



Bald Head Association

111 Lighthouse Wynd • PO Box 3030 • Bald Head Island, NC 28461
910-457-4676 • www.BaldHeadAssociation.com

Summary of Recent Litigation Relating to the Ferry Transportation System

On February 16, 2022, the Village of Bald Head Island (Village) filed a lawsuit (Complaint) against Bald Head Island Limited, LLC (BHIL) and Bald Head Island Transportation, Inc. (BHIT) with the North Carolina Utilities Commission (NCUC). In that Complaint the Village alleged that BHIL has announced its intentions to proceed forward to sell the assets of the Bald Head Transportation System. The Village requested the NCUC to issue a Declaratory Judgment declaring that the parking lot and barge for the Bald Head Island Ferry System are public utilities and, therefore, fall under the regulation of the NCUC.

On March 28, 2022, BHIT and BHIL filed a motion to dismiss the lawsuit asserting three primary reasons: “[t]he Village’s Complaint (a) does not assert a claim within the Commission’s Complaint jurisdiction, (b) improperly seeks an advisory, declaratory ruling that raises no justiciable^[1] issue; (c) requests the Commission to assert jurisdiction over parking and barge operations beyond its statutory authority and jurisdiction. ...”

The Village has until April 22, 2022, to file its response to the Motion to Dismiss. BHIT and BHIL may in the ordinary course file a reply.

Thereafter, the Commission may or may not hold oral argument on the motion and thereafter will either grant the motion or dismiss the motion. If the motion is granted, the case is dismissed. If the motion is denied, the case would proceed forward.

Very often in proceedings before the NCUC, interested parties may intervene. The primary reasons parties intervene is because their interests or their constituents’ interests may be affected by the litigation and they want to be involved. The Bald Head Island Club has filed a motion to intervene in this case, and that motion has been granted.

The BHA will continue to monitor closely this litigation, and if and when we think it appropriate will seek to intervene, as well. For now, we feel monitoring it from afar is enough to watch out for our members interests.

~ Bald Head Association Board of Directors

^[1] A controversy involving a real issue that can be settled by a court, involving a present claim made by one party and another party disputing it.