

IN THE COURT OF COMMON PLEAS
SUMMIT COUNTY, OHIO

LYNN RICHARDSON, et al. 2012 JUN -1 AM 11:24 CASE NO.: 2012 03 1636

Plaintiffs,

SUMMIT COUNTY
CLERK OF COURTS JUDGE REINBOLD

v.

THE GIRL SCOUTS OF NORTH
EAST OHIO

JUDGMENT ENTRY

Defendant.

This matter came on for a hearing pursuant to the Plaintiffs' Motion for a Preliminary Injunction against the Defendant, The Girl Scouts of North East Ohio. The hearing was held on April 30, 2012; May 1, 2012; May 2, 2012 and May 16, 2012. The parties then submitted post-hearing briefs.

ACCEPTED CASE LAW:

1. The purpose of a Preliminary Injunction is to preserve the status quo of the parties pending the final adjudication upon the merits. *Proctor and Gamble v Stoneham* (2000) 140 Ohio App. 260.

2. In ruling on a motion for a preliminary injunction the court must consider whether:

- i. the moving party has shown a substantial likelihood they will prevail on the merits of their underlying substantive claim;
- ii. the moving party will suffer irreparable harm if the injunction is not granted;
- iii. the issuance of the injunction will not harm third parties; and
- iv. the public interest would be served by the issuance of the injunction.

Johnson v. Morris (1995) 108 Ohio App. 352.

3. The party seeking the injunction must establish each of these elements by clear and convincing evidence. *DK Products v. Miller* (12th Dist) Case No. CA2008-05-060.

ELEMENT ONE: LIKELIHOOD OF SUCCESS ON THE MERITS.

ISSUE: Did the Plaintiffs establish a substantial likelihood of success on the merits on the issue as to whether the election of the Board of Directors of October 29, 2011 was contrary to the Ohio Revised Code and the Code of Regulations; was the cease and desist resolution of the same date binding on the Board of Directors; and, do the four camps in issue exceed 50% of the GSNEO worth.

The Code of Regulations Article IX Sec. 2, gives the Board of Directors the sole authority to set the number of directors to be elected at the annual general assembly. (ORC 1702. 27(A)(2)(a). The Plaintiffs do not challenge this authority nor that the five names proposed were not nominated according to the Code.

They argue that Article IV Sec. 1(A) sets a range that at least 10 but not more than 15 directors may be elected and that the membership of the GSNEO was denied the right to vote on the number of directors. They also challenge the decision that if any member voted for more than the five proposed by the Board the entire ballot was not to counted.

While I question the sincerity of cooperation by the Board with the members who wished to call a special meeting prior to the General Assembly so that certain matters could be better vetted, I find the Plaintiffs failed to established by the degree of proof required that the election of October 29, 2011 was so irregular as to conclude that the Board of Directors was improperly elected. The evidence is insufficient to support a

finding that the decision not to count ballots from those who voted for more than five candidates was improper.

I find the evidence favors the defense argument that the cease and desist resolution was non-binding on the Board. However, the effect of the Boards failure to respond to the 60% vote on the issue may have a significant effect on a future fact finder.

I find the evidence favored the defense that the four camps in issue did not represent more than 50% of the GSNEO assets, especially in light of the status of the Great Trails Camp.

Therefore, I find the Plaintiffs failed to establish the first element by clear and convincing evidence.

ELEMENT TWO: IRREPARABLE HARM.

ISSUE: Did the Plaintiffs establish that the sale of the 4/3 camps in question would result in irreparable harm to these specific Plaintiffs?

Certainly the closing of the subject camps will cause emotional injury to the various Plaintiffs and their families but even among the Plaintiffs there are divided loyalties as the specific camps. The evidence established that certain camps meant more to some of the Plaintiffs than others.

There will be camps which provide a full range of camping experiences; the inconvenience of a reduced number of camps and greater distance to travel does not rise to the level of irreparable harm; the Plaintiffs do not have a proprietary interest in the camps and neither the ORC nor the Code of Regulations grant a "shareholder" status on the Plaintiffs; and finally the evidence tended to show that the camps were under used when open over the past few years.

