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Via eCourts

Hon. Craig L. Wellerson, P.J. Ch.
Superior Court of New Jersey Chancery
Division, General Equity Part Ocean
County Courthouse
206 Courthouse Lane, 1st Floor
Toms River, New Jersey 08753

Re: *Glapion v. Leisure Village West Association, Inc.*
Docket No. OCN-C-00182-26
Letter Brief in Support of Order to Show Cause with Temporary
Restraints

Dear Judge Wellerson:

I am the plaintiff in this action and appear pro se. Please accept this letter brief, in lieu of a more formal brief, in support of my application by Order to Show Cause for temporary restraints and, on the return date, a preliminary injunction against defendant Leisure Village West Association, Inc. (the "Association"). The application seeks an order restraining the Association from the conduct described in paragraphs A through F below, and granting the relief described in paragraphs G through I, all as set out in the proposed Order to Show Cause:

- A. Enforcing, applying, or threatening to enforce the Policy Resolution Relating to Member Conduct adopted by defendant's Board of Trustees on August 5, 2026 (the "Speech Policy"), Exhibit H to the Complaint, against any member, owner, tenant, occupant, resident, or guest, including by issuing any notice of violation, conducting any hearing or alternative dispute resolution proceeding on an alleged violation, imposing or collecting any fine, or suspending any right or privilege; provided, however, that this paragraph does not restrain enforcement of the Speech Policy as applied to physical conduct toward persons or property or to true threats of violence, or enforcement of any rule other than the Speech Policy;
- B. Imposing any fine, suspension, or other discipline under the Speech Policy based in whole or in part on any communication made before the entry of the order, and considering any such communication as evidence of frequency, pattern, repetition, or cumulative effect under paragraph 1(g) of the Speech Policy or otherwise;
- C. Without limiting paragraph A, suspending any right or privilege under paragraph 4(c) of the Speech Policy before the affected owner has been afforded an opportunity for a hearing as required by Article I, Section 9(B) of defendant's Bylaws, or for any period exceeding that permitted by Article I, Section 9(B);
- D. Without limiting paragraph A, suspending the voting rights of any member, or treating any member as not in good standing for purposes of voting, on the basis of any alleged violation of the Speech Policy;

- E. Without limiting paragraph A, imposing any fine, suspension, or other discipline on any owner under paragraphs 1(d) or 1(e) of the Speech Policy on account of any communication or conduct of a tenant, occupant, resident, or guest;
- F. Demanding, under threat of discipline under the Speech Policy, that any person remove, delete, retract, or modify any communication;
- G. Directing defendant, within seven (7) days of entry of the order, to give notice of the order to all members in the form attached as Schedule A, by each means through which defendant ordinarily communicates rules and policies to members, including email distribution to members and posting on the Association website or resident portal, and to file a certification of compliance within three (3) days thereafter;
- H. Providing that no communication made while any restraint entered in this action is in effect shall be the basis for discipline under the Speech Policy, notwithstanding any later dissolution or modification of that restraint, unless the Court expressly orders otherwise; and
- I. Granting such other relief as the Court deems equitable and just.

PRELIMINARY STATEMENT

One week after ballots were mailed for its August 31, 2026 election, the Association’s Board of Trustees adopted the Speech Policy. Compl. Ex. H; Cert. ¶¶ 11–13. The Speech Policy prohibits “incivility,” “hostile communications,” and conduct intended to “demean,” Speech Policy ¶¶ 1(c)(3)–(4), as well as profanity, slurs, and obscene gestures used in a confrontational manner, *id.* ¶ 1(c)(5). It reaches communications “regardless of where the communication originates or is received,” makes

owners answerable for their tenants' and guests' communications, and authorizes suspension of a member's rights before any hearing. *Id.* §§ 1(d)–(g), 4(c).

The Board had no power to adopt the Speech Policy. The Bylaws authorize rules “relative to the operation, use and occupancy of the units, common elements and Association facilities,” Compl. Ex. A, Bylaws art. VI, § 1(n), and the Association's recorded Master Deed ties its powers to administering its lands and premises, Cert. Ex. I, Master Deed §§ A, H. The Bylaws also forbid what Paragraph 4(c) permits: “No such suspension shall be taken by the Board until the Unit Owner is afforded an opportunity for a hearing in accordance with due process.” Bylaws art. I, § 9(B).

