

**EIGHTH JUDICIAL DISTRICT OF TENNESSEE  
IN THE CHANCERY COURT FOR CAMPBELL COUNTY IN JACKSBORO**

**DANIEL VALLE, MARYANNE RYKULSKI, et al.**  
Plaintiffs,

v.

Nos. 2019-CV-237  
2020-CV-055

**MADLINE FIELDS, RAYMOND "SCOTT" FIELDS,  
PAULA FIELDS LEJEUNE, MARK LEJEUNE, et al.**  
Defendants

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**ORDER**

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On the 27th day of April, 2021, this cause came before Beth Boniface, Judge, by Interchange, for the Chancery Court of Campbell County, sitting in Morristown, Tennessee, upon the Plaintiffs' Motion for Partial Summary Judgment and all filings in support thereof, and Defendants' Responses thereto. The Court having considered said motions, supporting affidavits, materials, evidence, and authorities submitted by the parties and being fully advised makes the following findings of fact and conclusions of law.

**FACTS**

1. The Deerfield Resort Homeowners Association, Inc. (the Association) was created by filing its Charter with the Tennessee Secretary of State on April 15, 1986.
2. All Plaintiffs are members of the Association pursuant to the Charter.
3. No bylaws have ever been adopted for the Association, and there never have been any votes or resolutions adopted by the Association.
4. There never has been a meeting of the Association members.
5. Defendants have filed annual reports with the Tennessee Secretary of State for the

**Association each year listing a board of directors, while admittedly never having any votes.**

**6. Defendants have no record of minutes of directors or membership meetings, no bylaws, no resolutions, no written communication to members in the last three years.**

**7. Since the creation of the corporation, a list of directors and officers has been filed annually.**

**8. Between 1985 and 2018, Fields Development Company, Inc. ("Developer") has sold virtually all developed lots located in the Deerfield area.**

**9. By the end of 2019, Developer sold approximately 98% of the lots contained in the original Deerfield area.**

**10. Deerfield Resort is not an entity name registered with the Tennessee Secretary of State as an assumed name of Fields Development Company, Inc. and Deerfield Resort Homeowners Association, Inc. is the only currently operating and duly authorized corporate entity with the name "Deerfield Resort" in the State of Tennessee.**

**11. The original restrictions ("Restrictions") for Deerfield Resort, placed by the original developer, Fields Development Company, Inc. were signed on April 22, 1985.**

**12. The Restrictions state, in part, as follows: "The Developers reserve the right to do anything necessary to promote and develop a successful resort area and these restrictions may be changed, amended or altered by the Developers."**

**13. On December 1, 1986, Revision #1 to the Restrictions for Deerfield Resort ("First Amended Restrictions") was signed by Paul R. Fields, the President of Fields Development and the First Amended Restrictions were filed with the Campbell County Register of Deeds on December 9, 1986.**

**14. On August 9, 2000, Revision #2 to the Restrictions for Deerfield Resort ("Second Amended Restrictions") was signed by Paul R. Fields, the President of Fields Development and the Second Amended Restrictions were filed with the Campbell County Register of Deeds on August 10, 2000.**

**15. The Second Amended Restrictions state, in part, as follows: "The Developer reserves the right to do anything necessary to promote and develop a successful resort area and these restrictions may be changed, amended or altered by the Developer."**

**16. On August 1, 2018, Revision #3 to the Restrictions for Deerfield Resort ("Third Amended Restrictions") was signed by Madeline Fields, the President of Fields Development**

Company, Inc. and the Third Amended Restrictions were filed with the Campbell County Register of Deeds on August 13, 2018.

17. The Third Amended Restrictions state, in part, as follows:

**DEVELOPER CONTROL PERIOD: During the Developer Control Period, which shall be defined as that period of time during which the Developer continues to own any lots or tracts in Deerfield Resort, the Developer shall control the common areas and roads in Deerfield Resort. Upon the Conveyance of the last lot or tract in Deerfield Resort, or at such earlier time as the Developer may determine from time to time, in its absolute and sole discretion, the Developer shall convey all and/or portions of the common areas and roads to the Deerfield Resort Property Owners. No property owner shall have a vote on issues of roads and/or common areas until such time as the Developer relinquishes all and/or partial responsibilities for such roads and common areas to Deerfield Property Owners.**

THE DEVELOPER reserves the right to do anything necessary to promote and develop a successful resort and these restrictions may be changed, amended or altered.

