

IN THE CIRCUIT COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT IN AND FOR  
MIAMI-DADE COUNTY, FLORIDA

GENERAL JURISDICTION DIVISION

PRESERVE GROVE ISLE, LLC

CASE NO.:

Plaintiff,

vs.

GROVE ISLE YACHT & TENNIS CLUB, LLC;  
and GROVE ISLE CLUB, INC.,

Defendants.

**EMERGENCY COMPLAINT FOR TEMPORARY AND / OR PERMANENT  
INJUNCTION & APPOINTMENT OF RECEIVER**

Plaintiff, PRESERVE GROVE ISLE, LLC, by and through undersigned counsel hereby files this Emergency Verified Complaint against Defendants, GROVE ISLE YACHT & TENNIS CLUB, LLC and GROVE ISLE CLUB, INC., for a Preliminary and/or Permanent Injunction and Appointment of Receiver pursuant to Florida Rules of Civil Procedure 1.610 and in support thereof, states as follows:

**NATURE OF THE ACTION, PARTIES, JURISDICTION & VENUE**

1. This is an action in equity in which Plaintiff requests the issuance of an immediate injunction to enjoin Defendants from closing the Grove Isle Club and Club Facilities and to appoint a disinterested third-party as Receiver to oversee the operation of the Grove Isle Club and Club Facilities until this matter can be fully adjudicated. This court has exclusive original jurisdiction over this equitable action pursuant to Fla. Stat. § 26.012.

2. This action involves the Grove Isle Hotel and Spa and the Grove Isle Condominiums ("Grove Isle"), a luxury resort located on a 20-acre private island at 4 Grove Isle Drive, in

HELLER WALDMAN, P.L.

3250 MARY STREET, SUITE 102 • COCONUT GROVE, FLORIDA 33133

Coconut Grove, Florida. Grove Isle features three resident condominium buildings and a five-story hotel and a spa. For over thirty-two-years, Grove Isle has provided certain "Club Facilities" to hotel guests and persons owning or leasing a dwelling unit in the Grove Isle Condominiums who pay an annual membership fee. The Club Facilities include an indoor health spa, restaurant and lounge, private banquet room, swimming pools with an outside restaurant and bar, and twelve tennis courts.

3. Pursuant to Fla. Stat. §47.011, venue is proper in Miami-Dade County as the property at issue in the litigation is located in Coconut Grove in Miami-Dade County, Florida.

4. Jurisdiction exists and venue is proper also because under the terms of a 1977 Settlement Agreement (pursuant to which this action is brought, at least in part), this Court retained jurisdiction to enforce the provisions of the Settlement Agreement. *See Settlement Agreement, attached as Exhibit "A."*

5. Plaintiff, PRESERVE GROVE ISLE, LLC (hereinafter referred to as "PRESERVE GROVE ISLE"), was and is a Florida limited liability company comprised of Grove Isle Condominium owners who pay annual membership fees to use the Club Facilities. PRESERVE GROVE ISLE is dedicated to the preservation of the quality of life enjoyed by Grove Isle residents for over thirty years.

6. Defendant, GROVE ISLE YACHT & TENNIS CLUB, LLC, (hereinafter referred to as "GIYTC") is a Florida limited liability company located in and doing business in Miami-Dade County. GIYTC owns 100% of the capital stock of co-defendant, GROVE ISLE CLUB, INC.

7. Defendant, GROVE ISLE CLUB, INC. (hereinafter referred to as "GROVE ISLE CLUB") is a Florida corporation located in and doing business in Miami-Dade County. GROVE ISLE CLUB is responsible for the operation of the Hotel, the Club and the Grove Isle Club

Facilities.

8. All conditions precedent have been met, waived, excused or have occurred. Reasonable notice of the instant action will be given to Defendants. Movants are willing and able to post a bond in an amount the Court deems proper.

### GENERAL ALLEGATIONS

9. The construction of Grove Isle, a luxury private island resort, was completed by 1982. The resort was designed to provide a small, quiet escape from downtown Miami. The island features endless views of Biscayne Bay, first-class amenities and seclusion for its hotel guests and condominium residents.

