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October 15, 2026

VIA eCourts

Honorable Craig L. Wellerson, J.S.C.
Ocean County Superior Court - Law Division
Justice Complex
120 Hooper Avenue
Toms River, New Jersey 08754

Re: Jeremy M. Glapion v. Leisure Village West Association, Inc.
Docket No.: OCN-C-182-26
Our File No.: 20016-04988 JMP

Dear Judge Wellerson:

Please be advised that I represent Leisure Village West Association, Inc. in this litigation. Please accept this letter brief in lieu of a more formal opposition to the Plaintiff's Order to Show Cause currently returnable before Your Honor on October 20, 2026.

By way of background, Leisure Village West Association is a private, gated, age-restricted condominium community in Manchester Township, New Jersey, consisting of approximately 2,600 units and over 4,000 residents. The Association is governed by a consolidated master deed and accompanying

bylaws, both of which are recorded in the office of the Ocean County clerk, and both of which are attached to Plaintiff's Complaint (the master deed as Exhibit I and the bylaws as Exhibit A).

This matter comes before the Court on an application for an Order to Show Cause with temporary restraints filed by Plaintiff, Jeremy M. Glapion (an attorney but filing the Complaint in a Pro Se capacity) regarding his opposition to a unanimously passed resolution relating to member conduct established for the safety and civility of the community at large. The resolution prohibits, within the confines of the Association's private community, threats of physical harm or intimidation, assault, unwanted physical contact, including conduct intended to intimidate, harass, or harm other persons, verbal abuse, harassment, incivility, including yelling, hostile communications, aggressive confrontational behavior, or repeated conduct intended to intimidate, demean or interfere with another person. The resolution goes on to prohibit profanity, racial or other slurs, obscene gestures and obscene gestures utilized in a confrontational manner. It also prohibits interfering with employees of the association or its contractors in the performance of their duties as well as conduct and interference with the safety, operation or peaceful enjoyment of the community. (See approved resolution relating to member conduction attached hereto as Exhibit A).

A thorough reading of the member conduct resolution provides that although a determination of whether conduct constitutes a violation is to be made by the board in its reasonable discretion based upon the totality of the facts and circumstances, Paragraph 4(d) provides that prior to any fine being assessed a member who is alleged to have committed the violation shall be informed and receive written notice of his or her right to participate in alternate dispute resolution of the subject offense. Furthermore, 4(c) provides that before a suspension of rights and privileges is imposed, the offending party shall receive notice of his or her right to participate in alternate dispute resolution as well. This ability to request ADR is available

to all potential violators prior to the penalty, with the exception of those that have been determined to be a danger to the health, safety and welfare of others. Should that occur, the offending party would still be entitled to participate in ADR while the suspension of their rights and privileges has been imposed.

Paragraph 3(a) sets forth that the policy is intended to regulate conduct, not viewpoints or opinions. Nothing in the resolution is to be construed to prohibit or discourage good faith communications concerning governance, operation, management or affairs of the association. Every member is free to disagree and criticize how the association and/or board conducts business; however, the resolution ensures that criticisms are devoid of any suggestions encouraging physical violence and racism, as well as abusive or insulting language towards any other member or guest. Paragraph 3(c) specifically states that the fact that communication is critical, negative, controversial, unpopular, embarrassing, persistent, or causes discomfort or offense shall not, standing alone, constitute a violation of this policy. It is the board's responsibility to distinguish between criticism or disagreement (which is not a violation of the policy) and conduct that involves threats, intimidation, harassment, discrimination, abuse, and/or impermissible interference with the association's operations.

The allegations of stifling free speech could not be further from the truth. Nothing in the resolution could be viewed to stifle pointed criticism nor interfere with the election that has already occurred – indeed, the resolution's express terms prohibit its use in this manner. Crucially, Plaintiff does not allege that any specific application of the resolution to date is objectionable. He merely alleges, without basis and in direct contradiction to the plain language of the resolution he opposes, that it could, at some speculative future time, result in inappropriate adverse consequences.

