

IN THE CHANCERY COURT FOR CAMPBELL COUNTY, TENNESSEE

DANIEL VALLE, et al.

Plaintiffs,

VS.

MADLINE FIELDS, et al.,

No.: 7CHI-2019-CV-237

Defendants.

MOTION/REPORT OF RECEIVER

Comes H. Scott Reams, the court appointed Receiver for Deerfield resort homeowners Association, INC. and files this Motion and Report, seeking the relief herein sought:

1. The undersigned is the duly appointed Receiver for Deerfield Resort Homeowners Association, Inc. Initially, the Receiver had extensive duties relating to the management of Deerfield Resort, but those duties were subsequently modified so that the Receiver's duties were limited to essentially taking the steps necessary to elect an initial Board of Directors for the HOA. The Receiver has interpreted those duties to include drafting Restrictions and Bylaws and taking other steps necessary to place the initial Board of Directors in a position to successfully manage the HOA. The Receiver has sought to distance himself from the issues in this litigation, but he has met with the attorneys for the plaintiffs and defendants in an effort to gather information about the resort, its history, and determine the issues that will be facing the HOA. The attorneys have been quite helpful in gathering information.

2. Deerfield is marketed as a lakefront resort which is restricted. A website, apparently maintained by one of the defendants, lists one set of restrictions applicable to Deerfield Resort. In actuality, there appear to be four separate sets of restrictive covenants filed with the Campbell County Register of Deeds which allegedly pertain to "Deerfield Resort". Those restrictions were recorded in 1985, 1986, 2000, and 2018. All four sets of restrictions state that lots in Deerfield Resort are for residential purposes only, lots within the resort may not be further subdivided, and contained provisions that the developers could further amend the restrictions. The restrictions do not appear to contain enforceable provisions that would require membership in an HOA or permit an HOA to assess and collect fees or assessments from all residents although the 2018 restrictions do contain a vague, largely unintelligible reference to potential fees as a part of approving building plans and the possibility that "failure to pay going assessments could lead to constitute a lien on the property" (*sic*) see § 21.

3. Although all four sets of restrictions purport to apply to Deerfield Resort, the area encompassed within Deerfield Resort is not defined. There is no recorded plat of "Deerfield Resort". Indeed, defendant Paula Lejeune has testified that the developers are still discussing what areas are included within Deerfield Resort.

4. Deerfield Resort Homeowners Association Inc. was incorporated in 1986 but apparently has never functioned actively as a corporation. Rather, the developers appear to have treated this corporation as a closely held corporation with few, if any, functions. Apparently, the developers, at some point, intended to convey to the Corporation the operation of Deerfield resort and control of the common areas. It is noted that the roads within Deerfield Resort are private roads not dedicated to public use, the

maintenance of which is the responsibility of the owners of the roads. The charter of the HOA provides that the common areas shall always remain private. It is believed that the roads are currently owned by the developers or some combination of them.

5. It appears that the water for the area known as Deerfield Resort is provided by Deerfield Water System, LLC, a limited liability company owned by defendant Scott Fields, perhaps with other individuals.. This LLC was formed in 2022 but is currently administratively dissolved. It appears that this water system was believed by TDEC to be owned by Deerfield Resort Homeowners Association, Inc. as there was a fine and civil penalty assessed against Deerfield Homeowners Association Inc. by TDEC. In 2022, a Director's Order and Assessment was levied against Raymond Scott Fields by TDEC for violation of certain requirements of TDEC dealing with water quality testing. The Receiver has been unable to determine the exact status of the provider of water to Deerfield Resort and whether such provider is a public utility or is contractually bound to furnish such water. It appears that that said provider would be subject to supervision by the Tennessee Public Utility Commission but it also appears that Deerfield Water System LLC is not currently registered with said commission. It is averred that these issues as well as the issue of whether assets of such water provider were at one time the property of the Deerfield Resort Homeowners Association, Inc. are relevant to the establishment of an active, successful HOA and is of interest to the members of the HOA.

6. Prior to March 14, 2024, the Receiver had been working with the attorneys involved in this litigation to develop a working set of Bylaws for the HOA as well as a set of restrictive covenants for Deerfield Resort which would provide for mandatory membership in the HOA as well as provisions for enforcing dues and fees assessed

against property owners in the resort. All parties seem to be in agreement that such a structure for assessing fees and dues is essential to the viability of the resort. It is anticipated that the maintenance of the roads and infrastructure will be expensive and require significant revenue.