Not only is the Speech Policy beyond authority in its scope and enforcement mechanisms, the Board and Association counsel were unable to provide any workable standard for distinguishing “permitted” criticism from actionable criticism, even when pressed on it repeatedly.

Plaintiff has curtailed his criticism of the Board since the Speech Policy took effect, and feels compelled to do so as long as the Speech Policy remains in effect. Cert. §§ 14–23. He asks the Court to restore the status quo that existed from 1972 until the evening of August 5, 2026. The Association loses nothing it had before that date.

LEGAL ARGUMENT

Temporary restraints and a preliminary injunction issue where the movant shows that relief is necessary to prevent irreparable harm, that the legal right underlying the claim is settled, a reasonable probability of success on the merits, and that the balance of hardships favors relief. *Crowe v. De Gioia*, 90 N.J. 126, 132–34 (1982). Where a case implicates the public interest, the Court considers that as well. *Garden State Equality v. Dow*, 216 N.J. 314, 321 (2013). When an injunction “seeks only to

preserve the status quo,” the *Crowe* factors “are not to be looked upon as hard and fast and sharply defined in scope”; they are weighed together in the exercise of the Court’s discretion. *Waste Mgmt. of N.J., Inc. v. Union Cnty. Utils. Auth.*, 399 N.J. Super. 508, 534–35 (App. Div. 2008).

Rule 4:52-1(a) permits temporary restraints where the defendant has notice of the application, which Plaintiff has given. Cert. ¶ 33. The status quo is the one that existed before August 5, 2026. The Association operated without the Speech Policy from its formation in 1972 until that date, Cert. Ex. I, Master Deed at 1, and each restraint requested returns the parties to that position.

Material Facts

The material facts come from the exhibits to the Complaint, including the Bylaws (Compl. Ex. A) and the Speech Policy (Compl. Ex. H); the Association’s recorded Master Deed (Cert. Ex. I); the video of the August 5, 2026 Board meeting; and Plaintiff’s certification.

Plaintiff owns Unit [REDACTED] where his mother resides. Cert. ¶¶ 2, 4.

The Master Deed (formally, the Amended and Consolidated Master Deed and Declaration of Restrictive and Protective Covenants, recorded July 30, 2014) defines “The Condominium” as the Association’s “lands and premises” and vests the Association with “the rights, powers, privileges and duties necessary to or incidental to the proper administration of The Condominium the same being more particularly set forth in the Bylaws.” Cert. Ex. I, Master Deed ¶¶ A, H. Its numbered covenants govern occupancy, the common elements, alterations, leasing, and assessments. Paragraph 10 requires compliance with the Master Deed, Bylaws, and “Rules and Regulations,” and makes noncompliance “grounds for an action to recover sums due, or damages or for injunctive relief.” *Id.* ¶ 10. Amendment requires “the acquiescence of 2/3 of the owners of the Units.” *Id.* ¶ 11.

The Bylaws grant the Board general administrative powers, art. VI, § 1, and authorize rules “relative to the operation, use and occupancy of the units, common elements and Association facilities,” *id.* § 1(n). Article I, Section 9(A) permits suspension of “membership and voting rights” for unpaid assessments. Section 9(B) permits suspension of “rights and privileges” for conduct violations, but only after “an opportunity for a hearing in accordance with due process,” and for no more than thirty days per violation unless a continuing violation remains unabated. Bylaws art. I, § 9. Section 11 defines good standing for voting by assessment status. Bylaws art. I, § 11.

The Association circulated draft member-conduct and social-media policies on July 6, 2026, and Plaintiff objected in writing that day. Cert. ¶¶ 5–6. Ballots were mailed on or about July 29. *Id.* ¶ 13. On July 31, the Association ostensibly withdrew the social-media policy by folding it into paragraph 1(g) of a conduct resolution, and Plaintiff objected again. *Id.* ¶¶ 7–8.

