

Ritz Condominium Association

2715 Boardwalk at Iowa Avenue, Suite #1
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July 6, 2020

Re: Ritz Condominium Association Pool Closure

Dear Ritz Condominium Homeowners,

After careful consideration and soliciting guidance from our professional advisors, including our attorney and insurance broker, the Ritz Condominium pool will be closed for the 2020 summer season. Since the last Board Meeting in March, we have spent countless hours communicating with the professionals via ZOOM, phone, and email as well as had numerous conversations with the Atlantic City Health Department on this matter. The potential liability and risk to the Ritz for meeting the guidelines far outweighs the benefits to the overall membership. As your elected officials, it is our fiduciary responsibility to protect the welfare of the members. Collectively, we feel to fulfill our obligations we need to eliminate the exposure. We will continue to monitor this fluid situation and will provide updates as new information is available. In addition, please remember that all building amenities are still being maintained during this time in accordance with our regular operations. We recognize the current climate and impact this has all affected, but we appreciate your understanding as we continue to navigate through this unprecedented time.

You should first understand that our insurance policy does not provide any coverage to the association for claims that someone contracted COVID-19 on our premises. So, if we opened the pool and there was an outbreak of the virus among people that came to the pool, our attorney advises us that there is a high likelihood that the association will be named in a lawsuit. Because this is such a novel issue, it is impossible to know how the courts will eventually handle such claims but, since there is no insurance, we would have to pay for an attorney to defend the action out of the association's funds and any judgment as well. Even if we ended up winning such a suit, we would lose, because the attorney fees to defend would be substantial and there is no "loser pays" provision for those types of cases. An additional concern is that the Director's & Officer's insurance would not cover any claim against the individual Trustees if they were named in the suit which they typically are in such an action. So, when balancing a few months of the pool being closed versus the risk to the long-term physical and financial health of the Association, the board tends to lean toward the more conservative decision.

We also need to keep in mind the people considered in a high-risk category (i.e. low immune system) have an increased risk of catching COVID-19. The board has a fiduciary duty to take reasonable steps to protect the health and safety of the members and that is certainly a consideration in this decision.

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Another important factor in this decision is that, if we did open the facility at this point, we would have to bring in additional staff to enforce the Governor's Orders and the guidelines created by the CDC and the local health department. Even if we follow those orders and guidelines and expended monies on additional staff, it does not protect us from a lawsuit being filed. Therefore, the additional expense involved in monitoring compliance does not seem to be in the best interest of the Association as a whole.

Some members have asked if there is going to be a reduction in condo fees since they cannot use the amenities right now. The answer is "NO". We still need to maintain the pool, so it is ready when we can open the facility and there is so much uncertainty with the current situation. It would be irresponsible for the Board to make such a decision immediately. You should be aware that our lawyer has advised us that the law is clear; a member cannot withhold a condo fee payment because they are unable to use an amenity and that would not be a defense to a collection action.

If we were to open the pool, we would now be required to have a full-time "COVID Ambassador". The staff's job would include to take temperatures of all staff entering the facility, monitor and log each resident who enters and leaves the facility with name, address, date and time, monitor residents to make sure social distancing guidelines are being followed and periodically wipe down pool handrails and ladders. Without this person on site, the pool will not be open for use. The COVID Ambassador will have special training and would cost an additional \$6,000-\$7000 to be on site every hour the pool is open.

We would have to acquire personal protective equipment (PPE), additional signage including pool deck demarcation grids and purchase sanitizing supplies and set up sanitizing stations. The additional cost would be approximately \$500.00.

Please know your Board is disappointed with having to make this a monumental decision but we believe it is in everyone's best interest from a public health, safety, financial, and liability standpoint. All our lives have been seriously impacted by this pandemic. We are hoping things will return to "normal" sooner rather than later.

Respectfully,

Ritz Condominium Board of Trustees