

# THE PERQUIMANS WEEKLY

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## Local development associations feel tied down by court rulings

By TOM OSTROSKY

Resort development — which has increased in this region to the point where it can safely be referred to as a "boom" — has suffered what some people feel to be a major setback, following recent high court decisions that effectively eliminates the ability to raise money to maintain developments.

North Carolina has made a high priority of encouraging tourism, and the Albemarle region depends on tourism and waterfront development as its second largest source of in-

come, behind farming. But the property owners associations which operate many these developments, like those at Holiday Island and Snug Harbor, could face bankruptcy simply because they have no power to collect operating fees from the property owners.

Two recent court cases involving Snug Harbor are at the crux of the issue. In the first, the Snug Harbor Property Owners Association attempted to sue Martin Curran, a property owner there, to collect annual fees.

A state Court of Appeals ruling, later backed by the state Supreme Court, said that the by-laws and restrictive covenants of Snug Harbor — which allow for annual assessments to operate the development — were "too vague to be enforceable."

As attorneys and property owners associations interpret the ruling, the by-laws and covenants must set down precisely what the fees will be used for, and give precise standards of satisfactory maintenance. Otherwise, fees can't be collected.

William Bentley, the Hertford attorney representing Snug Harbor, called the court's ruling "absurd," and John Jennings, president of the SHPOA Board of Governors said, "It would be impossible to write exact standards."

In a District Court decision last November, SHPOA vs. Pritchard, the court said that the SHPOA could not deny the use of facilities to a resident who refused to pay assessments.

In that case, a Snug Harbor resident was barred from using the

clubhouse and swimming pool because he would only pay the fee stated on his covenant, which was \$35. Since that covenant was written, the SHPOA has voted to raise the fee to \$55.

The SHPOA will appeal the case, but if the Curran ruling is any indication, the SHPOA will probably lose the appeal.

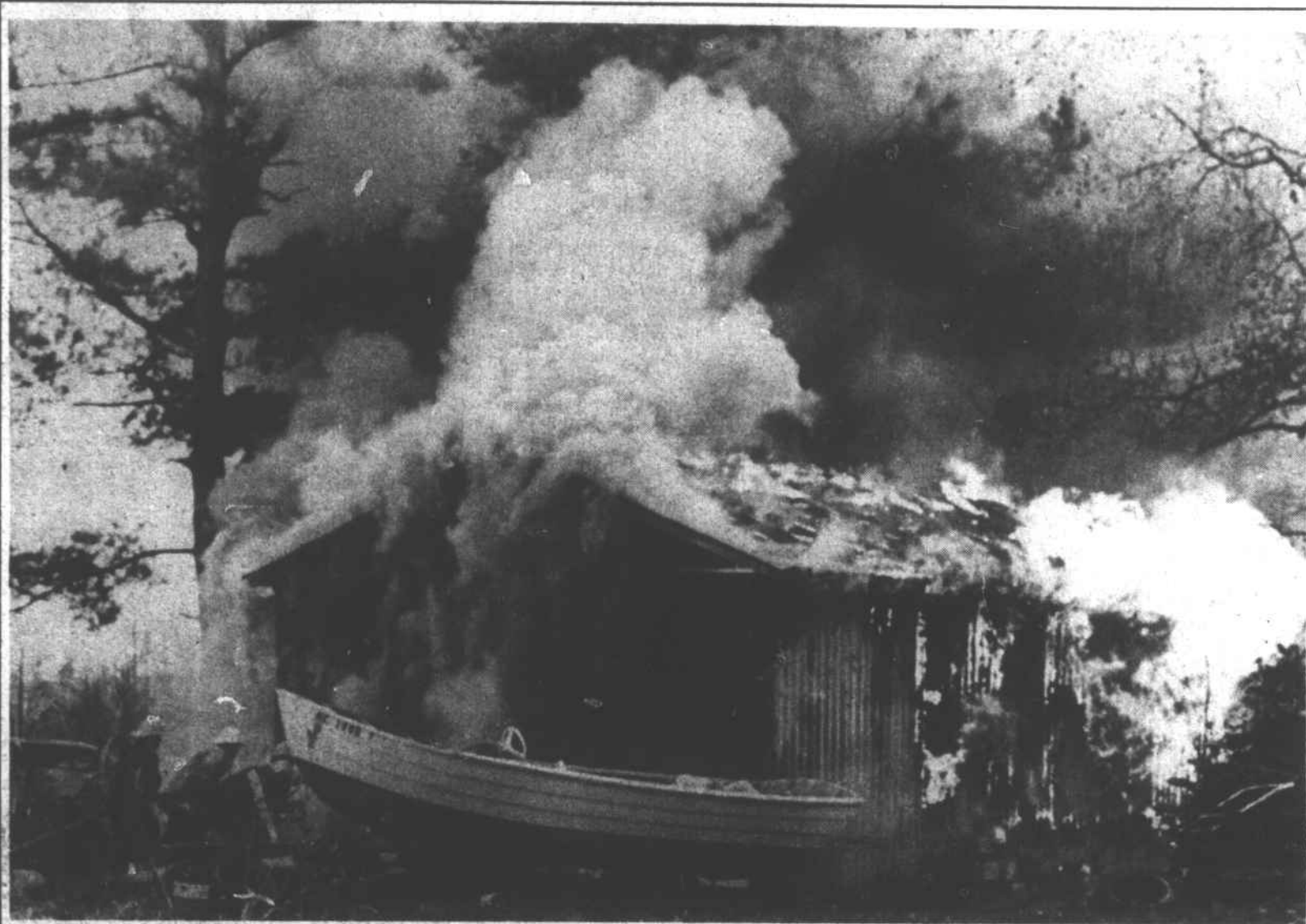
The property owners in those cases, naturally wishing to pay as small a fee as possible, have — perhaps inadvertently — whittled away at the associations to the point