7. On March 14, 2024, the Eastern Section of the Tennessee Court of Appeals rendered its opinion in the case of Driftwood Property Owners Association, Inc. et al vs Sweeney et al . The Receiver fears that the effect of this decision will be to render Deerfield Resort Deerfield Resort unrestricted and to make the HOA a voluntary organization. Such a result would obviously and greatly affect the ability of the HOA to raise funds and to maintain the infrastructure of the resort. Further, the lack of restrictions would threaten the overall quality of the resort and likely cause substantial damage to the property in the resort. Currently, the recorded restrictions do not define the area to which they apply so that it is difficult, if not impossible, to determine who should be eligible to be members of the HOA and who can vote for directors.

8. The problems facing the Resort and property owners are significant, varied, and some are probably even unknown at this point. The HOA is expected to become the owner of the common areas of the resort which will include recreational facilities in numerous miles of private roadways. The HOA will have no financial reserves to use to manage these properties, and it is questionable that it will be able to assess mandatory fees or to lien property to collect fees. These problems are magnified by the dissent within the community. Apparently, some of the parties involved in this litigation, as well as other related and unrelated groups, have taken to social media in an effort to influence the thinking of property owners in the Resort. Some of the posts that the Receiver has seen

or that have been reported are misleading, if not totally inaccurate. The Receiver has investigated setting up a website for the HOA for use during the election process, and the receiver believes that such a website should be established immediately. Among the information that the Receiver perceives to be relevant to the election process would be a list of members of the Association as well as those members eligible to vote. In the past, there has been objection to sharing certain information about members, particularly the email addresses of members. The Receiver seeks the Court's guidance on this issue.

9. The Receiver also believes that the resort community at large should have representation on the issues raised herein as they are addressed in advance of the election of the initial Board of Directors and as well as having input on formulating plans for the election process.

10. The Receiver has reluctantly come to the conclusion that the current order appointing the receiver is insufficient to empower the receiver to further investigate the issues addressed herein and alternatives for the resort and HOA and to make recommendations to the Court. The Receiver has attempted to work with the parties to the litigation to resolve issues necessary to the election process. Those efforts have been met with limited success, and the Receiver is without authority to order compliance. A more detailed Order outlining the duties and powers of the Receiver would be beneficial to all concerned.

11. The Receiver seeks the court's guidance going forward and believes that the Court should review the powers granted to the Receiver as well as the purpose and duties of the receiver in light of the current situation. The Receiver also believes that this Court should appoint a committee to assist the Receiver, and this Court, in preparing

guidelines for an election and addressing the problems and issues facing the Resort has the Resort transitions from developer control to HOA control. The Receiver suggests a committee of five members, chaired by the Receiver with one member appointed by the plaintiffs, one member appointed by the defendants, and two non-party members appointed by the Receiver, all subject to court approval.

12. In addition, the Receiver asserts that a court-imposed schedule for the transition from a developer-run resort to an HOA run resort, including the transfer of community assets to the HOA and control over the restrictive covenants, is necessary to move this process forward. Accordingly, the Receiver requests that this Court order such a schedule and restrain any acts that would limit the property and authority to be transferred.

WHEREFORE, the Receiver moves this Honorable Court as follows:

1. That the Court examine the Order appointing the Receiver and the powers granted to the Receiver and modify such Order as necessary to accomplish the purposes of transitioning the resort to an HOA run resort;
2. That this Court appoint an advisory committee to assist the Receiver, said committee to consist of the Receiver, one member appointed by the Plaintiffs, one member appointed by the Defendants, and two non-party members appointed by the Receiver, all subject to the Court's approval;
3. That this Court approve an official website to be maintained initially under the supervision of the Receiver and provide guidance as to the appropriate material to be included on such website;

4. That this Court establish a schedule for transfer of community assets to the HOA and the transfer of power and control over the restrictive covenants from the developers to the HOA. Inasmuch as the developers have failed to define the property included in Deerfield Resort and such definition is essential to determining membership in the HOA, such transfer should occur sooner rather than later and any acts to impair or limit such assets and powers should be restrained and enjoined;
5. That the Court direct the plaintiffs who are delinquent on their fees to immediately pay same into the HOA account to which the receiver has access;
6. For such other, further, and general relief and guidance that this Court may deem advisable, but preserving all rights and causes of action that the HOA may have against any person or entity.



H. SCOTT REAMS (BPR No. 000436)
Receiver

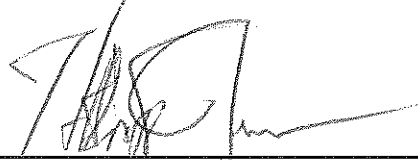
CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and accurate copy of the foregoing pleading was sent this the 30th day of April, 2024, to the following parties by regular U.S. mail and by email:

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A handwritten signature in dark ink, appearing to read 'H. Scott Reams', written over a horizontal line.

H. SCOTT REAMS, Attorney