

Received at Clerk's office
on 10/27/22.

IN THE CHANCERY COURT FOR CUMBERLAND COUNTY, TENNESSEE

BOB & PATTY BELCHER,)
LONNA O'LEARY,)
TONY JOHNSON, ANNA JACKSON,)
ROBIN PESSON,)
JACOB & AMANDA VOSS,)
PAUL TURNER,)
JONATHON WADE HENDRIX,)
MICHAEL HOLDSAMBECK, and)
ZACH BURGESS,)

Plaintiffs,)

vs.)

No. 2022-CH-2308

LAKE PARK RESORT, INC. and)
its DIRECTORS;)
ROBYN MORGAN RIEL,)
JERRILYN TOMS,)
JENNIFER SPIVEY and)
those represented as DIRECTORS on)
EXHIBIT A.)

Defendants.)

FILED
Date 10-7, 2022 at 2 AM/PM
Entered _____
BEN TOLLETT, CLERK & MASTER
Cumberland County, Crossville, TN
By: _____

MEMBER DERIVATIVE ACTION

Come now the Plaintiffs, by and through counsel, and for action against the Defendants would respectfully show:

I. JURISDICTION & VENUE

1. Plaintiffs are owners of property in the Lake Park Subdivision in Cumberland County, and as such, are members of lake Park Resort, Inc.
2. Defendant, Lake Park Resort, Inc. (Hereinafter LPRI), is a Tennessee Corporation formed under Tennessee Law as a non-profit entity.

3. On information and belief, LPRI, is a homeowner's association though not specifically titled as such.
4. Defendants, Robyn Morgan Riel, Jerrilyn Toms, and Jennifer Spivey, are currently holding themselves out as the Corporation's Board of Directors.
5. The body of land owned by LPRI and the lands owned by Plaintiffs are all located in Cumberland County Tennessee, so that this action is within the jurisdiction and venue of this Court.

II. FACTUAL ALLEGATIONS

6. The information and belief that LPRI is a homeowners association arises from a prior case in this Honorable Court, styled Raymond E. Webster, et al., et ux. vs. North American Developers, Inc. (NADI) et al., Chancery Court Case No. 3322, Final Decree entered February 3, 1975,
7. In the above styled case, land owners sued the developer. A settlement was made wherein the LPRI bought out the assets of Defendant NADI. The documents in the Court file of the case, indicates to Plaintiffs that LPRI was formed on behalf of the Property owners as an Association to manage and develop the 200 acre tract for the benefit of all members. This Court may have a different understanding, upon review.
8. Plaintiffs can find the original charter (Exhibit A), but not the Corporation's By-Laws, of public record.
9. There are some address and agent changes of record over the years.
10. On April 24, 2013, a document purporting to be a "Declaration of Lake Park Resort, Inc. Rules & Regulations" was filed of public record, in Book 1407, Page 1117,

Attached as Exhibit B.

11. Notwithstanding its title as Rules & Regulations, it in fact appears to place what are arguably certain restrictions on land use and property rights along with rules and/or regulations. These are presumably imposed on land previously sold without said restrictions and in derogation of land owners' rights.
12. On May 25, 2013, a document, irregular in form, was placed of public record, titled "By-Laws". The document does recognize it has voting members, as does the original charter. How consistent it is with the previously existing By-Laws is unknown, due to the unavailability to the membership. (Exhibit C)
13. On or about April 18, 2022, the current Board placed of record, a document titled "Charter & Bylaws: Revised March 2022", of record in Book 1641, Pages 2297-2321, and attached hereto as Exhibit D. It is the primary document of contention.
14. The 2022 revisions reference the By-Laws adopted March 18, 1972. It is unclear if the document repeals and replaces them, or if it is an ancillary document. In either case, Plaintiffs assert it is objectionable and contrary to Tennessee Law, and may also violate pre-existing By-Laws and Charger, in its implementation.

III. ISSUES RAISED

15. The original charger requires nine (9) board members and a 2/3 vote of members to amend. The 2022 revision allows seven (7) board members, but there is no knowledge of a member vote of approval for that change. T.C.A. §48-60-101-103.
16. The 2013 By-Laws require a majority membership vote to amend the rules, regulations and By-Laws. Plaintiffs are not aware of any membership vote for the

2022 changes. T.C.A. §48-60-201-202.

17. The current By-Laws state that only the Board may amend the rules, regulations and By-Laws of the Corporation in violation of T.C.A. §40-60-102 & 103.
18. The Board failed to hold an annual meeting and make required reports. T.C.A. §48-57-101 et seq. To be clear, there was a meeting of sorts, but no Board Members attended.
19. The By-Laws of record do not establish a member quorum. T.C.A. §48-57-203.
20. The current By-Laws remove the right for members to elect Board Members. *Never*
T.C.A. §48-57-201 et seq.; T.C.A. §48-58-104.
- ~~21.~~ The current By-Laws increases the dues and established new dues and fees without a member vote or approval. T.C.A. §48-56-201; T.C.A. §48-60-203.
22. The Amended By-Laws alters the liability for dues, assessments and fees in violation ?
of T.C.A. §48-56-204; T.C.A. §48-60-203.
23. The Board is selling timber, an asset of the Corporation, a sale not in its usual course of business, without a member vote or approval in violation of T.C.A. §48-62-102.
24. The Board has refused and/or not allowed for the inspection of Corporate records by members in violation of T.C.A. §48-66-102. *Never Asked*
25. Your Plaintiffs assert the above actions are ultra vires and in violation of the laws of Tennessee, and in derogation of the members' rights.
- ~~26.~~ That the roads in the subdivision are so deteriorated, mail service to residents was stopped. — moved

27. It is your Plaintiffs' understanding that the current timber cutting is purported to be to raise funds for improvements.