Therefore, I find the Plaintiffs failed to establish that they would suffer irreparable harm if the injunction is not granted by the burden required.

ELEMENT THREE: HARM TO THIRD PARTIES.

ISSUE: Did the evidence establish potential third parties who may then be harmed by the issuance of the injunction?

Due to the rather restrictive nature of the litigation, the universe of third parties who may be affected by the granting of the injunction is limited. There are the potential buyers or lessees of the properties; the surrounding communities of the camps to be sold; and the employees of GSNEO in the affected areas. Regardless, there was little evidence presented as to the effect of the issuance of the injunction on these groups but that which was presented favored the Defendant's position.

Therefore, I find the third element not to be of significance in this matter.

ELEMENT FOUR: PUBLIC INTEREST:

ISSUE: Did the Plaintiffs establish that preventing the immediate sale of the subject camps would serve the public interest?

The paramount public interest is the survival of the GSNEO. The Plaintiffs argue that the public interest will be best served by the issuance of this injunction in that the public has an interest in the law being followed and the camps are used by girl scouts and non-girl scout groups as well. The defense argues that keeping these camps open may spell the end of the GSNEO financially.

This is an issue which requires a balance between the interest of the Plaintiffs and the interest and potential injury to the Defendant.

I have found above that the Plaintiffs have failed to establish by the required burden of proof that they have a strong or substantial likelihood of success on the merits. I found the evidence to favor the defense in regards to the legality or illegality of the election in October of 2011. I found the resolution to be non-binding. I found the evidence did not support a finding that the camps exceeded 50% of the GSNEO assets. So as to the argument that the public has an interest in the law being followed I find the Plaintiffs failed to meet their burden of proof.

There was scant evidence that others used the camp to such an extent that failing to issue the injunction would affect a significant population of non-scouts. In fact the evidence tended to show under utilization.

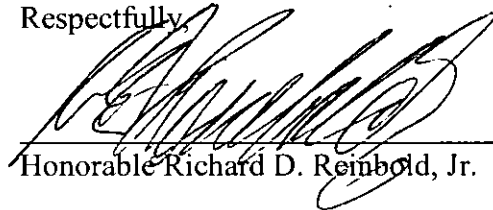
The last and most emotional argument is whether the public interest would be served by halting the proposed sale of the camps pending the conclusion of this lawsuit. The historical attachment to each of the camps and the devotion to the Girl Scouts of the Plaintiffs, is not lost on this Court nor on anyone who listened to the testimony over the last couple of days. However, each day as the camps sit empty, they further deteriorate, consume much needed funds for even the most minimal upkeep and put in jeopardy the pending sales/leases of the subject camps. This lawsuit may well extend through the summer which will only magnify the problem.

In balancing the competing interests of the parties, I find the facts favor the GSNEO.

Therefore, I find the Plaintiffs have failed to establish by clear and convincing evidence that the public interest would be served by the issuance of this injunction..

Therefore, for the reasons stated the Motion of the Plaintiffs for a Preliminary Injunction Against the GSNEO is denied and those matters will proceed to trial.

Respectfully,



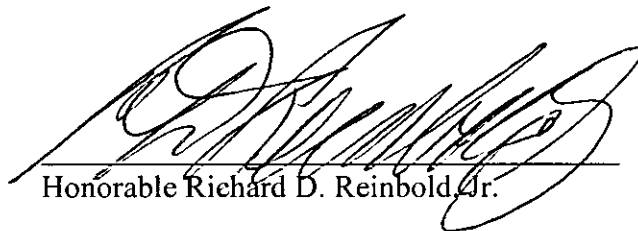
Honorable Richard D. Reinbold, Jr.

I hereby certify that a copy of the foregoing was served on the following via e-mail on this _____ day of May, 2012.

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Honorable Richard D. Reinbold, Jr.