Plaintiff's statement that "the line between pointed criticism and speech prohibited under the

resolution is impossible to determine" is disingenuous at best, as is Plaintiff's statement that he will not be able to speak freely at the board meeting without the risk of being sanctioned. Unless the Plaintiff was to threaten physical harm, intimidation, use racial slurs, harass individuals and/or be aggressive and confrontational, no violation of the policy would occur. Paragraph 4 of the resolution dealing with the enforcement of the policy clearly sets forth the checks and balances and permits aggrieved parties the ability to request an ADR hearing for an additional review of the board's determination of a violation. Therefore, there is no pre-hearing suspension or suspension of voting rights during an election absent an ADR procedure to determine if the violation has been justly issued, with the exception of situations endangering the health, safety or welfare of others.

Moreover the board acted well within its power to adopt the resolution on August 5, 2026. Specifically, Article 6, Section 1 of the bylaws (Exhibit A attached to Plaintiff's Complaint) provides that "the board of trustees shall have and exercise all lawful powers and duties necessary for the proper conduct and administration of the affairs of the association …" Section 1(n) provides the board with the power to "***make and enforce compliance with such reasonable rules and regulations relative to the operation, use and occupancy of the units, common elements and association facilities*** and to amend the same from time to time and when approved by appropriate resolutions shall be binding on the owners and occupants of units, their successors in title and assigns." This power to establish rules and regulations relative to the operation of a facility extends to the ability to establish a resolution governing members' conduct on common elements and association facilities, which is precisely what the resolution at issue does. Taken together, these bylaw provisions clearly vest the board with authority to regulate conduct within the Leisure Village West community so as to protect against harassment, bullying, hate speech, and the like.

A review of the bylaws, as well as the member conduct resolution, clearly establish that the relief sought by the Plaintiff in his Order to Show Cause is not appropriate.

STANDARD OF REVIEW

Injunctive relief is an extraordinary equitable remedy used to maintain the status quo pending a full disposition of the matter by the court. Christiansen v. Local 680 of Milk Drivers & Dairy Employees, 127 N.J. Eq. 215, 219-20 (ENA 1940) Suenram v. Society of the Valley Hospital, 155 N.J. Super. 593, 596-97 (Law Div. 1977). Injunctive relief must be administered with sound discretion and consideration for the equities in the case. Zon. Bd. Of Adj. of Tp. of Sparta v. Service Elec. Cable Television of NJ, Inc., 198 N.J. Super. 370, 379 (App. Div. 1985). The right to interlocutory relief is governed by the standard set out in Crowe v. De Gioia, 90 N.J. 126 (1982). "New Jersey Courts are empowered to prevent some threatening, irreparable mischief, which should be adverted until opportunity is afforded for a full and deliberate investigation of the case". Crowe supra. 90 at 132. Those determinative factors are as follows:

> (1) Substantial, immediate and irreparable injury. Harm is generally considered irreparable in equity if it cannot be redressed adequately by monetary damages *ibid.* "in other words Plaintiff must have no adequate remedy at law." Subcarrier Communications, Inc. v. Day, 299 N.J. Super. 634, 637 (App. Div. 1997)
> (2) The legal right must be settled as a matter of law. Crowe supra. 90 N.J. at 133
> (3) A reasonable probability of success on the merits Id.
> (4) In balancing the equities and considering the public interest, a relative hardship of granting or denying the relief weighs in favor of the applicant. Id. at 134

The threat of immediate and irreparable harm is a necessary precondition to preliminary injunctive relief. Crowe supra. 190 at 132. "Injunctive relief should not be entered except when necessary to precent

substantial, immediate and irreparable harm". Subcarrier Communications Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997)

Each of the Crowe factors must be demonstrated by clear and convincing evidence. Waste Management of New Jersey Inc v. The Union County Utilities Authority, 399 N.J. Super. 508 (App. Div. 2008)

POINT 1: PLAINTIFF FAILS TO SATISFY ANY OF THE CROWE FACTORS.

