

FILED

Bonnie Scheele

Grand Traverse 13th Circuit Court
12/02/2016

STATE OF MICHIGAN
IN THE 13th CIRCUIT COURT

STEVE IRISH, an individual

Plaintiff/Counter-Defendant,

v.

SCHEPPE INVESTMENTS, INC. a
Michigan Corporation, TRAVERSE BAY
RV PARK CONDOMINIUM ASSOCIATION
a Michigan Nonprofit Corporation,

Defendant/Counter-Plaintiffs, et. al.

Case No. 2016-031750-CH
HON. THOMAS POWER

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ORDER REGARDING PLAINTIFF'S MOTION FOR SUMMARY DISPOSITION

At a session of said Court, held in the Traverse City,
Grand Traverse County, Michigan on

PRESENT:
Hon. Thomas Power

THIS MATTER having come before the Court on Plaintiff's Motion for Summary Disposition on Counts I, VI and VII of the Complaint, and after hearing oral argument on November 21, 2016, the Court enters an order as follows:

IT IS HEREBY ORDERED that a certified copy of this Order shall be recorded in the Grand Traverse County Register of Deeds.

IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Disposition on Count I of the Complaint is **GRANTED**. MCL 559.132(c) imposes a six (6) year cap on the expansion of a condominium after the initial Master Deed is recorded. The Traverse Bay RV Park Condominium was established on August 31, 2001, by the recording of a Master Deed and Condominium Bylaws at Liber 1559, Pages 896-962, Grand Traverse County Records. On August 12, 2005, Traverse Bay RV Park, Inc., recorded a First Amendment to Master Deed at Document ID No. 2005C-00057 in the Grand Traverse County Records (hereinafter the "First Amendment"), which legally expanded the Traverse Park RV Park Condominium from 130 units to 217 units, as this expansion occurred prior to August 31, 2007. To the extent that the First Amendment purports to allow for any additional expansion of the Traverse Bay RV Park Condominium beyond 217 units after August 31, 2007, the First Amendment is illegal, unenforceable and void ab initio.

On September 3, 2010, Defendants, Scheppe Investments, Inc. and Defendant, Traverse Bay RV Park Condominium Association, recorded a First Amendment and Restatement to Third Amendment to Master Deed (the "Restatement") at Document ID No. 2010C-00023 in the Grand Traverse County Records. On September 28, 2015, Defendants, Scheppe Investments, Inc. and Defendant, Traverse Bay RV Park Condominium Association, recorded a Statement of Clarification to the First Amendment and Restatement to the Third Amendment to the Master Deed (the

“Clarification”) at Document ID No. 2015R-17180 in the Grand Traverse County Records. On January 12, 2016, Defendant, Scheppe Investments, Inc., recorded a Fourth Amendment to Master Deed (the “Fourth Amendment”) at Document ID No. 2016C-00003 in the Grand Traverse County Records. To the extent that the Restatement, Clarification or Fourth Amendment purport to allow for any additional expansion of the Traverse Bay RV Park Condominium beyond 217 units after August 31, 2007, the Restatement, Clarification and Fourth Amendment are illegal, unenforceable and void ab initio as the Traverse Bay RV Park Condominium can no longer be expanded.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Summary Disposition on Count VI of the Complaint is **DENIED** and that Count VI of the Complaint is dismissed as the Court finds that Count VI is not ripe for adjudication.

IT IS FURTHER ORDERED that Plaintiff’s Motion for Summary Disposition on Count VII of the Complaint is **DENIED IN PART AND GRANTED IN PART**. The Court finds that Traverse Bay RV Park Condominium Association has satisfied Plaintiff’s request for the inspection of its books and records and Plaintiff’s request for the additional records from 2008 and 2009 is denied for the reasons stated on the record. The Court finds that Plaintiff is entitled to inspect the books and records of the recreational facilities pursuant to Mich Admin Code R 559.111(b), and Defendant, Scheppe Investments, Inc., shall produce those records from 2008 to present to Plaintiff for inspection no later than December 5, 2016.

This Order does not resolve the last pending claim and does not close the case.

Dated: _____

 12/01/2016
08:15PM
THOMAS G. POWER, CIRCUIT COURT JUDGE, P24270

Hon. Thomas Power

Approved as to form only:

/s/ Kevin M. Hirzel
Attorney for Plaintiff, Steve Irish

/s/ Craig Huber
Attorney for Defendant, Scheppe Investments, Inc.

/s/ H. Wendell Johnson
Attorney for Defendant, Traverse Bay RV Park Condominium Association