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ANGIE SPARKS, Clerk of District Court
By  Deputy Clerk

MONTANA FIRST JUDICIAL DISTRICT COURT, LEWIS AND CLARK COUNTY

MARK PIELOCH, DENNIS GREANY, and
RICHARD KOLLARS,

Plaintiffs,

v.

MARK C. BELEW, and MISSOURI RIVER
AND EAGLE CANYON RANCHES
LANDOWNERS' CORPORATION,

Defendants.

Cause No. DDV-2021-841

**AMENDED COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

1. Plaintiffs are lot owners and board members of the Missouri River and Eagle Ranches Landowners Corporation.
2. Defendant Missouri River and Eagle Canyon Ranches Landowners Corporation (Corporation) is a domestic non-profit corporation organized under the laws of the State of Montana. The Corporation is registered with the Secretary of State and is in good standing.
3. Defendant Mark C. Belew is a lot owner and board member of the Corporation.
4. Venue and jurisdiction is proper in this Court because the real property comprising the

Corporation is located in Lewis and Clark County, State of Montana.

5. On August 1, 1994, a Declaration of Covenants, Conditions, Building Standards and Restrictions applicable to the land covered by the Corporation was established. When the Covenants were filed the subdivision was called "Eagle Canyon Ranch". However, subsequent amendments to the Declarations were recorded on January 14, 2020, which clarified that all persons owning lands described in the Covenants were members of the Corporation.
6. The Plaintiffs are all owners of lots which consist of lands described in the Covenants.
7. Paragraph 9 of the Covenants specify that all persons holding land covered by their provisions are members of the Corporation "thereby enjoying all of the rights and privileges and being required to comply with all of the duties and responsibilities of the By-laws of the Corporation."
8. An amended set of Bylaws for the Corporation was adopted on September 21, 2019, and properly recorded.
9. Section 3.3 of the Amended Bylaws sets forth the provisions for "Special Meetings of Members". This provision states: "Special meetings of the Members may be called by a majority of the Board of Directors or by the Secretary upon written demand of the Members owning or purchasing at least ten percent (10%) of the lots in the Subdivision."
10. Section 3.4 is entitled "Agenda for the Meetings," and states: "All notices of meetings, annual or special, shall set forth all matters upon which the action of the Member will be requested."
11. Section 3.5 is entitled "Voting, Quorum" and reads as follows: "With the exception of

the amendment of the Bylaws set forth in Section 13.1, no action shall be taken or be binding on the Corporation unless:

- a. The matter shall have been duly noticed in the call for the meeting or in these By-laws; and
- b. The action shall have been affirmatively voted upon by a majority of those Members entitled to vote who were present in person and by proxy at the meeting; or the Board of Directors was authorized by such vote of the Members to take such action; and
- c. There was a quorum present, in person or by proxy, at said meeting, the quorum comprising the Developer and the owners and purchasers of at least ten (10%) of the lots of the Subdivision.”

12. Section 13.1 concerning “Amendments” reads as follows: “These By-Laws may be amended by the affirmative vote of a majority of the Members present at any meeting duly called and held, the notice of which meeting shall have stated that a purpose of the meeting was to consider the amendment or repeal of the By-Laws.”

13. On July 24, 2021, Belew convened what he alleges is a special meeting of members of the Corporation. Prior to the meeting, Mr. Belew selectively sent a letter concerning the meeting only to selected lot owners that he believed would be sympathetic to his cause. His cause being to dismantle the Bylaws and sow misinformation amongst members of the Corporation and lot owners. The letter read as follows:

Fellow landowners,

I have called a special meeting "as in not secret" The meeting will be held at the Craig Fire hall / School on Saturday July 24 at 10AM.

We will be discussing the way forward with the LOC and what we need to do as landowners to make it better for all. Have your thoughts together when you come ready to discuss pros and cons for the way things are being run right now and how it can be better.

Please keep it civil and respectful.

If there were ever an important meeting this is the one.

