

**IN THE CIRCUIT COURT OF RALEIGH COUNTY, WEST VIRGINIA
BUSINESS COURT DIVISION**

**GLADE SPRINGS VILLAGE PROPERTY
OWNERS ASSOCIATION, INC.,
a West Virginia non-profit corporation,**

Plaintiff,

vs.

**Civil Action No.: 19-C-357
Presiding: Judge Reeder
Resolution: Judge Lorensen**

**EMCO GLADE SPRINGS HOSPITALITY, LLC,
a West Virginia limited liability company;
ELMER COPPOOLSE, an individual;
JAMES TERRY MILLER, an individual;
R. ELAINE BUTLER, an individual; and
GSR, LLC, a West Virginia limited liability company,**

Defendants,

and

**EMCO GLADE SPRINGS HOSPITALITY, LLC,
a West Virginia limited liability company, and
GSR, LLC, a West Virginia limited liability company,**

Counterclaim Plaintiffs,

vs.

**Civil Action No.: 19-C-357
Presiding: Judge Reeder
Resolution: Judge Lorensen**

**GLADE SPRINGS VILLAGE PROPERTY
OWNERS ASSOCIATION, INC.,
a West Virginia non-profit corporation**

Counterclaim Defendant.

**ORDER GRANTING VERIFIED MOTION FOR TEMPORARY RESTRAINING
ORDER OF GLADE SPRINGS VILLAGE PROPERTY OWNERS ASSOCIATION, INC.**

By motion dated September 30, 2022, Glade Springs Village Property Owners Association, Inc. ("POA") moved for the entry of a temporary restraining order and preliminary injunction,

asking this Court to, *inter alia*, enjoin Defendant GSR, LLC (“GSR”) from soliciting or accepting transponder fee payments from POA Members, including lot owners within Glade Springs Village, Phase I, The Farms, and their guests. By Administrative Order from the Supreme Court of Appeals of West Virginia dated October 4, 2022, the undersigned was appointed to the Business Court Division, and by Order entered October 5, 2022, the undersigned was appointed as Presiding Judge in this civil action. The POA claims that transponder fees are specific assessment that it alone has the power to impose under the Glade Springs Village (“GSV”) Declaration and West Virginia Code § 36B-3-102(a)(10). The POA contends that Members have paid their transponder fees through the auspices and offices of the POA, and that GSR improperly directing Members to tender them to GSR rather than the POA effective October 1, 2022, subverts the POA’s collection of transponder fee revenue while falsely claiming the revenue as its own, and will result in irreparable harm to the POA, and its Members. Further, the POA avers it is obligated to repay a United Bank loan for the construction of the new gate house, including transponder lane and software, by using the transponder proceeds. As evidentiary support for this Motion, the POA attached the Affidavit of David McClure. The Commercial Promissory Note, wherein it is stated that the special assessment of dues are specifically used for the transponders and gate project at Glade Springs Resort, and other supporting documentation are attached as exhibits to the Affidavit.

The Court notes that the POA previously gave notice that this relief would be requested, as evidenced in Paragraph 29 of the instant motion and Exhibit N, and that no further notice of the application need be given.

Having reviewed the motion, the evidence in support thereof, and considered the imminent and identifiable irreparable harm regarding the POA and its Members being deprived of the revenue generated by the transponder fees which it needs to pay off the United Bank Loan (the

Court noting that the United Bank Loan appears to have been refinanced but nonetheless the original loan for the gate house appears to have not yet been paid in full), threats to the POA's ability to make financial decisions on behalf of its Members, and the exigent need for immediate and ongoing funding to the POA for its ability to pay off the United Bank Loan, the Court hereby **GRANTS** the motion and **FINDS** and **ORDERS** as follows:

- a. GSR is hereby temporarily restrained and enjoined from taking any action to alter, interfere with and/or discontinue the POA's current direction to Members to tender transponder fees to it, from directing POA Members to tender transponder fees to any entity other than the POA, from transmitting electronic mail on the subject matter of the instant motion to POA Members other than as agreed upon by the POA or a duly authorized representative of the POA; from using any other means of communication, including personal solicitation, to or of POA Members on the subject matter of the instant motion, from directly or indirectly soliciting POA Members on procuring use of the transponder system or paying transponder fees, from directly or indirectly accepting transponder fees from POA Members, and otherwise appropriating transponder fee revenue from the POA;
- b. And on October 21, 2022 at 1:00 p.m., via Microsoft Teams, GSR shall show cause why a preliminary injunction should not be granted herein;

This Order shall continue in full force and effect pending the closing of the hearing to consider the motion for entry of a preliminary injunction. Responses, if any, to the relief requested in the POA's motion shall be filed with the Court and served upon all interested parties by **October 14, 2022**. The Court shall conduct a remote hearing to consider the POA's motion for entry of a preliminary injunction on **October 21, 2022 at 1:00 p.m. via Microsoft Teams**. A Microsoft

Teams invitation shall be provided to all counsel of record, and counsel may then forward such information to any additional necessary interested parties.

The Court directs the Circuit Clerk to distribute attested copies of this order to all counsel of record, and to the Business Court Central Office at West Virginia Business Court Division, 380 West South Street, Suite 2100, Martinsburg, West Virginia, 25401.

ENTERED this 11th day of October, 2022 at 12 : 35 p.m.



THE HONORABLE JOSEPH K. REEDER
BUSINESS COURT DIVISION JUDGE