

IN THE CIRCUIT COURT OF TANEY COUNTY, MISSOURI

JAMES MCELROY,  
Plaintiff,

v.

TREASURE LAKE R.V. RESORT  
CAMPING CLUB, INC., a Missouri  
Not-For-Profit Corporation,  
Defendant.

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) Case No. 07AF-CV00582  
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**JUDGMENT**

ON THIS 25<sup>th</sup> day of September, 2008, comes on the above-captioned matter for hearing. Plaintiff appears in person and through counsel, Raymond M. Gross. Defendant appears through counsel, Ben Upp. Being advised of the facts and matters contained in the pleadings, through the evidence and exhibits before it, and through the agreements and stipulations of the parties, the Court makes the following findings of fact:

1. Defendant Treasure Lake R.V. Resort Camping Club, Inc. (herein "Treasure Lake") is a Missouri not-for-profit mutual benefit corporation organized pursuant to Chapter 355, RSMo., and established pursuant to a Declaration of Restrictions filed of record in Book 258 at page 297 in the office of the Recorder of Deeds, Taney County, Missouri.
2. Treasure Lake is comprised of members owning a 1/7500th interest in the real property located at 1 Treasure Lake Drive, Branson, Missouri.
3. Treasure Lake has on occasion sold memberships to individuals and, pursuant to the Declaration of Restrictions, charges members an annual maintenance fee of \$180.
4. In exchange for purchase of the membership and payment of certain fees and dues, members have the right to utilize the resort. Most members stay in privately owned recreational vehicles on the resort.

5. Historically, an individual membership in Treasure Lake permitted the member to stay at the resort for 21 consecutive days. Individuals would then leave the resort for nine days before being eligible to return.

6. Prior to 1990, Treasure Lake began encouraging sales of a second membership ("Dual Memberships") to existing and new members. Purchasing a second membership would allow members to stay 21 days on the first membership and then "switch" to the second membership – effectively allowing owners of Dual Memberships to stay continuously at the resort.

7. Based upon Treasure Lake's representations, several members purchased a second membership, including Plaintiff James McElroy, who purchased a second membership in August of 1995.

8. The Board of Directors of Treasure Lake accepted and ratified representations regarding the Dual Membership on April 5, 1991 and May 29, 1998.

9. During the same time frame, Treasure Lake has permitted members to remain on a campsite for a period of 21 days without changing location, contrary to Article II, Section F, of the Declaration of Restrictions.

10. More recently, Treasure Lake began permitted members to pay a fee and remain at the resort for a period of 30 days (the "9 day buy-back program") contrary to Article II, Section F, of the Declaration of Restrictions.

11. In October of 2006, employees of Treasure Lake halted the 9 day buy-back program, required members to change campsites after 14 days of use or occupation, and began denying Dual Membership owners the benefits of their second membership.

12. While enforcement changed, the Board of Directors never changed its official

policy regarding Dual Memberships as set forth on May 29, 1998.

13. During all relevant times, Plaintiff continued to pay the annual dues, fees and maintenance costs of both memberships.

14. Plaintiff has not enjoyed the benefits of his second membership since October of 2006.

It is therefore **ORDERED, ADJUDGED AND DECREED** that:

1. Under Count I, Plaintiff and those similarly situated are entitled to the use and benefit of his second membership in Treasure Lake as follows: qualified owners of dual memberships are entitled to switch memberships no more than eight (8) times per calendar year – effectively allowing a continuous stay at the resort of no less than one hundred eighty (180) days. Dual Membership owners may elect to switch their memberships to stay consecutively, but are not required to do so.

The benefits described above are non-transferable and are for the exclusive use of living members holding dual memberships. Such benefits are not transferable to the heirs or assigns of dual members or those who may, subsequent to the entry of this judgment, later acquire a second ownership interest in Treasure Lake.

A list of other members who qualify for “dual membership” benefits is attached to this Judgment as Exhibit A and incorporated herein. The parties acknowledge that the list may not include all members who may qualify as “dual members.” While Defendant may not remove qualified dual members listed on Exhibit A, it may add those members who qualify as they become known to Treasure Lake R.V. Resort Camping Club, Inc.

2. By reason of Treasure Lake’s historical actions and the members’ reliance thereon, the members of Treasure Lake are permitted to stay on one campsite for a period of 21

days without changing campsites as required by Article II, Section F of the Declaration of Restrictions. Such policy shall remain in effect unless altered by the majority vote of eligible members on the matter.

3. By reason of Treasure Lake's historical actions and the members' reliance thereon, the members of the Treasure Lake are permitted to pay a fee and remain at the resort for a period of 30 days (the "9 day buy-back program"). Such policy shall remain in effect unless altered by the majority vote of eligible members on the matter.

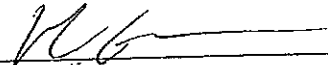
4. Count II is dismissed.

5. Under Count III, Petitioner shall be entitled to \$360.00 representing the costs, dues and maintenance fees he paid under his second membership from October 2006 to present.

6. Under Count IV, the Court declares that any action taken by the Board to change, amend, or alter the by-laws without the requisite approval of the members is declared null, void and of no effect. The Court further declares that the bylaws are to be read to be consistent with Missouri Law, including Section 355.596 R.S.Mo., *et. seq.*, or any amendment thereof.

7. Parties to bear their own attorney fees. Costs taxed to Respondent.

Dated: 12-4-08

  
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Hon. Mark Orr