Respectfully,

Mark Belew

14. Upon information and belief, Mr. Belew's actions were done with the approval and/or support of Deann Lane, the Developer of the Corporation.
15. Although not a party to this suit, Deann Lane is currently paying Mr. Belew's legal costs in this matter.
16. Plaintiffs were among the members that did not receive a copy of this letter.
17. At the meeting, Belew facilitated a discussion about the subdivisions. Mr. Belew had a petition to sign. Belew never held a vote at the meeting or informed anyone that any kind of vote was taking place. Members believed that the petition was simply a statement about the sentiment of certain lot owners and members in the subdivisions. No member cast any votes at the meeting.
18. On July 24, 2021, Belew personally filed a document with the Montana Secretary of State claiming that a "duly called special meeting of the members of consideration of repeal of all by-laws was held on July 24, 2021."
19. This document was filed with the Montana Secretary of State under penalty of law. By filing the statement, Belew affirmed that the facts contained with the filing were true.

20. However, Belew did not duly call a special meeting on July 24, 2021. This is because Belew failed to provide any notice of said meeting to the Plaintiffs (and others), and because Belew did not “set forth all matters upon which the action of the Member will be requested” prior to the meeting as required under the Bylaws.
21. Furthermore, no vote of any kind took place at the meeting, and Belew was well aware of these facts.
22. In other words, no notice of the meeting was provided to the Plaintiffs, and other lot owners and members of the subdivision, as required under Section 3.4 and 3.5.
23. Additionally, no notice of said meeting was provided conforming with Section 13.1 which states that “the notice of which meeting shall have stated that a purpose of the meeting was to consider the amendment or repeal of the By-Laws.”
24. Belew intentionally and knowingly did not provide notice of said meeting in accordance with the Bylaws to Plaintiffs, and likely other lot members as well.
25. Belew understood that no vote and ever been taken and knowingly and purposefully filed a false document with the Montana Secretary of State under penalty of perjury.
26. Belew’s intention was to circumvent the provisions of the Bylaws and repeal those laws without proper notice to the Plaintiffs and others who might disagree with his actions. Belew’s actions were calculated to deprive the Plaintiffs of the exercise of their voting rights and interests under the Covenants. Belew’s actions were done with the intention of causing harm to the Plaintiffs, the Corporation, and other members of the subdivision.
27. Belew’s actions were intentional, malicious, in bad faith, and calculated to circumvent the provisions of the Bylaws, and to circumvent the purposes of paragraph 9 of the

Covenants themselves, which require that Bylaws be in place for the benefit of the members of the Corporation.

28. Belew has a history of deceptive and malicious conduct with respect to the business of the Corporation, including instigating and initiating aggressive and intimidating conduct towards the Plaintiffs.
29. As a result of Belew's bad faith and intentional conduct, the Plaintiffs have been forced to file this legal action, seeking declaratory and injunctive relief, in order to protect their property interests and rights under the Covenants and Bylaws.
30. Belew's actions have caused direct harm to the property rights and interests of the Plaintiffs and will cause ongoing harm in the future as the alleged repeal of the Bylaws interferes with and prohibits the Plaintiffs ability to enjoy their property. In a recent communication sent by Belew to members of the Corporation, he stated that "there are no more bylaws, the board has no authority to assess fees or put liens on any other measure until new by-laws are passed by contacting 100% of the landowners, presenting them the new by-laws and having a vote to apply them. This also mean[s], there is no road work, no weed spraying. So you and your neighbors will need to come together as a community and help each other or take care of it yourself."
31. The Covenants contain provisions related to general conditions of lot maintenance and appearance, use restrictions, building standards and restrictions, and preservation of tress and soil. Furthermore, the Covenants specifically contemplate that their terms and provisions be enforced by the Corporation. By claiming to repeal the Bylaws and telling the lot owners that "you will need to . . .take care of it yourself," Belew is knowingly and intentionally breaching the Covenants and harming the Plaintiffs and

other lot owners.

