

Member Derivative Action Answers

Lake Park Resort, Inc.

11/02/2022

By:

Robyn Riel, President
Marva Hughes, V. President
Jerri Lynn Toms, Secretary
Ross Toms, Parliamentarian

- 1) ✓
- 2) ✓
- 3) ✓
- 4) J Spivey & S Robison were coerced by threats of litigation into resigning from the Board in early June of 2022.
- 5) ✓
- 6) ✓
- 7) ✓
- 8) ✓
- 9) ✓
- 10) ✓
- 11) ✓
- 12) The term 'voting members' in this instance refers to members of the Board of Directors, not the member owners.
- 13) ✓
- 14) New Charter and By-laws dated March 2022, Book 1641 Page 2304, Signature Page, paragraph one states: "This Declaration of By-laws and Rules & Regulations will **supersede** all previous Lake Park Resort, Inc. Declarations." We agree it should be

placed in a more prominent position, so we also added the clause to the first page of both the Charter & Bylaws and Rules & Regulations.

- 15) The Board of Directors voted for the change in the number of officers due to the fact that it was becoming impossible to keep nine; it was dropped to seven in April of 2022, and dropped again to five in October of 2022 when only one member attended the annual members' meeting on October 1st in which there were two seats requiring nominees for a board vote. TN state law requires only that there be at least three officers on the board of a nonprofit organization. Officers may also hold multiple titles such as Secretary/Treasurer or Pres/V. President, etc.
- 16) The 2013 bylaws are now a moot point as the 2022 revisions supersede it. The June Members' Meeting was being held to address the changes and get member feedback, by voting if necessary. Instead, they sabotaged the meeting by making threats to sitting officers, redirected the member owners who showed up to Sarai David's house, and cried foul because the official meeting then had to be cancelled as there was only one Board officer present, which they knew in advance based on how quickly signs with directions to her house were posted in the park. The reference to a majority of voting members is referring to amending rules and regulations, not charter or bylaws. Only the Board officers can vote on matters of the Board.
- 17) This was changed due to no member turn out at the past meetings. When they do attend, it is to disrupt and act out so badly that the Board now has to hire a Sheriff's deputy to keep things under control as well as relocating the meetings off premises.
- 18) The 'meeting of sorts' that WAS held was not advertised or legal because the original meeting had to be cancelled due to the absence of officers. Former Board member, Savanna Robison's entry to this impromptu meeting was denied by Sarai David and Anna Jackson, claiming "spies" were not welcome despite having been invited earlier in the day by Anna Jackson.
- 19) Third grade math: a quorum is by definition a majority. A quorum is a measurement pertaining to Board votes only and does not apply to member owners' votes.
- 20) The member owners have NEVER had voting privileges for Board officers. They have nominated member owners but the Board has the final vote from those nominated. Since 1972, this has never changed. Plus, in order to participate in the electing and operating of Lake Park, members **MUST** be current on all dues and assessments.

- 21) The dues increase has been shelved for the time being but in the near future, it will need to be revisited as they have not increased since 1972 – that's over 50 years – and it needs to happen before new residents begin moving in.
- 22) If I am reading this correctly, it's referring to the dues increase again so refer to #21; otherwise, please explain.
- 23) The Board voted unanimously to open up our park assets and liquidate a portion in order to address the road conditions as well as decreasing the tax liability. Non-payment of owner dues for over 25 years has necessitated this liquidation. Nowhere does it state that member owner approval is necessary in order for the Board to enter into the sale of assets so long as it is for the good of the community.
- 24) To our knowledge, no one has asked to see the books. The members who attend meetings receive an Expenditure report detailing debits and credits to the corporate bank account as well as an ending balance. This privilege is only available to **members in good standing**. ****
- 25) LPRI has violated no laws or statutes and has retained legal counsel specializing in HOA laws. All changes made to the bylaws were voted on and passed by a quorum vote of the Board of Directors. Said amendments were either suggested or validated by counsel as being legal and true. Derogation of members' rights has been a result of nonpayment of dues and assessments over a course of many years rendering the member owners severely delinquent. Only members in good standing have participation privileges at member meetings, nominating privileges for Board officers, voting privileges for park issues, and use of amenities including the pavilion, the beaches, and the field.
- 26) Mail service was temporarily moved from the homes to a central location at the front of the park. Once roads have been repaired, the USPS Safety Officer will re-inspect and reinstate individual mail service.
- 27) ✓
- 28) The old bylaws prohibited logging of timber of any kind. The president then was Norman Rollins. He and his wife along with several other old Board members had established a voting bloc that continued over the years, letting the property assets sit idle while the roads deteriorated. He died in March of 2022, and by the end of that month, the Board had sat together over a weekend to address the outdated bylaws on the advice of counsel. By April 18th, the new bylaws were recorded and on file at the courthouse, allowing for the logging (removing the member owner logging restrictions as well) and

sale of real estate property owned by the Corporation in order to repair the roads within the park. The Board was not permitted to sell said real estate until April of 2022.