In the present action, the board has acted within its powers in unanimously passing a member conduct resolution controlling threats of physical harm and intimidation, hate speech, including verbal abuse, harassment, hostile communications, aggressive confrontational behavior and conduct intended to intimidate, demean and interfere with another person. This resolution prohibits the use of profanity, racial or other slurs, and is meant for the protection of not only the community members as a whole, but the association board members, management personnel and vendors that may be present in the community. It also prohibits interfering with the employees or contractors in the performance of their duties while onsite. The resolution specifically provides that the policy is intended to regulate conduct, ***not*** viewpoints or opinions. For example:

- Section 3(a):"***Nothing contained herein shall be construed to prohibit or discourage good faith communications concerning the governance, operation, management or affairs of the Association***."
- Section 3(b):"members, residents, tenants, guests, volunteers, and employees may express concerns, complaints, criticisms, disagreements, suggestions or opinions regarding the actions, decisions, policies, performance, expenditures, services, projects or conduct of the board of trustees, committees, management, employees, contractors, or other matters affecting

the association."

- Section 3(c): "The mere fact that the communication is critical, negative, controversial, unpopular, embarrassing, persistent, or causes discomfort or offense shall not, standing alone, constitute a violation of this Policy."

While it is for the board to determine whether or not conduct violates the policy, Sections 4(b) and (c) establish that before any fine or suspension is assessed to a member, that member shall receive written notice of the violation and their right to participate in alternate dispute resolution, providing them with an opportunity for a hearing. This provides an aggrieved party the opportunity to be heard before an impartial alternative dispute resolution panel to review and either confirm or overturn the board's decision.

Plaintiff is unable to establish any of the four Crowe factors. The Plaintiff cannot point to any imminent, irreparable harm necessary to prevail on an expedited basis by way of Order to Show Cause. Put simply, Plaintiff's application is not an accurate depiction of the member conduct resolution passed by the board. Plaintiff does not cite to any current or pending violations, nor to any adverse actions taken against him for allegedly violating the resolution. There are no imminent or pending adverse consequences which would prevent this matter from continuing through the Courts to establish the frivolity of Plaintiff's Complaint.

The matter of Dublirer v. 2000 Linwood Ave. Owners, Inc., 220 N.J. 71 13 Atl. 3rd 249 (cited by the Plaintiff in support of his position) is clearly not on point. In that matter, a resident in a high-rise cooperative community sued the building's owner, challenging a house rule against posting notices and distributing written campaign materials. In that case the Supreme Court held that the board of directors' prohibition on soliciting and distributing written materials was unreasonable and thus violated the

residents' State Constitutional free speech rights. That is not even close to what is occurring in the present situation. Specifically, the resolution at issue expressly permits adverse viewpoints and opinions, but merely seeks to ensure that conduct within the Leisure Village West community is not hateful, bullying, racially motivated or harassing in any way.

This distinction is key, as this restriction is not unreasonable. When evaluating restrictions on the right to free speech and assembly for residents of a private common interest community, courts should focus on the purpose of the expressional activity undertaken in relation to the property's use, and should also consider the general balancing of expressional rights and private property rights. Dublirer, supra. Although the New Jersey Constitution affords greater protection then the first amendment, in that no State action is required, the court in State v. Schmid, 84 N.J. 535, 423 Atl. 2nd 615 (1980), explained that the New Jersey Constitution bars the government from bridging free speech and also protects "against unreasonable restrictive or oppressive conduct on the part of private entities" in certain circumstances. Schmid, supra. at 560. In the present action, the member conduct resolution is not unreasonably restrictive or oppressive, does not curtail criticisms or alternate points of view, but merely seeks to prevent threats of physical harm, harassment, verbal abuse, racial slurs or other hate speech. Nothing in the resolution curtails the free flow of information and/or criticism of any aspect of the community. It does not interfere with any individual's right to speak about the governance of this community, nor does it interfere with political speech. Therefore, the resolution does not violate the expanded State Constitutions right to free speech.

