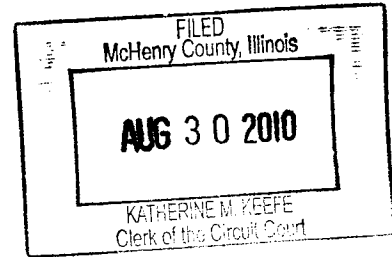


**IN THE CIRCUIT COURT OF THE TWENTY SECOND JUDICIAL CIRCUIT
McHENRY COUNTY – WOODSTOCK, ILLINOIS**

THOMAS P. MATHEWS,)
)
 Plaintiff/Counter-Defendant,)
)
 v.)
)
 MASTER PROPERTY OWNERS)
 ASSOCIATION,)
)
 Defendant/Counter-Plaintiff.)

No. 10 CH 1004

THE MASTER PROPERTY OWNERS’)
 ASSOCIATION, INC. FOR THE WONDER)
 LAKE, ILLINOIS AREA,)
)
 Third-Party Plaintiff,)



v.)
)
 WOODED SHORES PROPERTY OWNERS)
 ASSOCIATION, INC. and the WOODED)
 SHORES PROPERTY IMPROVEMENT)
 ASSOCIATION,)
)
 Third-Party Defendants.)

JUDGMENT AND ORDER

This matter having been heard in a bench trial before the Honorable Judge Michael T. Caldwell, the parties having appeared in Court and by their respective attorneys, and the Court having heard the testimony of witnesses called to testify, reviewed exhibits admitted into evidence and heard arguments of counsel, the Court hereby finds as follows:

1. In or around 1935, when Grover and Anna Wickline began carving out the deeds to lots within the Wooded Shores Subdivision, the Wicklines put in the deeds a covenant requiring the grantees to become members of a lot owners association to be hereafter formed of lot owners in said subdivision.
2. In April of 1945, early lot owners of the subdivision incorporated the Wickline Bay Farms Property Owners Association, Inc., which became in time the Wooded Shores Property Owners Association, Inc. and is now called the Wooded Shores Property Improvement Association, Inc. (the "Original Corporation").

3. The Original Corporation has operated and acted continuously since April of 1945 as the lot owners association for the Wooded Shores Subdivision pursuant to the grant in the deed, including through the years in which its corporate charter was dissolved. The Original Corporation has continued to send dues statements, maintain the common areas of the Wooded Shores Subdivision, nominate delegates and directors to the Master Property Owners' Association, Inc. for the Wonder Lake, Illinois Area ("MPOA"), and otherwise do business as the lot owners association for the Wooded Shores Subdivision, and has never intended not to do business as such.
4. The fact that the Original Corporation never owned the roads, beach or other public areas in the Wooded Shores Subdivision is immaterial, as the corporate charter of the Original Corporation provides for supervision of the roads, beaches and community grounds.
5. The Original Corporation is the corporation that was contemplated in the deeds from the Wicklines. Once these deeds were issued and once the Original Corporation was formed, the covenant was performed.
6. Section 112.45(d) of the *Illinois General Not-for-Profit Corporation Act of 1986* provides as follows:

Upon the filing of the application for reinstatement, the corporate existence shall be deemed to have continued without interruption from the date of the issuance of the certificate of dissolution, and the corporation shall stand revived with such powers, duties and obligations as if it had not been dissolved; and all acts and proceedings of its officers, directors and members, acting or purporting to act as such, which would have been legal and valid but for such dissolution, shall stand ratified and confirmed.

805 ILCS 105/112.45(d).

7. The Original Corporation, in whatever guise it may exist now, is the duly authorized, empowered, qualified and acting property owners association for the Wooded Shores Subdivision, and it is the only corporation that is authorized to act as the association for the Wooded Shores Subdivision.
8. The Original Corporation is not, as alleged, a voluntary association, but rather is the duly authorized property owners association contemplated in the declarations in the Wickline deeds and covenants.
9. Mr. Mathews is not the successor developer for the Wooded Shores Subdivision, as the property was previously developed.
10. The act by Mr. Mathews of incorporating another not-for-profit corporation with the Wooded Shores name while the Original Corporation was dissolved was a formulaic act

without substance or impact. It was an inappropriate attempt to co-opt the corporate name of the Original Corporation.

