

# Eagle-Independent

## Accord reached in grinder pump dispute

Homeowners filed suit alleging improper repair fees

By Margaret Smith  
msmith@wickedlocal.com

CHELMSFORD -- The town and a homeowners' group have reached accord, after a lawsuit alleging improper fees for sewer grinder pumps that failed in a power outage.

"The motivation of the plaintiffs is to prevent this from happening to another grinder pump homeowner," said David Foley, spokesman for the homeowners' group, known as the Sewer Fairness Alliance of Chelmsford.

The alliance announced the settlement in a press release.

Town Manager Paul Cohen said, "The parties in the litigation agreed to not provide any comment regarding the settlement agreement. I will abide by that agreement."

Foley said, "The settlement agreement has a portion which both parties have agreed not to talk about...the press release does not reveal anything from that portion of the settlement agreement."

Foley added, "The settlement agreement also includes a portion regarding a new revised grinder pump appeal policy which is satisfactory to both parties."

Attorney Alan Jay Rom, who represents the homeowners, reviewed the press release before distribution, Foley said.

### Appeal process

The settlement includes requirements for the town to

notify a homeowner of charges for repairing or replacing a sewer pump grinder, and provisions for a homeowner to appeal the charges.

The settlement also includes a detailed provision for homeowners to file a grievance with the Public Works Department,

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if the homeowner believes the concerns are not resolved upon appeal.

The complaint was filed on Dec. 4, 2018 in Middlesex Superior Court. It named David and Jill Markham, of 8 Armand Drive, as the plaintiffs, along with the alliance.

The Sewer Fairness Alliance of Chelmsford is an organization of homeowners who received grinder pumps as part of the town-wide sewer program.

### Cost, care dispute

Last August, a U.S. District Court judge denied the town's motion to dismiss a lawsuit by homeowners concerning grinder pump repair issues.

According to the ruling, the dispute originated when the Markhams' sewer grinder pump failed on Sept. 11, 2016, during a power outage.

The Markhams received a bill from the town for costs of the repairs, along with a notification the town will not pay for the cost.

The town bylaw prohibits homeowners from flushing things down the drain which could damage the pump. A list of these items is included in the bylaw, as constituting negligence in the use of the grinder pump, the plaintiffs

said.

The grinder pump is powered by electricity and during power outages the pump stops, the plaintiffs said. They said this condition means no water usage and no flushing toilets unless the homeowner has a generator to power the grinder pump.

According to the grinder pump repair report, the homeowners had operated the grinder pump during a power outage -- with a generator set to an incorrect voltage.

In the lawsuit, the homeowners said they presented evidence to the town that their generator had only one voltage setting -- making it impossible to set it to an incorrect voltage.

The homeowners alleged that a technician failed to examine the generator while on site repairing the grinder pump.

The homeowners said they requested that the technician be invited to a meeting before the Department of Public Works, to either correct or defend his repair report.

The town allegedly denied the homeowners' request, and provided him with no means to correct the demonstrably erroneous grinder pump repair report.

### Long history

The maintenance costs of single-family sewer grinder pumps have long been a source

of contention.

Town Meeting voters in 2014 approved a plan outlining the town's and homeowners' respective responsibility for the care, maintenance and repair costs of grinder pumps.

However, the vote came after much debate over the provisions of the plan.

The Board of Selectmen in 2013 tapped a sewer grinder pump study committee -- including Foley -- to examine all aspects of the issue. The committee's formation followed a vote at fall 2013 Town Meeting, ordering the board to assemble a committee, addressing the use of residential sewer grinder pumps.

The grinder pumps, mandated to replace septic systems as the town completed its municipal sewer project several years ago, are unreliable, many homeowners said at the time.

The Sewer Fairness Alliance submitted a warrant article last month asking the town to assume maintenance responsibility for the grinder pumps.

The article was rejected, but Town Meeting addressed the issue by ordering selectmen to appoint the study committee.

In 2011, the Markhams and other homeowners bought generators.

The generator purchases followed widespread outages in the wake of Hurricane Irene, which struck the region in late August 2011.