Plaintiff's reliance on Elrod v. Burns, 427 U.S. 347, 373 (1976) (plurality opinion), does not help him. The plaintiffs in Elrod had already been discharged or threatened with discharge, and the injury was "both threatened and occurring at the time of [their] motion." Id. at 374. Elrod does not hold that every

invocation of expressive rights establishes irreparable harm. On the contrary, "the assertion of First Amendment rights does not automatically require a finding of irreparable injury"; only "direct penalization, as opposed to incidental inhibition," will do. Hohe v. Casey, 868 F.2d 69, 72–73 (3d Cir. 1989). "Allegations of a subjective 'chill' are not an adequate substitute for a claim of specific present objective harm or a threat of specific future harm." Laird v. Tatum, 408 U.S. 1, 13–14 (1972). A litigant "cannot manufacture standing merely by inflicting harm on [himself] based on [his] fears of hypothetical future harm that is not certainly impending." Clapper v. Amnesty Int'l USA, 568 U.S. 398, 416 (2013).

Plaintiff's own certification also shows that he has not been silenced. He has continued to press his criticisms directly with the Board and its counsel (Cert. ¶ 17). He has done so at length, and he has now filed a lawsuit attacking the Board's motives. Injunctions "will not be issued merely to allay the fears and apprehensions or to soothe the anxieties of the parties." Continental Grp., Inc. v. Amoco Chems. Corp., 614 F.2d 351, 359 (3d Cir. 1980). Plaintiff has not carried his burden of showing, by clear and convincing evidence, harm that is "substantial, immediate and irreparable." Subcarrier Commc'ns, Inc. v. Day, 299 N.J. Super. 634, 638 (App. Div. 1997); Garden State Equality v. Dow, 216 N.J. 314, 320 (2013).

The second Crowe factor is that the legal right underlying the claim must be settled as a matter of law. A preliminary injunction should only be issued when the movant's underlying legal right is well settled. Crowe, 90 N.J. at 133. A preliminary injunction should not be issued when the material facts are in dispute. Thus, to prevail on an application for a preliminary injunction, a movant must demonstrate a reasonable probability of ultimate success on the merits. Id. Here, too, Plaintiff fails.

Plaintiff in this matter is far from being able to establish a reasonable probability and ultimate success on the merits. On its face, the language contained in the member conduct resolution is well within the

powers granted to the board under Article 6 of the bylaws, specifically Section 1(n) permitting the board to make an enforce compliance with the such reasonable rules and regulations relative to the operation, use and occupancy of units, common elements and association facilities. The curtailing of hate speech and threats of physical violence clearly relates to the operation of the association and the general betterment of the community as a whole. Plaintiff adduces no evidence or testimony indicating that the board has gone beyond its powers or has infringed upon free speech rights. Therefore, the passing of this resolution is well within the board's powers granted to it pursuant to the bylaws. Other bylaw provisions similarly support the board's authority in this manner:

- Article 9, Section 1, pertaining to enforcement, specifically provides the board with the "power at its sole option to enforce the terms of this instrument or any rule or regulation promulgated pursuant hereto."
- Article 1, Section 8 permits the association to "promulgate rules and regulations governing such use and enjoyment" of the general common elements including use of the community and recreational facilities of the association.
- Section 9(b) provides that if the rules and regulations governing the use of the common elements *and the conduct of persons using the common elements* have been adopted and published, as authorized in the bylaws, the rights and privileges of any person violating such rules and regulations may be suspended at the discretion of the board.

Moreover, it strains credulity to assert that prohibiting the likes of harassment and hate speech is unreasonably restrictive or oppressive of the State's guarantees of free speech – and, more to the point, Plaintiff has no evidence that the resolution has, or will in the imminent future, unreasonably restrict the

same. For these reasons, Plaintiff is unable to point to a reasonable probability of success on the merits and as such Plaintiff is unable to satisfy the second and third Crowe factors.