11. In previous lawsuits between Mr. Mathews and the Original Corporation (including but not limited to the reported case of *Wooded Shores Property Owners Association, Inc. v. Mathews*, 37 Ill. App. 3d 334 (2d Dist. 1976), *remanded and judgment affirmed* at 89 Ill. App. 3d 187 (2d Dist. 1980)), Mr. Mathews failed to challenge the existence of the Original Corporation or the Original Corporation's authority to act as the lot owners association for the Wooded Shores Subdivision, and Mr. Mathews is now barred from raising this challenge by laches and estoppel by verdict.
12. The Original Corporation is the original lot owners association for the Wooded Shores Subdivision that was mentioned for membership under the MPOA's bylaws. Its membership in the MPOA was unaffected by the failure of the MPOA to approve an amendment to its bylaws to reflect the Original Corporation's current name, and the MPOA's attempt to change the bylaws in that regard was a ministerial act. The Original Corporation is entitled to membership in the MPOA regardless of any name that association now or hereafter acquires.
13. At the MPOA meeting of March 10, 2010, motions to adopt the challenged resolutions approving the bond purchase agreement and the agreement with the Village of Wonder Lake regarding the dredging project passed by votes of 35 aye, 1 abstention and 32 no, as reflected in the minutes of the meeting.
14. For over ten years, proxies have been routinely used by the MPOA in the conduct of their meetings. The MPOA's votes on March 10th were conducted in accordance with this custom and usage and were lawful. Further, the procedure of allowing proxies is a point of order under Roberts Rules of Order, to which an objection must be made at the meeting or such objection is waived. Here, no objection was made at the meeting to the use of proxies, which amounts to and is, in fact, a waiver.
15. The MPOA's votes on March 10th were not invalidated by any alleged lack of sufficient time to review the resolutions by the MPOA's directors. No motion to table the resolutions was made, and a vote was taken on the substance of the resolutions, which amounts to a waiver of this objection.
16. At the MPOA emergency meeting of March 22, 2010, all of the directors attended. The calling of an emergency meeting was valid. There were two votes with the requisite number of votes for the passage of both resolutions related to the dredging of Wonder Lake.
17. Notice of the March 22nd meeting was not invalid. The personal notice requirement for an emergency meeting under the MPOA's bylaws does not refer necessarily to the person of the President of the MPOA. In other words, the President does not have to physically call each and every one of the directors in order to call an emergency meeting, but he can duly authorize an authorized person of the MPOA to act in his stead. In addition, the

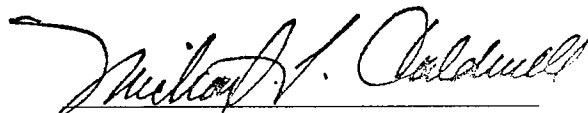
only time notice can be attacked is when an individual who gets insufficient notice attends the meeting for the sole purpose of challenging the sufficiency or the adequacy of the notice of the meeting. There is no suggestion in the minutes of the March 22nd meeting that any such challenge to the sufficiency of the notice was raised. Accordingly, any insufficiency of the notice was waived.

18. Regarding the presence of certain directors by teleconference on March 22nd, this is a procedural issue that must be raised during the meeting, and the failure to raise it at the time of the meeting is fatal to the charge that the meeting was illegally called or that there was any irregularity in the vote that was taken.
19. All other findings included in this Court's oral ruling in this matter on August 20, 2010, are incorporated herein by reference.

Based on the foregoing findings, the Court hereby orders as follows:

1. That judgment be entered in favor of the Defendant on the Plaintiff's complaint and that Plaintiff's requests for preliminary and permanent injunction are denied.
2. That judgment be entered in favor of the Counter-Plaintiff and against the Counter-Defendant on the MPOA's counterclaims.
3. That a declaratory judgment be hereby entered and issued that: (a) the Original Corporation, now known as the Wooded Shores Property Improvement Association, Inc., is the duly qualified and legitimate and now acting lot owners association contemplated under the covenants and restrictions in the original deeds for the Wooded Shores Subdivision; (b) the Original Corporation is entitled to be and is an authorized member of the Master Property Owners' Association, Inc. for Wonder Lake, Illinois Area; and (c) the votes taken at both MPOA directors' meetings on March 10, 2010, and March 22, 2010, were valid.
4. That in the event the MPOA fails to amend its By-Laws at the next annual Delegates' Convention and Mr. Mathews does not voluntarily relinquish his rights to the corporate name "Wooded Shores Property Owners Association, Inc.", Thomas P. Mathews is hereby enjoined from using the corporate name "Wooded Shores Property Owners Association, Inc." in his dealings with the MPOA.

ENTERED:



Judge Michael T. Caldwell

Prepared by:

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