Plan and money may be available. Kevin offered to enlist help from the Town of Bethlehem’s supervisor. Kevin advised Lorraine Emerick he got \$40K for a private landowner. Victor Procopio also suggested contacting Dan McCoy and other officials for assistance. We will investigate further once engineering assessment is attained.
- 5 • Selling of association land to raised funds. Victor Procopio is interested in land behind him to build garage. George Bechand is also interested in purchasing land. T/O Berne has 5 acre building lot minimum; unless they do a variance board review. Victor to look into subdivision (nothing in bylaws). Other current association member may be interested in purchasing land as well.

Dues:

- July meeting – will vote on dues for 2017
- Lorraine Emerick was approached by a member for a list of members in good standing. Rob Way also voiced that he would like to see list as well. A list of members in good standing will be provided at July meeting.

Miscellaneous:

- Barry Shuman requested to take a few plants from empty lot owned by association. Permission granted.
- Member inquired how far back were lake association records: Tom McQuade advised 1961
- Mr. Marriot advised that the meeting date on website was incorrect (date correct but day of the week was wrong). Tom McQuade advised that it was the last Friday of the month.

Adjournment: Motioned by Dave Adkins; 2nd by Dan Keenan

Next Meeting: July 29, 2016

**Note- post meeting comment by treasurer to be relayed at July meeting: There will be a balance of \$26,936 (approximately) after the rest of this year's bills are paid. The bank requires a balance of \$2,000 in order to avoid a \$10 monthly fee. So technically, there is \$24,936 available for the EA report to be done.*

*Meeting minutes drafted by Lorraine Emerick due to Hilary's absence
Meeting Minutes - to be approved July Association Meeting*



Helderberg Lake Community Association

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- 1 been about \$240,000. I thought that was interesting as they did not have all of the insurance requirements and other factors that we have to address today.
- 2 Liz Smith – Can you tell me those 4 property owner names again?
- 3 Lorraine Emerick – Tisko, Hoose, Schaller – Schaller has 2 properties.
- 4 Liz Smith – So that came out of the title search?
- 5 Lorraine Emerick – Yes and 2 of the properties were for sale and they advertised lake rights.
- 6 Tony Haas- To be clear, as we added 4, we also had to research why some of the properties did not have lake rights.
- 7 Lorraine Emerick – Yes, some adjacent properties were not originally in our district, so we needed to know why. We were told by the attorney that when a property is subdivided the new property does not get lake rights. Lake rights stay with the original property only.
- 8 Tony Haas – Any other questions?
- 9 Tom – There were attempts at applying for grants and the work migrated through a few people. We have issues with the 501c(3). We applied but through the IRS but was denied because we are a private lake, so we were not allowed to apply for a grant. So, we have not gotten any grant money so far.
- 10 Pauline Lawyer – I called, the main man who works with lakes and streams is Angelo Santabarbara. There is money available from Albany County. The state has the money. I talked to him and he said to have you call him to talk about what has to be done with the lake and the dam.
- 11 Tom McQuade – That is easily done.
- 12 Pauline Lawyer – Jerry McGee said he had everything on his phone and he emailed it to him. A man named Nick has been working on this grant since yesterday at noon time. He is with Santabarbara at the state. No money has ever gone to the Hilltowns. This Nick has vowed to work on it and see why it is not distributed up here. Jerry emailed the guy yesterday.
- 13 Tom – I will contact Jerry to find out more.
Tami Bloom – Lorraine and I have taken this over in the last month or so, we have been making phone calls to Tonko's office and the County.
- 14 Lorraine Emerick – I spoke to McCoy's office and they said that since we are not 501c, if the Town of Berne or municipality will apply for the grant for us, we can apply this way.
Tami Bloom – We got some really great information and direction from Tonko's office and we have been working on this and pursuing it. Now, with the information you gave us, this is great, we will definitely follow-up.

Thank you to Pauline Lawyer for bringing us this information. The membership applauds Pauline.