10. The charm and luxury of Grove Isle Resort was expressly protected in a landmark Settlement Agreement, adopted in a Final Judgment entered by a circuit court judge in Miami-Dade County, Florida in 1977. This Final Judgment adopted a Settlement Agreement that the owners, residents and operators of Grove Isle Resort entered into on August 1, 1977, which dictated the use of the Grove Isle property going forward. The Settlement Agreement was the culmination of 4-5 years of litigation between the Coconut Grove community, community groups and the City of Miami. *A copy of the Final Judgment and Settlement Agreement are attached hereto and made a part herein as Exhibit. "A".*

11. The Settlement Agreement, as specifically delineated by Paragraph 4 of the Final Judgment and by its very terms constituted a covenant running with the land and shall be binding on all successors of defendant owners, including, but not limited to Defendants, GIYTC and GROVE ISLE CLUB. The Settlement Agreement stated as follows:

a. This Final Judgment constitutes a covenant running with the land and the Clerk of this Court is hereby directed to record certified copies of this Final Judgment and the Settlement Agreement incorporated here in the judicial records of this Court and

in the Land Records of Dade County, Florida [Final Judgment, dated July 29, 1977, ¶ 4].

b. A certified copy of the Court's Consent Judgment (incorporating this Settlement Agreement), when entered, will forthwith be filed in the Public Records of Dade County, Florida, and all provisions hereof and thereof constitute covenants running with the land, in respect of the Property and are binding and will bind all successors and assigns of Defendant Owners, their heirs, personal representatives, assigns and successors in interest in the property, and shall be enforceable by the Plaintiffs and their successors and assigns in interest [Settlement Agreement, ¶6, Sec. 4.1].

**c. [i]n the event title to Fair Isle or any interest therein is conveyed, transferred or assigned . . . to any person or entity not a party to this Agreement . . . each transferee or successive transferee shall be bound to all obligations and limitations imposed by this Agreement without reservation or limitation [Settlement Agreement, ¶16, Sec. 5.12].**

d. This Agreement is binding upon the parties executing it, their successors, heirs and assigns [Settlement Agreement, ¶6, Sec. 4.1].

(Emphasis supplied)

12. On or about February of 2013, GIYTC purchased 7 ½ acres of Grove Isle that included the purchase of co-defendant, GROVE ISLE CLUB, along with the Hotel and all Club Facilities. Defendant, GIYTC further purchased GROVE ISLE ASSOCIATES, LLLP—the owner of the land and certain parking lots on which the Grove Isle Club Facilities were located.

*The Purchase Agreement is attached hereto and made a part herein as **Exhibit "B."***

13. In February of 2013, at the time of GIYTC's purchase of the above-referenced interest in Grove Isle, GIYTC was on notice of the covenants running with the Grove Isle land as mandated in the 1977 Settlement Agreement. The Settlement Agreement stated:

a. Requirements of notice of this Agreement to all future transferees shall be satisfied by filing a certified copy of the Final Consent Judgment when executed by the parties and approved by the Court, amongst the Public Records of Dade County, Florida [Settlement Agreement, ¶16, Sec. 5.12].

14. On or about January 11, 1978, a certified copy of the Final Consent Judgment executed by all parties and approved by the court was filed in the Public Records of Miami-Dade County.

15. Pursuant to the Grove Isle land covenants, binding on Defendants, GIYTC and GROVE ISLE CLUB, the property must provide the following Club Facilities to hotel guests and persons owning or leasing a dwelling unit in the Grove Isle Condominiums who pay an annual membership fee:

- a. The Club facilities shall consist of “restaurant or dining room (including a ‘lounge’ or bar as described in subsection E of this Section 5.4). . . private banquet room. . . indoor health spa. . .swimming pools. . .tennis courts” [Settlement Agreement, ¶¶ 8-9, Sec. 5.4].
- b. The restaurant or dining room (including the lounge or bar) and the private banquet hall “shall be situated so that the windows of such restaurant or dining room and banquet room and any outdoor facilities associated with such restaurant or dining room will face toward Biscayne Bay” [Settlement Agreement, ¶ 11, Sec. I].
- c. The swimming pools shall be located on Biscayne Bay [Settlement Agreement, ¶11, Sec. I].