### **DISCUSSION**

Summary judgment is only appropriate where “the pleading, depositions, answers to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no genuine issue as to any material fact and that the moving party is entitled to a judgment as a matter of law.” Tenn.R.Civ.P. 56.04. In making that determination, the trial court must draw all reasonable inferences in the nonmoving party’s favor. *Staples v. CBL & Assocs., Inc.*, 15 S.W.3d 83, 89 (Tenn. 2000). A moving party may satisfy its initial burden of production and shift the burden of production either (1) by affirmatively negating an essential element of the nonmoving party’s claim, or (2) by demonstrating that the nonmoving party’s evidence is insufficient as a matter of law at the summary judgment stage to establish the nonmoving party’s claim or defense. *Rye v. Women’s Care Center of Memphis*, 477 S.W.3d 235, 264 (Tenn. 2015).

Plaintiffs posit that there is no genuine issue as to any material fact which would preclude the Court from granting partial summary judgment and requiring that a homeowner’s association be formed. Defendant’s counter that the Restrictions and Amended Restrictions of Deerfield Resort prevent the property owners from creating a homeowner’s association. For purposes of

this motion, Plaintiffs admit that the Restrictions and the Amended Restrictions were validly created but are unenforceable. Plaintiffs argue that the time has long since passed when Developer should have relinquished control and allowed a homeowner's association to be formed. Developer states that as long as they own "any lots or tracts in Deerfield Resort, the Developer shall control the common areas and roads in Deerfield Resort... No property owner shall have a vote on issues of roads and/or common areas until such time as the Developer relinquishes all and/or partial responsibilities for such roads and common areas to Deerfield Property Owners." The Court now considers whether The Restrictions and Amended Restrictions are enforceable by Developer against the property owners.

The Court is guided by the recent case *Innertimages, Inc. v. Newman*, 579 S.W.3d 29, (Tenn. Ct. App. 2019), wherein the Restatement (Third) of Property: Servitudes § 6.19(1)-(2) was adopted in Tennessee. The Restatement requires that:

- (1) The developer of a common-interest-community project has a duty to create an association to manage the common property and enforce the servitudes unless exempted by statute.
- (2) After the time reasonably necessary to protect its interests in completing and marketing the project, the developer has a duty to transfer the common property to the association, or the members, and to turn over control of the association to the members other than the developer.
- (3) After the developer has relinquished control of the association to the members, the association has the power to terminate without penalty:
  - (a) any contract or agreement for the provision of management or maintenance services to the association;
  - (b) any contract or lease between the association and the developer, or an affiliate of the developer;
  - (c) any lease of recreational or parking facilities; or
  - (d) any contract or lease that is not bona fide, or was unconscionable to the members other than the developer at the time it was entered into, under the circumstances then prevailing.

Restatement (Third) of Property: Servitudes § 6.19.

The Restatement recommends considering three factors in determining "the time reasonably necessary to protect the developer's interests": (1) "the percentage of lots or units that have been sold"; (2) "the interval since the first unit was sold"; and (3) "the level of the developer's construction and marketing activities." *Id.* at § 6.19 cmt. B. Reviewing the undisputed facts, ninety-eight percent (98%) of the lots have been sold and the first lot was sold in 1985. Thirty-six (36) years have passed since the first lot was sold and there are very few

remaining lots upon which the Developer is marketing. Developer's only facts recited to prevent the creation of the homeowner's association are that the Restrictions and Amended Restrictions grant them the complete and sole control over the property until the last lot is sold. The Innerimages court held,

"We merely hold that a developer cannot rely on such a provision to control property in perpetuity. When the developer's authority to enforce restrictive covenants is challenged, courts should consider the principles in the Restatement (Third) of Property: Servitudes § 6.19(1)-(2) in determining whether the developer has discharged its duties to the property owners and/or the property owners association. To the extent that the developer has not discharged its duties under these provisions, courts may exercise their equitable powers to fashion an appropriate remedy."

*Innerimages, Inc. v. Newman*, 579 S.W.3d 29, 49 (Tenn. Ct. App. 2019). The Court finds that Developers are trying to control the property in perpetuity. Developer has not discharged its duty to create an association and the property owners are thereby empowered to create a homeowner's association.

### **CONCLUSION**

For all the above reasons, Plaintiffs' Motion for Partial Summary Judgment is GRANTED.

**SO ORDERED**



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**HONORABLE BETH BONIFACE**  
**JUDGE by Interchange**

**CERTIFICATE OF CLERK**

I, Dennis Potter, Clerk and Master for the Chancery Court of Campbell County, Tennessee, do hereby certify that a true and exact copy of this document has been served upon:

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by placing a true and exact copy in the U.S. Mail, with sufficient postage to carry same to its destination, or by hand delivery (as indicated above).

This the \_\_\_\_\_ day of \_\_\_\_\_, 2021.

**Dennis Potter  
Clerk & Master**

By: \_\_\_\_\_  
Deputy Clerk