II. COUNT ONE-DECLARATORY RELIEF

32. Plaintiffs re-allege the foregoing paragraphs in full herein.
33. A present dispute and controversy has arisen between Plaintiffs and Defendant Belew concerning the status of the Corporation. Belew claims in filings that the Bylaws of the corporation have been dissolved. Plaintiffs deny this claim, and contend that the filing by Belew on July 24, 2021, was knowingly false, void and of no effect due to Belew's failure to comply with the provisions of the Bylaws as noted above.
34. Plaintiffs request a declaration from this court pursuant to the Uniform Declaratory Judgments Act, Title 27, chapter 8, MCA, to declare the rights and status between the parties.
35. Plaintiffs desire a declaration from this Court declaring that the filing made by Belew on July 24, 2021, is null, void and without legal effect.

II. COUNT TWO-REMOVAL OF BELEW AS BOARD MEMBER

36. The foregoing paragraphs are re-alleged in full as though set forth herein.
37. Section 35-14-809, MCA, reads in part as follows:

“The district court of the county where a corporation's principal office is located or, if its principal office is not located in this state, of the first judicial district may remove a director from office or may order other relief, including barring the director from reelection for a period prescribed by the court, in a proceeding commenced by or in the right of the corporation if the court finds that:

 - (a) the director engaged in fraudulent conduct with respect to the corporation or its shareholders, grossly abused the position of director, or intentionally inflicted harm on

the corporation; and

(b) considering the director's course of conduct and the inadequacy of other available remedies, removal or other relief would be in the best interests of the corporation.

38. Plaintiffs request that this Court remove Mr. Belew from his Board position based on the actions described herein, as well as his prior course of behavior and conduct with respect to the Corporation, as to be further revealed in discovery.

39. Plaintiffs request that the removal of Mr. Belew be permanent, and that he no longer be allowed to serve, given that his actions were willfully deceptive and in clear violation of Montana law.

III. COUNT THREE- INJUNCTIVE RELIEF

40. Plaintiffs re-allege the foregoing paragraphs in full herein.

41. Plaintiffs seek preliminary injunctive relief against Belew and the Corporation pursuant to 27-19-201, MCA, to restrain the repeal of the Bylaws, and reinstate those Bylaws for the benefit of all members of the Corporation.

42. Plaintiffs seek a permanent injunction against Belew enjoining him from engaging in further unlawful activity and removing him from the board of the Corporation.

V. COUNT FOUR- ATTORNEY FEES CLAIM AGAINST BELEW FOR BAD FAITH AND MALICIOUS CONDUCT

43. Plaintiffs re-allege the foregoing paragraphs in full herein.

44. Belew's filing of the "unilateral dissolution" was done in bad faith and contained statements and representations which he knew were false and constituted an unlawful action.

45. Belew's actions were done to intentionally and knowingly harm the property rights of the Plaintiffs and undermine the purpose of the Covenants.

46. Belew's bad faith failing of the "unilateral dissolution" has forced the Plaintiffs to incur attorney fees and costs in order to defend their property rights and interests under the Bylaws and the covenants.

47. Plaintiffs are entitled to an award of attorney fees and costs incurred against Belew personally for having to initiate suit against him under the equitable exception to attorney fees as expressed in *Teamsters Union Local No. 2 Intl. Bd of Teamsters v. C.N.H. Acquisitions, Inc.*, 2009 MT 92.

WHEREFORE, Plaintiffs prays for the following:

1. A declaration that the alleged repeal of the Bylaws is null, void and of no effect;
2. An injunctive relief reinstating the Bylaws;
3. Injunctive relief as request above against Belew;
4. Permanent removal of Mr. Belew from the Board of the Corporation;
5. An order of attorney fees and costs against Defendant Belew; and
6. Any other relief which the Court deems necessary and just.

DATED this 21st day of October, 2021

By _____
BRIAN J. MILLER
MORRISON, SHERWOOD, WILSON & DEOLA PLLP
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this 21st day of October, 2021, a true and correct copy of the foregoing document was served via first-class mail to the following:

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Putative Attorneys for the Corporation

By: _____

A handwritten signature in black ink, appearing to be a stylized name, written over a horizontal line.