16. The construction of the Club Facilities were completed and opened to Grove Isle residents simultaneously with the opening of two of the three condominium buildings. The Club Facilities were an inducement for condominium owners to purchase units early. The Club Facilities have been operating continuously since their inception in the early 1980’s. The existence and use of the Grove Isle Club and its Club Facilities is a **right**, not a privilege, of Grove Isle residents. The mandatory existence of the Grove Isle Club on Grove Isle and the residents’ right to uninterrupted use of the Grove Isle Club and its Club Facilities is a restrictive covenant running with the land.

17. These covenants were also embodied in the Condominium Documents, attached as **Exhibit "D,"** that stated upon purchase of a unit on Grove Isle, the owner/resident automatically becomes a member of the Grove Isle Club upon payment of a onetime membership fee and is entitled to use the Club Facilities. Specifically, the Condominium Documents stated as follows:

Upon acceptance of the application for membership by the GROVE ISLE CLUB and the payment of the membership fee, the Buyer shall receive a membership certificate indicating that the Buyer, including joined owners, are members of the GROVE ISLE CLUB for as long as the Buyer is the owner of an apartment within the Grove Isle Project and said membership is not revoked for non-payment of the club charges or for violating club rules and regulations.

See **Exhibit "D"** pg. 83 (emphasis added).

18. Each of the Plaintiff condominium owners, either by themselves or through their predecessors in interest for each representative unit owner, have paid the membership application fee and thus have vested the absolute rights to remain a member of the Club as long as they continue to own a unit.

19. After this onetime fee, residents pay annual membership dues and certain members paid a lifetime membership fee of the Grove Isle Club. Paying a membership fee to be a member of the Grove Isle Club was a condition of owning a unit in the condominium, which all current unit owners have complied with. The covenants contained in the Condominium Documents run with the land.

20. GIYTC purchased interest in the Grove Isle resort with the intent to demolish certain structures on the property, including the hotel, restaurant, indoor spa, and all Club Facilities and construct new condominiums in front of the existing three buildings. GIYTC and its respective investors have filed multiple redevelopment applications with the City of Miami to have their project approved. Due to a multitude of issues, including plans that violate zoning restrictions

and/or restrictive covenants, the City of Miami's decision to approve or reject the plan has been delayed.

21. Plaintiff, PRESERVE GROVE ISLE, and its resident members have passionately voiced their concerns to the City of Miami that certain zoning restrictions and restrictive covenants that have successfully preserved the charm and appeal of Grove Isle must be maintained and enforced.

22. This delay has disrupted GIYTC's development plans and the company by and through GROVE ISLE CLUB, has engaged in petty acts of vengeance against Grove Isle residents. In one such recent act, GIYTC and GROVE ISLE CLUB attempted to close-off a parking lot to Grove Isle residents, with essentially no notice, that the residents had used for over thirty years. Indeed, on February 20, 2015, Friday afternoon a letter was given to the Grove Isle Association (representing current condominium residents) that the parking lot would be closed and any vehicles remaining in the lot by 6:00 a.m. the following Monday, February 23, 2015 would be towed.<sup>1</sup>

23. Grove Isle Association was forced to retain counsel to seek an emergency temporary injunction on February 22, 2015, to combat this arbitrary and punitive action, which was granted, to prevent GIYTC and GROVE ISLE CLUB from towing the residents' vehicles. Monday morning, tow trucks were present and a standoff ensued between Miami Police (armed with the Injunction Order) and Defendants' representatives.

24. Having been deprived of the satisfaction of towing residents' vehicles, Defendants decided to pursue another avenue of vengeance—shutting down all Club Facilities on Grove Isle Resort by May 1, 2015.

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<sup>1</sup> This Injunction Order was eventually dissolved.

25. On April 9, 2015, Defendants issued another letter to the Grove Isle Association explaining that in less than three weeks, all Club Facilities, including the hotel, restaurant and bar, indoor health spa, swimming pools and tennis courts would be shut down. *The April 9, 2015 letter is attached hereto and made a part herein as Exhibit "C."*

26. Bent on revenge against the residents, Defendants, GIYTC and GROVE ISLE CLUB, is completely ignoring strict covenants running with the Grove Isle Resort that the Grove Isle Club and its Club Facilities remain operational and accessible to the hotel guests and resident owners at all times, as long as they each continue to own their respective apartment within Grove Isle.