28. That Lake Park Resort, Inc. owns the land subdivided into lots, yet, even in the current active real estate market, no lots have been sold and to Plaintiffs' knowledge, none offered for sale for many years, even though it is the scheme for the subdivision.

29. That sale of timber which might generate funds, provides temporary income, it diminishes the attractiveness of the area. BS!

!! 30. That sale of lots as intended, generates sale income and would generate due paying members, which is financial relief in the short term and long term, without deteriorating the appeal of the area.

?? 31. Your Plaintiffs assert the Board is mismanaging the assets of the corporation, and are not acting as duly elected board members of the corporation.

32. Upon discovery, your Plaintiffs may seek leave to amend their Complaint.

WHEREFORE, premises considered, Plaintiffs pray:

1. The Defendants be required to answer in the time allowed by law.

MIGS ONLY 2. The members be allowed to review, inspect and copy the financial records of the corporation, its minutes of meetings, the historic bylaws and charter(s), and all other records available to non-profit members, as allowed by law.

3. That the Board be held responsible for errors and omissions and/or actions detrimental to the corporation if such be found.

4. If the Board has not been properly installed pursuant to the corporate By-Laws, Charter and Tennessee Law, that the Court set an election that is in compliance and

This is what it's ALL about!! \$\$\$
Page 5 of 7

a proper Board be installed.

done X

The Court bar and hold ineffective increases in dues and costs that are not properly made in accordance with Tennessee Law and the Corporate By-Laws and Charter.

X

The Court halt timer cutting unless approved by the membership.

WTF??

7. For such other and further general relief as the Court finds proper.

Respectfully submitted this the 17th day of October, 2022.

~~SARAI DAVID~~

Lonna O'Leary
LONNA O'LEARY

Bob Belcher
BOB BELCHER

Patty Belcher
PATTY BELCHER

Tony Jackson
TONY JACKSON Johnson-9/18/22

Anna Jackson
ANNA JACKSON

Robyn Pesson
ROBYN PESSON

Shirley Turner
SHIRLEY TURNER
Shirley

Jacob Voss
JACOB VOSS

Amanda Voss
AMANDA VOSS

Johnathon Wade Hendrix
JOHNATHON WADE HENDRIX

Michael Holdsambeck
MICHAEL HOLDSAMBECK

Zach Burgess
ZACH BURGESS

James J. Havrilka
James J. Havrilka

Rebecca Havrilka
Rebecca Havrilka

C. Douglas Fields
 C. DOUGLAS FIELDS, ESQ., BPR# 018647
 Attorney for Plaintiffs
 Fields & Tollett
 Association of Attorneys
 169 E First Street
 Crossville, TN 38555
 (931) 456-4541

COST BOND

We, the names Principals below, and C. Douglas Fields, Surety, are held and firmly bound unto the Chancery Court Clerk of Cumberland County, Tennessee, for payment of costs and damages awarded against said Principals, of which we bind ourselves, our heirs, executors and administrators.

The condition of the above obligation: The Principals are commencing legal proceeding in the Chancery Court of Fentress County, Tennessee. If the Principals shall pay any and all costs and damages which are adjudged against them, then this obligation is void. If the Principal fails to pay, then the Surety is obligated to pay all costs and damages awarded against said Principals.

~~*Sarah David*~~
~~SARAH DAVID, Principal~~

Bob Belcher
 BOB BELCHER, Principal

Tony Jackson
 TONY JACKSON, Principal

Robert Johnson
 ROBERT JOHNSON, Principal

9/18/12
 RP

Robyn Person
 ROBYN PERSON, Principal

Jacob Voss
 JACOB VOSS, Principal

Johnathon Wade Hendrix
 JOHNATHON WADE HENDRIX, Principal

Zach Burgess
 ZACH BURGESS, Principal

James J. Havrilka
 James J. Havrilka
Rebecca Havrilka
 Rebecca Havrilka

Lonna O'Leary
 LONNA O'LEARY, Principal

Patty Belcher
 PATTY BELCHER, Principal

Anna Jackson
 ANNA JACKSON, Principal

Shirley Turner
 SHIRLEY TURNER, Principal

Amanda Voss
 AMANDA VOSS, Principal

Michael Holdsambeck
 MICHAEL HOLDSAMBECK, Principal

C. Douglas Fields
 C. DOUGLAS FIELDS, BPR# 018647, Surety