At the August 5 meeting at which the Speech Policy was ultimately adopted, residents repeatedly asked Mr. Polulak and Board members to identify the line between permitted criticism and a violation of the proposed policy. Trustee and current Board President Maiocco said that “you have to trust that the people that you put in here in power will do the right thing.” Then-trustee Leslierandal said disagreement with the Board was permitted “as long as it’s done in a civil manner.” Mr. Polulak said that what constitutes harassment “is subjective and it depends on context” and depends on factors including “aggressiveness” and “loudness.” Mr. Polulak said the policy was drafted broadly to give the Board “enough leverage” to address situations. Mr. Polulak acknowledged that decisions in the Association’s alternative dispute resolution process are nonbinding. Cert. ¶ 10.

The Speech Policy prohibits “incivility,” defined as “significantly unprofessional, abusive, harassing, hostile, or demeaning conduct directed toward another person,” as well as “hostile communications” and repeated conduct intended to “intimidate, demean, or interfere with another person.” Speech Policy §§ 1(c)(3)–(4). It also prohibits profanity used in an (undefined) “confrontational manner.” *Id.* § 1(c)(5). Its list of violations is “illustrative and not exhaustive,” applied in the Board’s “reasonable discretion.” *Id.* § 1(f). It reaches communications “in any form or medium,” “regardless of where the communication originates or is received,” that have “a substantial connection to the Association, its operations, or the community,” and lets the Board weigh their frequency and cumulative effect. *Id.* § 1(g). It holds owners responsible for tenants, guests, and other residents. *Id.* §§ 1(d)–(e). Paragraph 4(c) authorizes immediate suspension, kept “in place until the Association has confirmed that the threat to others no longer exists,” and contestable only afterward through ADR that counsel acknowledged does not bind the Board. *Id.* § 4(c); Cert. § 10.

Since the Speech Policy took effect, Plaintiff has withheld or softened criticism of Board decisions and performance, including during the election. Cert. §§ 14–18. Put plainly, the Speech Policy is so absurd on its face that it, and those supporting its adoption, deserve to be called out pointedly. But the line between “pointed criticism” and speech prohibited in the Speech Policy is impossible to determine.

Irreparable Harm

Harm is irreparable if it cannot be redressed adequately by monetary damages. *Crowe*, 90 N.J. at 132–33. The loss of expressive freedom, “for even minimal periods of time, unquestionably constitutes irreparable injury.” *Elrod v. Burns*, 427 U.S. 347, 373 (1976) (plurality opinion). That

applies with particular force to governance speech, whose value depends on timing. A criticism withheld before an election cannot be delivered afterward to the same effect.

The injury is present, not speculative. The Speech Policy is in force. The Board adopted it over Plaintiff's two written objections and residents' repeated and critical questions at the meeting, and it has refused rescission. Cert. ¶¶ 6, 8, 10, 12, 28–30. Plaintiff need not violate the Speech Policy and await discipline; the deterrence is the harm. The next Board meeting is October 7, at which it will be impossible to speak freely—without risking sanction—while the Speech Policy remains in place. Cert. ¶¶ 20–21, 32.

The harm caused by the discipline the Speech Policy authorizes is equally irreparable. A pre-hearing suspension, or a suspension of voting rights during an election, cannot be undone once the opportunity to exercise the right has passed. And the Speech Policy exposes Plaintiff to discipline for his mother's speech, which he *certainly* does not and cannot control. Speech Policy ¶ 1(e); Cert. ¶ 23.

Settled Legal Right

Plaintiff's claims rest on settled law. Courts review an association's action by asking "(1) whether the Associations' actions were authorized by statute or by its own by-laws or master deed, and if so, (2) whether the action is fraudulent, self-dealing or unconscionable." *Owners of the Manor Homes of Whittingham v. Whittingham Homeowners Ass'n*, 367 N.J. Super. 314, 322 (App. Div. 2004); *see also Thanasoulis v. Winston Towers 200 Ass'n*, 110 N.J. 650, 657 (1988) (condominium association lacked authority to charge higher parking fees to non-resident owners). The Condominium Act likewise conditions an association's power to fine on authorization in its master deed or bylaws. N.J.S.A. 46:8B-15(f).

