

In the interest of equal time, I assume that I get an opportunity to rebut Mr. Kindler's comments and to clarify my remarks and intentions...

**Purpose of the letter and photo.** We agree that my letter was sent as a campaign message to targeted homeowners who were selected based on my assessment of their potential to be influenced in the 2011 Board election. It was not sent to homeowners deemed very likely or unlikely to cast a vote for me, Mr. Kindler being in the latter camp. The photo included with my letter was in the public domain, posted on a local TV station's website. Mr. Kindler stood for quite awhile in front of a TV camera and reporter and knew that he was being photographed alongside the other individuals in that photograph. All of the Harbours residents and former residents standing on the sidewalk that morning are correctly identified beneath that photo.

**Other participants in the photo.** One of the individuals in the photograph has two criminal charges pending against her in Clark County for battery involving two different Harbours staff members. The spouse of another individual has a pending criminal mischief charge, has made a police confession to vandalism on our property, has physically attacked me, and has made two death threats against me that we know of. A third individual has been sued by the Association for also vandalizing Harbours property. A nonresident homeowner in that picture was barred from The Harbours after menacing the property and staff. All of these issues are documented in official records for the individuals involved. And Mr. Kindler is clearly standing in the picture next to these people.

**What pertains to Mr. Kindler personally.** While Mr. Kindler calls attention to certain words in my letter—all of which, in my opinion, describe the aforementioned individuals—I call your attention to the words that certainly describe Mr. Kindler himself:

*"...A few of them are nothing more than troublemakers; the rest are supporters of troublemakers..."*

My letter was not just about Mr. Kindler, and my comment in quotes illustrates that. If Mr. Kindler cannot be unequivocally identified as a "troublemaker", he is at least a "supporter of troublemakers"...unless, of course, he was caught by a photographer standing on that sidewalk by accident or for some other reason. I am in fact interested if he has another explanation for his presence, and I may offer him an apology if that explanation is plausible.

**Why Mr. Kindler is complaining and what the Association can do.** To the contrary, Mr. Kindler simply wants it both ways. He wants to be respected and treated as any other homeowner while openly supporting individuals who threaten Harbours property and the people who live and work here. And he bristles when he's not allowed that attempt at compartmentalization. Unfortunately, when he holds himself out as a candidate for an elected position, he also subjects himself to that sort of analysis and scrutiny, much as I do in the same pursuits. Indeed, I have seen my name and reputation impugned by campaign rhetoric in the opposite direction. However, the Association has taken the position that a mailing of this kind using an owners list provided to candidates according to Indiana law is beyond the purview of the Association. And while I alone may stand behind the content of my letter, I also remind Mr. Kindler that it is outside of the Association's power to edit or prevent even if the rest of the Board disagrees with it.

**Mr. Kindler's options.** If Mr. Kindler feels that my comments are slanderous and damaging enough, he has legal recourse to separately pursue his claim. The only damages that he alleges are to his unsuccessful attempt for a Board position, which I would argue had as much to do with his late entry in the election--completely missing the bio mailing--and his limited track record as a Board and committee member. He was previously on the Board all of two months, chose NOT to campaign as an incumbent, and resigned his only committee appointments, one as a chairperson. Homeowners may see perfectly well that Mr. Kindler has run away from meaningful opportunities to serve this Association. And if he

considered himself a serious candidate in this past election, perhaps Mr. Kindler should have asked for a homeowners list and sent his own campaign letters therewith.

**Mr. Kindler's right to privacy.** His "invasion of privacy" claim is likewise flawed. In addition to being voluntarily photographed for a picture on the internet, Mr. Kindler has also surrendered his privacy among Harbours homeowners for a very obvious reason. Most of the people in that photo share a common attribute: they have individually cost the Association money that can be directly linked to their activities. And when one member costs another member money, the affected party is entitled to know who the other person is. A preponderance of Board members and homeowners feel that way, and our legal counsel has consistently supported that position. All homeowners who cost the rest of us money need to be identified and repeatedly so.

**Another reason for the photo.** Lastly, I want to point out why the photo itself was mailed since the letter could have stood alone reasonably well. It was in large part mailed because of comments I routinely see and hear from concerned homeowners who want to know who the photographed individuals are. People hear names and they see faces, but the connection often doesn't exist. Not surprisingly, the only negative feedback I've heard has been from people like Mr. Kindler who are in the photo. Some homeowners have thanked me for mailing that picture, even asking for extra copies. And I purposely put no header on it for that reason. As much as Mr. Kindler disliked the words, the letter itself is probably in most people's trash by now. The photo, on the other hand, will help people identify some of their neighbors for awhile longer. A header that homeowners want to place on that picture will ultimately be someone's decision besides mine.

Thanks for granting me this opportunity to state my case...KZ