- 29) That is clearly an opinion and not fact. By logging first, we take full monetary advantage of the corporate assets.
- 30) The sale of lots as intended will generate income, true. The buyers will undoubtedly remove timber from the lot in order to build. Why should the new owners profit from the sale of timber when we could log it BEFORE it's listed for sale? We are simply taking full advantage of the assets while preparing the lots for future sale.
- 31) Again, there is no mismanagement of any assets by the Board as everything has been seen and validated by counsel. Who's defining what constitutes proper actions of duly elected officials? Each officer HAS been duly elected at member meetings that NONE of the plaintiffs have bothered to attend.
- 32) ✓

WHEREFORE, premises considered, Plaintiffs pray:

- 1) ✓
- 2) We are open to this provided the members inspecting such documents are in good standing with the Corporation, members of the Board are present, and that this takes place at the offices of McClanahan & Winston in Crossville. Is it prudent to allow copies of our financial banking records to be made by plaintiffs?
- 3) No, we are volunteers and not well-versed in the law, which is why we sought out special counsel. Any errors discovered are innocent of intent and should be directed to the attorneys of record of the Corporation as they are well versed in matters of HOA law.
- 4) We recognize that this statement is the true crux of the matter. There are not enough members in good standing residing in the park to hold an election. The Court is not familiar with the residents and their backgrounds and could possibly put the corporate assets in jeopardy if placed in the wrong hands. If John Doe does not like the way Pepsi does business, he can't just walk into their Board of Directors' meeting and demand the officers of the Board be ousted and a new Board installed. This would be detrimental to the Corporation in that there would be no one familiar with the day to day operations.

The original Charter calls for 1/3 of the Board officers to be elected each year, each serving a term of three years.

It is the Board's contention that plaintiffs are staging a coup to oust the current Board of Directors and install themselves in office without having to pay their arrearages. This same group of member owners has been attempting a takeover since early 2021.

- 5) ✓
- 6) This is a deal breaker. We cannot agree to this.
- 7) PLAINTIFFS' COMBINED DEBT OWED TO LPRI IS CURRENTLY **\$7,575**.
 - a. Bob & Patty Belcher – **NOT IN GOOD STANDING**
 - i. **\$600** in arrears back to 2006
 - ii. 91 Lake St
 - iii. 85 Lake St
 - iv. 6 lots total – Dues & Assessments are \$100/year.
 - b. Lonna O'Leary – **PAID**
 - c. Tony Johnson – **NOT IN GOOD STANDING (NEVER PAID DUES)**
 - i. **\$2,960** in arrears back to 2006
 - ii. 27 Lake St
 - iii. 61 Lake St
 - iv. 535 Morgan Cir
 - v. 11 lots total – Dues & Assessments are \$185/year.
 - d. Anna Jackson – **NOT IN GOOD STANDING (BUYS/SELLS VIA QUIT CLAIMS)**
 - i. **\$2,400** in arrears back to 2006
 - ii. 58 Owenby Dr
 - iii. ?? Morgan Cir
 - iv. ?? Morgan Cir

- v. 14 lots total – Dues & Assessments are \$150/year.
- e. Robyn Pesson – **NOT IN GOOD STANDING (NEVER PAID DUES)**
 - i. **\$1,190** in arrears back to 2015
 - ii. 95 Linda St
 - iii. 2 lots total – Dues & Assessments are \$70/year.
- f. Jacob & Amanda Voss – **NOT IN GOOD STANDING (NEVER PAID DUES)**
 - i. **\$260** in arrears back to 2020
 - ii. 401 Morgan Cir
 - iii. 189 Linda St
 - iv. ## Linda St
 - v. 10 lots total – Dues & Assessments are \$130/year
 - vi. Also illegally operating business within park – Down2Earth Designs (landscaping)
- g. Paul Turner (Shirley Turner) – **NOT IN GOOD STANDING (RENTER)**
 - i. Not Paul Turner-- no relation-- renting from Anna Jackson. She is not considered a member in good standing for this lawsuit or any other park matter.
 - ii. 58 Owenby Dr
 - iii. Dues for this property are payable by Anna Jackson as the title is still in her name.
- h. Jonathan Wade Hendrix – **NOT IN GOOD STANDING (NEVER PAID DUES)**
 - i. **\$1,050** in arrears back to 2008
 - ii. 176 Diane Cir
 - iii. 3 lots total –Dues & Assessments are \$75/year.
 - iv. Also illegally operating business within park – Hendrix Cycles
- i. Michael Holdsambeck – **NOT IN GOOD STANDING (PLEASE IDENTIFY)**

- i. We do not know who this person is. As of 10/29/22, he doesn't own property anywhere in Cumberland County much less Lake Park. He does however have a criminal record and a sketchy past. If he's renting, we've not been notified by the owner of record. He's not considered a member in good standing for this lawsuit or any other legal matter.
- j. Zach Burgess – **NOT IN GOOD STANDING (NEVER PAID DUES)**
 - i. **\$65** in arrears back to 2021
 - ii. 1313 Sharon Cir
 - iii. 1 lot total – Dues & Assessments are \$65/year.
 - k. James & Rebecca Havrilka – **PAID (OVERPAID \$45; REFUND CHECK #1266)**

Prepared by

Jerri Lynn Toms, Secretary LPRI