

FILED
COUNTY CLERK

2021 SEP 15 P 3: 15

WHATCOM COUNTY
WASHINGTON

**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON
IN AND FOR WHATCOM COUNTY**

SCOTT HILLIUS, et al.,

Plaintiffs,

v.

18 PARADISE, LLP, et al.,

Defendants.

No. 20-2-00701-37

STIPULATION AND ORDER
STRIKING MOTION FOR
PRELIMINARY INJUNCTION
[PROPOSED]

Judge David E. Freeman

THIS MATTER comes before the Court on Plaintiffs' Motion for Preliminary Injunction. The parties having reached an agreement and stipulated that the pending motion be stricken, it is therefore ordered that Plaintiffs' Motion for Preliminary Injunction is hereby Stricken.

It is further ordered that the Court hereby enters the following Order on collection of maintenance fees as stipulated and agreed by the parties.

1. The successor declarant of the Homestead Planned Residential Development (Homestead) is 18 Paradise, L.L.P. ("18 Paradise"). Since 2017, MJ Management, LLC ("MJ") has leased Homestead from 18 Paradise. References to the "Declarant" include both 18 Paradise and MJ Management.

2. Under the Homestead Master Declaration, all parties who own property within Homestead ("Homeowners"), other than the Declarant, are charged a monthly maintenance fee. Through 2019, the maintenance fees were \$36.00 per month (old amount). Effective January 1, 2020, the maintenance fee was increased to \$93.00 per month.

1 3. Plaintiffs contest the increase in the maintenance fee and other aspects of the Declarant's control
2 over the Homestead PRD. Some Homeowners have refused to pay the \$93.00 maintenance fee. Some
3 Homeowners are paying the \$93.00 demanded by the Declarant, while others are paying \$36.00 or
4 nothing at all.

5 4. The parties have agreed to the following procedures regarding maintenance fees while the action is
6 pending.


7 a. The Declarant shall have the right to collect and enforce the \$36.00 (old amount) for current
8 and past months. The Declarant may use any lawful means to enforce that amount against
9 Homeowners.

10 b. While this action is pending, the Declarant will not take adverse enforcement action against
11 Homeowners who do not pay the \$57.00 increase that was put into effect in 2020. However, nothing
12 in this order shall prohibit Declarant from collecting the additional \$57.00 that any Homeowners elect
13 to voluntarily pay.

14 c. This order shall not affect the amount actually owed, which shall be determined in the pending
15 action. If the 2020 increase to \$93.00 is determined to be valid, Homeowners who paid less than that
16 amount shall be obligated to pay their shortfall in the amounts they have paid since January 1, 2020.
17 If any Homeowner fails to do so, the Declarant may take any lawful action to enforce the obligation
18 against such Homeowner. If the 2020 increase to \$93.00 is determined to be invalid, then the
19 Declarant shall refund any portion of the \$57.00 increase that was paid by any Homeowner for any
20 month since 2020.


21 d. In the event that a Homeowner sells or refinances his or her property while this action is
22 pending, the escrow agent in the transaction shall be instructed to collect the amount of the
23 maintenance fee claimed by Declarant to be owing. Upon closing of any such sale, a portion of that
24 amount equal to a \$36.00 monthly payment for every delinquent month shall be disbursed to
25 Declarant. The additional monthly \$57.00 shall be placed in the registry of the Court under this cause
26 number and be disbursed pursuant to order of this Court.
27

1 DATED this 15 day of September, 2021


2
3
4 
Judge David E. Freeman

5 Presented By:

6 ANDERSSON CROSS-BORDER LAW CORPORATION

7
8 By 
9 K. David Andersson, WSBA No. 24730
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15 Stipulated as to form and entry,
16 notice of presentation waived

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19 /ss/
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