Finally, in considering an application for preliminary injunctive relief, the courts must balance the relative hardships to the parties in granting or denying the relief. Crowe, 90 N.J. at 134. Put differently, the moving party must show that the hardship it stands to suffer if a preliminary injunction is not issued outweighs any hardship the non-moving party will suffer if a preliminary injunction does issue. Here, the ultimate goal of the Plaintiff is to invalidate a member conduct resolution that in no way restricts political speech, nor free speech of any kind, but merely seeks to prevent racist hateful and harassing speech that could ultimately lead to violence. The resolution specifically goes out of its way to ensure that it is not interpreted to restrict viewpoints or opinions or to discourage or prohibit good faith communications concerning the governance, operation, management or affairs of the association. In addition, the Plaintiff has not provided an example that such an action was taken by the board. As such, Plaintiff is unable to establish that he has suffered or will suffer any harm if the status quo remains. Clearly, the Plaintiff is able to criticize and/or express his opinions without resorting to racist or harassing speech. Conversely, if application of this resolution were temporarily enjoined, Leisure Village West members may be emboldened to participate in harassment, hate speech and the like, while the Association is without the tools to appropriately address such action. Therefore, it is submitted that the relative hardships weigh in favor of the Defendant in this Order to Show Cause in order to prevent the conduct prohibited in the member conduct resolution.

POINT 2: PLAINTIFF'S REQUESTED RELIEF IS UNDULY BROAD AND AMOUNTS TO AN IMPERMISSIBLE ADVISORY OPINION

Plaintiff, as a single community member among thousands in Leisure Village West, claims, inappropriately, to speak for the entire community. The relief Plaintiff seeks reaches far beyond any injury of his own. His proposed order would restrain enforcement of the Policy against "any member, owner, tenant, occupant, resident, or guest" in a 2,692-unit community. Plaintiff does not claim to represent any of those people. He has brought no class action and joined no other party, and his own brief concedes that relief could be limited to himself (Pl. Br. 12–13). "[O]rdinarily, a litigant may not claim standing to assert the rights of a third party." Jersey Shore Med. Ctr.-Fitkin Hosp. v. Estate of Baum, 84 N.J. 137, 144 (1980). That includes his mother, who is the actual occupant of the unit and is not a party here. Even where some relief is warranted, an injunction "should be no more burdensome to the defendant than necessary to provide complete relief to the plaintiffs." Califano v. Yamasaki, 442 U.S. 682, 702 (1979).

Several of the restraints also ask the Court to decide questions that have never arisen:

- Paragraph C would restrain a pre-hearing suspension under 4(c). No such suspension has been invoked against anyone.
- Paragraph D would bar suspension of voting rights. No vote has been suspended, the fines schedule proposing that sanction was tabled (Cert. ¶ 24), and the election closed on August 31.
- Paragraph E addresses discipline of an owner for a tenant's or occupant's speech. No such charge has been made.
- Paragraph H asks the Court to decide now what effect a later dissolution of its own restraints would have.

Each of these depends on events that "may not occur as anticipated, or indeed may not occur at all." Our courts "will not render advisory opinions or function in the abstract." Crescent Park Tenants Ass'n v. Realty Equities Corp., 58 N.J. 98, 107 (1971). They decide "only concrete contested issues conclusively affecting adversary parties in interest." N.J. Tpk. Auth. v. Parsons, 3 N.J. 235, 240 (1949). A claim is not ripe where the parties' rights are "future, contingent, and uncertain." Indep. Realty Co. v. Twp. of N. Bergen, 376 N.J. Super. 295, 302 (App. Div. 2005). Plaintiff asks the Court to adjudicate the hypothetical rights of thousands of absent persons against enforcement that has never happened. That is precisely the abstract, advisory ruling these principles forbid.

CONCLUSION

For the foregoing reasons, and in the interest of maintaining the status quo, this Motion for preliminary injunctive relief as set forth in the Order to Show Cause must be denied in its entirety. As it has been established that the Plaintiff filed this Order to Show Cause with any factual support and for the purpose of harassment, this filing shall be deemed frivolous by the court and Defendants shall be awarded attorney's fees and costs for having to oppose such a frivolous waste of the court's time.

Very truly yours,

/s/ James Passantino

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JMP/cml