The governing instruments are construed together, Cert. Ex. I, Master Deed ¶ H, and a court will not adopt a reading that renders one of their terms meaningless. *Cumberland Cnty. Improvement Auth. v. GSP Recycling Co.*, 358 N.J. Super. 484, 497 (App. Div.), *certif. denied*, 177 N.J. 222 (2003). As an owner bound by those instruments, Plaintiff is entitled to a declaration of their construction and validity. N.J.S.A. 2A:16-53.

In addition, Article I, Paragraph 6 of the New Jersey Constitution “is one of the broadest in the nation” and protects “‘against unreasonably restrictive or oppressive conduct on the part of private entities’ in certain circumstances.” *Dublirer v. 2000 Linwood Ave. Owners, Inc.*, 220 N.J. 71, 78–79 (2014) (quoting *State v. Schmid*, 84 N.J. 535, 560 (1980)). When a common-interest community restricts its members’ speech, courts focus on “the purpose of the expressional activity undertaken” in relation to the property’s use and apply a “general balancing of expressional rights and private property rights.” *Id.* at 85. Governance speech “should be treated as political speech, which is entitled to the highest level of protection in our society.” *Id.*; *see also Comm. for a Better Twin Rivers v. Twin Rivers Homeowners’ Ass’n*, 192 N.J. 344, 371 (2007); *Mazdabrook Commons Homeowners’ Ass’n v. Khan*, 210 N.J. 482, 486 (2012).

Reasonable Probability of Success on the Merits

1. The Board lacked authority to adopt the Speech Policy.

Section 1(n) defines the Board’s rulemaking authority by its object: rules “relative to the operation, use and occupancy of the units, common elements and Association facilities.” Bylaws art. VI, § 1(n). It covers conduct at the clubhouse, the pool, the management office, or a Board meeting. It does not cover an email between neighbors, a social-media post, or a telephone call from another

state that a Trustee finds demeaning. The Speech Policy claims no property nexus. It claims a subject-matter nexus, reaching any communication with “a substantial connection to the Association, its operations, or the community,” wherever made. Speech Policy ¶ 1(g). That substitutes a test the Bylaws do not contain for the one they do.

Any reliance on the general administrative clause of the Bylaws, Article VI, Section 1, also fails. If the general power to administer Association affairs authorized rules governing any communication about those affairs, Section 1(n)’s limit would be meaningless. *Cumberland*, 358 N.J. Super. at 497. The Master Deed confirms the property nexus. It grants the powers “necessary to or incidental to the proper administration of The Condominium,” Cert. Ex. I, Master Deed ¶ H, which it defines as the Association’s “lands and premises,” *id.* ¶ A. Where its covenants regulate conduct, they do so by reference to the common elements. *Id.* ¶¶ 27, 34.

Paragraph 10 of the Master Deed (“Declaration Section 10”), the only Master Deed provision cited in the Speech Policy, is a compliance-and-remedies clause. It requires compliance with the “Rules and Regulations” and supplies judicial remedies: “an action to recover sums due, or damages or for injunctive relief.” Cert. Ex. I, Master Deed ¶ 10. A duty to comply with rules presupposes rules validly adopted; it cannot enlarge the rulemaking power on which their validity depends. The same is true of the Bylaws’ enforcement provisions, Bylaws art. IX, §§ 1–2, and of an owner’s acceptance of the Bylaws and rules on taking title, Cert. Ex. I, Master Deed ¶ 33.

Finally, the instruments reserve their amendment to the owners. Cert. Ex. I, Master Deed ¶¶ 11, 36(a)(ii); Bylaws art. XIII. A Board resolution cannot confer authority they withhold. The Speech

Policy therefore fails at the first step of *Whittingham*, and the business judgment rule does not apply. 367 N.J. Super. at 322.