Helderberg Lake Community Association Minutes for 7/29/2016 Annual meeting

4

Meeting called to order at 7:10 PM

Officers present: Tom McQuade, Anina laCour, Gail McQuade, Mike Leonard and Bob Smith

Total voting Members present: 13 plus 2 proxy votes

Minutes from 6/24/2016 were presented.

- Correction of "Bonded Concrete" to "Tom Clemente" since he was not there as a representative of the company.
- Motion made and seconded to approve the minutes. Carried by voice vote.

Treasurers report

- 43 members were paid to date
- Balance \$32,747.29
- If deduct \$4409 for coming expenses and \$2000 for minimum balance there will be about \$26,338 available to pay for the engineering assessment.
- A list of paid and unpaid members was also provided
- Motion was made and seconded to approve. Carried by voice vote.

Old Business

- 1 -Clean up day: Most of weeds and brush on the dam were cut except for the steep part. Barry Zwack volunteered to help Tom finish using rope and harness.

EVERY 2 YRS
SAFETY INSPECTION
ENGINEERING ASSESSMENT EVERY 10 YRS

2 Tax returns: Janette Maikels had reported to Tom that we only should have been required to file the last two years. The penalty to file now, late, would be minor. So if we wish to apply for any grants in the future we could file a return then.

3 -Engineering Assessment: Tom had spoken with MacDonald engineering who indicated that our situation was similar to Mariaville and he would make a proposal but has not as yet done so. Mike has contacted two other firms, Dente engineering and Ryan Biggs, but has also gotten no info as yet. No progress can be made to resolving any of the dam issues can be made until the EA is done.

- INVOICE CONTRACT SIGNED - \$17,000+

4 -Selling off land: Victor was not present to report on the possibility of selling small parcels to current landowners to add to existing lots. A long discussion was had regarding feasibility of selling some lots. Zoning restrictions, lack of actual waterfront, expense of subdivision and potential expense of septic are all downsides

New Business

- There was a request to contact Victor and ask that he do some cleanup on his property. AND IF NO RESPONSE THEN NOTIFY TOWN.



Helderberg Lake Community Association



June 29, 2018 Meeting Minutes

- If you see someone that does not belong in our private community, ask where they are from. If hostile, take plate down and report to authorities.
- Bob has remnants of old bulletin that used to be in beach area (his Dad had originally installed). We are welcome to it if someone wants to fix up.

Nominations for July Elections

- Barry Zwack & Bob Smith coming off board. Rob Way and Jean Horn are nominated. Anina laCour, Gayle McQuade, Lorraine Emerick and Tom McQuade will remain as officers.

Work/Repairs

- Cutting back weeds at the dam area - mowing back of dam is DEC requirement & can take 3 to 4 hours. Pretty steep and need to dress appropriately (long sleeves and pants). Tom said it can be done in the evening Wed July 11th at 6:00 pm/ Lorraine Emerick to post on Facebook and send emails.
- Bridge on other side handrail needs to be fastened, some painting needs to be done. Tony Haas asked if we can scrape it – Tom said ok. John Ramundo replaced the rails by dam.
- Jean Horn asked for consideration to purchase land. Cost of surveying was too much. Lorraine Emerick, Victor Proporo, Jean Horn and Tami Bloom expressed interest in purchasing land behind their properties. Anina laCour mentioned that those interested should bear the cost and time. Rob Way asked if there a tax implication from selling. We are a non-profit but not 501c3. Allan Miaikles looking to file for 501c20 status as we do not exceed \$50k in revenue. Alan needs tax ID # and year of incorporation – Gail will provide tax ID, Tom will provide date of incorporation. Alan advised the cost was \$400.

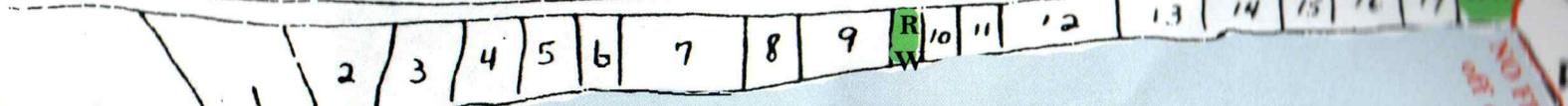
Meeting Adjourned – Tami Bloom motioned to adjourn and Jeff Bloom 2nd the motion.