where the latter have no legal leg to stand on.

Bentley, summing up the options the associations have in light of the two rulings, believes they have only three choices: either declare bankruptcy, incorporate into a municipality, or petition the General Assembly to enact enforcement powers to the associations.

Bankruptcy, of course, is a non-option, and many property owners object to incorporating into a

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Hertford fireman fight a blaze Monday afternoon that destroyed a garage at L.C. Proctor's home at Harveys Point. No one was injured in the fire.

## Jury finds man guilty of rape

By TOM OSTROSKY

A Perquimans County Superior Court jury found a young Holiday Island man guilty of one count each of first degree rape and kidnapping during last week's session of court.

William Cohen, 20, of Holiday Island, was found guilty of raping a young summer resident of the resort last August 8, after first directing her to a lonely dead-end road in the county.

Following the verdict, Cohen pleaded guilty to second degree rape (rape without aid from another person), and Superior Court Judge George Fountain accepted the guilty plea over the jury's verdict.

He sentenced Cohen, who had no previous criminal record, to 12 years for each count, the two terms to be served consecutively. Cohen will have to serve at least half of his sentence before becoming eligible for parole.

"People are going to tell you the judge treated you wrong," Fountain said to Cohen following the sentencing, "but if I had sentenced you on the verdict the jury handed down, I'd have given you a life sentence."

Cohen's attorney, Christopher Bean of Edenton, said that his client intends to appeal the kidnapping verdict. Bean had asked the court to drop the kidnapping charge, arguing that since kidnapping is a necessary means to rape, to try a man for both crimes would be double jeopardy.

Another summer resident of Holiday Island, Terry Lynn Miles, has been charged with first degree rape, abetting first degree rape, and kidnapping.

Miles, the Perquimans County Sheriff's Department believes, accompanied Cohen and also raped the same woman. His case was continued until the next Superior Court session.

Assistant District Attorney Michael Johnson's case relied on the testimony of the victim and a lie-detector test requested by Cohen and conducted by the State Bureau of Investigation.

The victim testified that following a party at a Holiday Island residence, she drove off with Miles and Cohen, who directed her to a deserted dead-end road, force her into the back seat of the car, and

raped her.

SBI agent William Godley testified that Cohen had apparently lied when he denied, during a lie-detector examination, having sex with the victim.

Bean's defense attempted to discount much of the victim's testimony, particularly how his client — who was somewhat smaller than the woman — managed to overpower her.

The defense attorney also argued that the lie-detector examiner didn't ask Cohen any questions concerning consent. By agreement between Johnson and Bean, the test could be admitted as evidence only if it was limited to the question of whether Cohen actually had sex with the woman.

The jury of nine men and three women deliberated for about an hour and a half before reaching a decision.

In other cases before the Superior Court: Curtis McKinley Thomas, charged with death by motor vehicle, pled no contest to reckless driving. He was given a six month sentence in Albemarle District Jail, suspended for two years, a \$100 fine plus the cost of court and was given until the end of the week to pay the fine.