2. Paragraph 4(c) conflicts with the Bylaws.

Section 9(B) forbids suspension “until the Unit Owner is afforded an opportunity for a hearing in accordance with due process,” and it contains no emergency exception. Bylaws art. I, § 9(B). Paragraph 4(c) authorizes suspension before any hearing and keeps it in place until the Association is satisfied that the “threat to others” has ended. Speech Policy ¶ 4(c). That also replaces Section 9(B)’s thirty-day limit and continuing-violation rule with the Board’s prediction of future harm. After-the-fact ADR that does not bind the Board is no substitute. Cert. ¶ 10. Because the Master Deed makes the Bylaws “an integral part” of the plan of ownership, Cert. Ex. I, Master Deed ¶¶ H, 9, a conflicting resolution is unauthorized. *Whittingham*, 367 N.J. Super. at 322.

3. Nothing authorizes suspension of voting rights for a conduct violation.

Where the Bylaws permit suspension of voting rights, they say so, and only for unpaid assessments. Bylaws art. I, § 9(A). Section 9(B) omits voting, and Section 11 ties voting good standing to assessment status. *Id.* art. I, §§ 9(B), 11. State law is to the same effect. N.J.S.A. 45:22A-45.2; N.J.A.C. 5:26-8.8(c). Yet the Board has considered a fines schedule suspending voting rights “to the extent permitted” by the governing documents, Cert. ¶ 24, and Paragraph 4(a)’s authorization to suspend membership rights and privileges does not exclude the vote, Speech Policy ¶ 4(a). The Court should restrain any such suspension.

4. The Speech Policy independently violates Article I, Paragraph 6.

The Speech Policy reaches governance speech wherever it occurs, including off Association property through private media, where the Association’s property interest is not merely minimal, as in

Dublirer, 220 N.J. at 86, but absent. Unlike the sign limits upheld in *Twin Rivers*, which left residents free to “walk through the neighborhood, ring the doorbells of their neighbors, and advance their views,” *Dublirer*, 220 N.J. at 82 (quoting *Twin Rivers*, 192 N.J. at 368), the Speech Policy leaves no alternative channel. Nor does it supply standards. Its operative terms are undefined judgments of tone, its list of violations is “illustrative and not exhaustive,” and its safe harbor for criticism applies only “provided such communications do not otherwise constitute conduct prohibited by this Policy.” Speech Policy ¶¶ 1(c), 1(f), 3(b). Restrictions must be “clearly written in advance” so that written criteria can guide a board’s discretion, and their absence “has the natural effect of chilling speech.” *Dublirer*, 220 N.J. at 88 (first quotation quoting *Mazdabrook*, 210 N.J. at 502).

Relative Hardship, the Public Interest, and the Scope of Relief

The Association suffers no cognizable hardship. It operated without the Speech Policy from 1972 until August 5, 2026, and the proposed order preserves every other rule and remedy, including actions under paragraph 10 of the Master Deed and contact with law enforcement. It also preserves enforcement of the Speech Policy as to physical conduct and true threats of violence. Because the restraints cost the Association nothing, no more than nominal security is warranted. The public interest favors relief: the members of a 2,692-unit community are entitled to evaluate those who govern them without predicting whether the Board will call their criticism uncivil. Cert. Ex. I, Master Deed ¶ C(2); see *Dublirer*, 220 N.J. at 86–88.

The relief must also be broad enough to work. Because the Board lacked authority to adopt the Speech Policy at all, the defect is not specific to Plaintiff, and relief limited to him would leave him exposed through the derivative provisions. Speech Policy ¶¶ 1(d)–(e). If the Court limits relief, it

should at minimum protect Plaintiff and the occupants and guests of his unit. *See* Compl., Prayer for Relief ¶ C. Because Paragraph 1(g) lets the Board aggregate communications by frequency and cumulative effect, relief must reach communications already made and those made while restraints are in effect; otherwise the Board could assemble a pattern and act when the restraints lift.

Further, because the chill reaches every member who knows of the Speech Policy, members must be told of any restraint issued here, through channels the Bylaws already designate for member notice, lest speech continue to be chilled among members who are not monitoring court filings. *Cert. Ex. I, Master Deed at 4 (quoting Bylaws art. III, § 3).*

CONCLUSION

For the reasons stated above, Plaintiff respectfully requests that the Court enter the Order to Show Cause with the temporary restraints requested and, on the return date, preliminarily enjoin enforcement of the Speech Policy as set forth in the proposed Order.

Respectfully submitted,



Jeremy M. Glapion
Plaintiff Pro Se