6

83 75 - Wolf Hill
82 67/68/69 Hillcrest Dr
81 72/73/74/76 Gulf Hill RD
80
79

Association Property

EAST SHORE DR.



Helderberg Lake: Lot Map

RW= Right of Way to Deeded Property Owners Only
 Association Property (Including Footbridges) Restricted to Paid Members Only
 No Fishing Off Dam Wall
 Keep Off Island

77/78
65

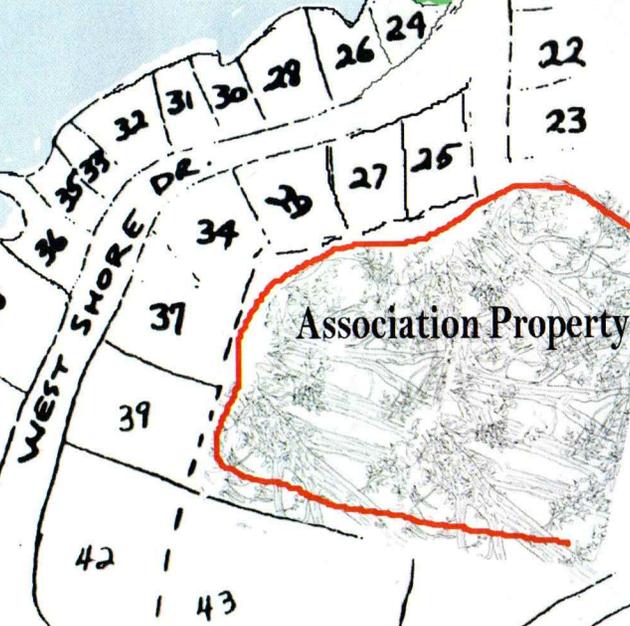


Association Property

Pinnacle Rd



Association Property



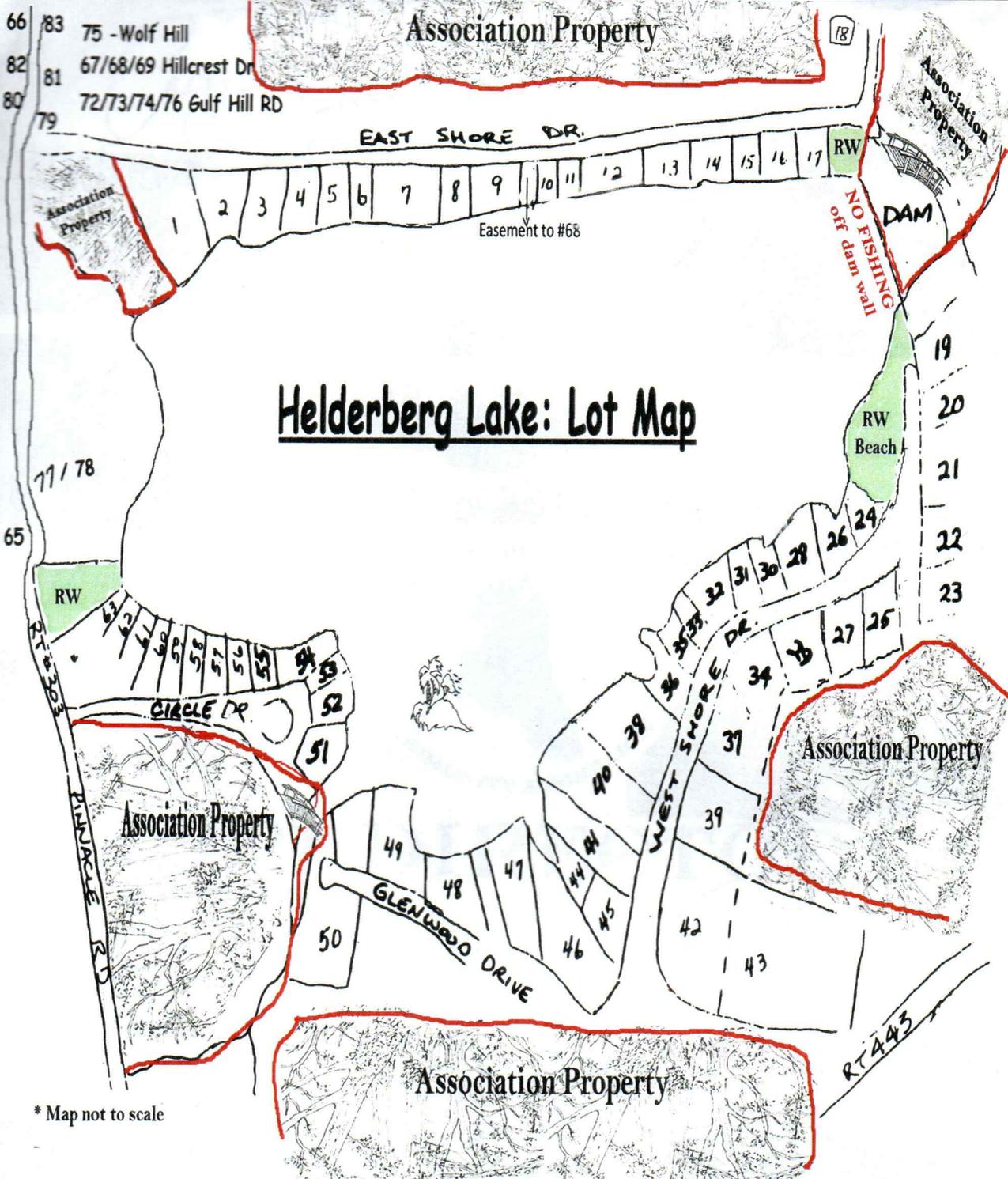
Association Property

RT 443

* Map not to scale
 Lots 64, 70 & 71 unknown

2019

7



Helderberg Lake: Lot Map

* Map not to scale

Lot#/Contact information unknown

144 Gulf Hill Rd, Voorheesville, NY
 Rd#1 Box 328, Onesquathau Creek Rd, Feura Bush, NY 12067
 Off Rt 85, Voorheesville, NY 12186
 2849 Delaware Tpke, Voorheesville, NY 12186

2021

Tony Haas
30 South Rd.
Gansevoort, NY 12831

Re: Helderberg Lake Tax District

To the Berne Town Board:

Good day. I feel I need to provide input into the Helderberg Lake tax district proposal. I was Vice President on HLCA Board of Directors until July 2021. For the 4 ½ years I served on the board, I worked diligently with the Helderberg Lake community, board, attorney, and engineers to identify sources of funding for the repair of the dam and what is needed to address our Class C dam funding. I asked the membership several times on ideas to how to pursue funding. The tax district is the most logical and fair means to address the dam repair funding in a timely manner.

I assisted with gathering signatures for the petition. Most people were very supportive and more than willing to sign the petition since they understood the critical nature of this project. They were presented with facts from the engineers, attorney, and DEC. Those who signed the petition, in addition to some who were unable to sign due to extenuating circumstances, wanted to protect our community, our lake, and our neighbors. Throughout the entire process, it was clear and evident the tax district is the only way to access funding for the dam repairs. I was honest and upfront with everyone I communicated with on this situation. There was never any harassment. Signatures were obtained for the petition by me and others on the board in a group effort. All interactions with the community were presented in non-threatening, non-combative manner. All signed on their own free will. I addressed questions and concerns in an honest and forthright manner.

As we were working with an estimate from the engineer, we tried to provide the most accurate estimate/information as possible to the community. Even with current estimate from the engineer, it is still just an estimate. We won't know the true cost of the project until it is sent out for bid. The board has always been upfront and honest with the community with known and unknowns.

Even though I'm no longer a resident in this community, I will always do everything I can be supportive in the efforts to preserve the community and the lake. I feel it would truly be a shame for the Helderbergs to lose Helderberg Lake.

Sincerely,

Tony