Milton Combs, convicted in December of 1978 of nonsupport, was

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## County above region in competency tests

Perquimans County high school students fared well in comparison to the rest of the region on the state's competency tests, according to information released this week by the North Carolina Department of Public Education.

The state requires students to pass the competency test before being allowed to graduate. Students first take the test as juniors, and those who don't pass take the test again as seniors, along with those seniors who just came here from another state.

Among juniors taking the test for the first time — probably the most accurate indication of how well students are learning, according to county coordinator for testing Paul Ward — 92.1 percent at Perquimans High School passed the reading component and 87.6 percent passed

the math component.

In the Albemarle region, 89.5 percent of juniors passed the reading and 87.6 passed the math, both figures at or below the Perquimans County percentage. At the state level, 92.8 percent passed the reading and 90 percent the math.

Ward said that county school administrators tend to compare themselves with the region rather than the state because the socio-economic factors — income level and education of student's parents in particular — within this county and within the region are similar, while the state as a whole has a much higher level of income and education.

The results from among Perquimans County seniors — a statistic that Ward tends to discount because it includes some students

who failed as juniors and others, originally from out-of-state, who are taking the test for the first time — show that 66.7 percent passed the reading component and 87.5 percent the math.

In the region, 56.6 passed the reading and 52.5 the math. Among all seniors in the state, 58.2 passed the reading and 54.9 the math.

Because the county had a few first-time test-takers among the small group of seniors taking the test, Ward said, the county's percentage is significantly higher than the region's or the state's.

Ward also noted that among the 105 students in the county taking the tests, there were five students who missed passing the reading and the math components by only a few points. "A question here and there

and they would have passed," said Ward.

In figures compiled by Ward — for which the state gave no equivalent — Perquimans County students have shown steady improvement since the test became a requirement in 1978.

In those five years, the percentage of first-time test-takers (juniors and seniors) that passed the reading test has risen from 86.2 to 91.8. In the math component, the percentage passing has risen since 1978 (with a decline between 1980 and 1981) from 84.6 to 88.8.

Of the total group tested, the percentage passing the reading test has risen from 86.2 percent in 1978 to 87.7 percent in 1982. In the math test, 84.6 percent of the total group passed in 1978, compared to 87.6 in 1982.

## Teenager dies in farm accident

A Perquimans County teenager died Wednesday of last week when he sank into a grain bin full of corn.

Perquimans County Rescue Squad member Keith Haskett reported that David M. Smith, 17, of Route 2, Hertford, suffocated when he stepped into the grain bin and suddenly sank

into the corn until it was about eight feet over his head.

Smith, the son of Lawrence M. and Patricia Jordan Smith, was working at a Belvidere grain elevator owned by Charlie Thomas Rogerson, unloading corn.

According to Haskett, at a little after noon as Smith was working, the bin apparently was not emptying properly, and Smith went inside to loosen the corn.

Once inside the bin — about three-fourths full of corn — Haskett believes Smith stepped over a hollow pocket and fell through. Safety belts were available at the site, Smith didn't wear one.

Though Haskett and squad member Bobby Winslow arrived within a half hour of Smith's accident, it was another 45 minutes before they could pull him out. About half the corn in the bin was removed to get to the body.

Smith was taken to Albemarle Hospital, where he was pronounced dead on arrival.

A funeral for Smith was conducted Sunday in the Williford-Barham Funeral Chapel in Edenton by the Rev. Billy Old. Burial followed in the family cemetery at Route 3, Edenton.

A native of Chowan County, Smith was a member of Chappell Hill Baptist Church and an active member of the Pioneer Division of the church's Royal Ambassadors.

Other than his parents, he is survived by two sisters, Denise Smith of California and Wanda Smith of Edenton; a maternal grandmother, Louise Miller of Chesapeake, Va.; maternal great-grandmother, Cora Belch of Norfolk, Va.; paternal grandfather, David L. Smith of Edenton; paternal grandmother, Bertie Mae Harrell of Edenton; paternal step-grandmother, Edna R. Smith of Edenton.

Pallbearers were Del Belangia, Ron Joyner, Scott Stallings, Kendall Burhis, Mike Pippins, and Martin Copeland.



The Perquimans Union School eighth grade chorus entertains parents during the

school's Christmas program last week. Also performing were the seventh grade

chorus, the eighth grade band, and the seventh grade band.

### This week

Looking for Christmas gifts? Turn to page three.

### Weather

Chance of rain today, ending Friday. Clear Saturday. Highs in the mid-50s on Thursday, turning colder over the weekend.