27. Beyond the covenants which prohibit such activity, Defendants are further ignoring the human toll associated with the planned closure of the Grove Isle Club and its Club Facilities. This abrupt closure will leave Grove Isle Club employees, including wait staff, bartenders, housekeepers (some of whom have been employed at the Club for 20 years), without employment on almost no notice. In fact, Defendants have already started firing long-time staff members.

28. Defendants' actions also ignore the impact that the closure will have on the numerous elderly Grove Isle residents. Many of these residents are no longer capable of driving and the Club provides their only real social option, as it is within walking distance of their condominiums.

29. Even more egregious, the abrupt closure of the Club Facilities will cause the value of the resident owners' condominiums to plummet. A major asset and value to Grove Isle resident condominiums is the Club Facilities offered to the residents. A large sparkling swimming pool with poolside dining directly overlooking the bay, twelve maintained tennis courts, a full spa and

salon and a five-star restaurant substantially increase the value of this luxurious community. In exchange for these luxuries, Defendants will create large, boarded-up buildings and fenced-off areas. Not only will these abandoned buildings create huge eye sores on the island, they will also invite safety hazards, pests, unwanted animals, and blockades that disrupt the walkways and pathways for residents and guests.

30. The closure of these luxury amenities will have a devastating effect on the Grove Isle Resort, the hotel, the condominiums, the residents and all of the current employees running these facilities.

31. Pursuant to the Settlement Agreement and Condominium Documents, Defendants simply cannot undertake such activity as it is in direct violation of the covenants running with the land, which as successor owner; it is bound by and is obligated to comply with.

32. As such, Plaintiff requests that this Honorable Court require Defendants to comply with their legal obligations to the residents of Grove Isle, who bargained for and paid for these rights.

**COUNT I**  
**ACTION FOR PRELIMINARY AND/OR PERMANENT INJUNCTION**

PRESERVE GROVE ISLE incorporates paragraph nos. 1 through 32 as though fully set forth herein and further states as follows:

33. This is action for preliminary and permanent injunctive relief to enforce restrictive covenants that run with the Grove Isle property.

34. At all times material herein, Defendants are subject to certain restrictive covenants running with the Grove Isle property that require Defendants to maintain a Grove Isle Club and permit residents uninterrupted use of the Club Facilities.

35. Defendants, through their predecessors which they are bound by, also had a compact with the residents of Grove Isle to continue to provide them club facilities due to the membership fees collected both upon purchase and thereafter on a yearly basis, as well as the fees collected from those members who paid a onetime lifetime fee.

36. At all times material herein, Defendants were on notice of the restrictive covenants.

37. Defendants, GIYTC and GROVE ISLE CLUB, have informed the Grove Isle residents that they intend to abruptly shut down the club and all Club Facilities.

38. The shutting down of the Grove Isle Club and the Club Facilities violates the restrictive covenants.

39. Closure of the Club and Club Facilities will cause irreparable harm to Plaintiff, PRESERVE GROVE ISLE. The closures will have a serious impact on the Plaintiff's property and the quality of life of the residents thereof as well as the neighboring community within which Plaintiff's members reside. The immediate and irreparable harm caused to Plaintiff and its members cannot be adequately remedied by compensatory damages, leaving PRESERVE GROVE ISLE without an adequate remedy at law.

WHEREFORE, PRESERVE GROVE ISLE requests this Honorable Court grant judgment in its favor (a) enjoining and restraining Defendants from closing the club and shutting down the Club Facilities and (b) for such other relief the Court deems proper.

**COUNT II**  
**APPOINTMENT OF RECEIVER<sup>2</sup>**

PRESERVE GROVE ISLE incorporates paragraph nos. 1 through 32 as though fully set forth herein and further states as follows:

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<sup>2</sup> PRESERVE GROVE ISLE shall file a complimentary Motion for Appointment of Receiver by week's end.

40. Defendants intend to violate the restrictive covenants running with the Grove Isle land and shut down the Grove Isle Club and the Club Facilities on May 1, 2015.

41. The closure of the Grove Isle Club and the Club Facilities will cause immediate irreparable harm to the Plaintiff, PRESERVE GROVE ISLE, and its members.

42. In order to prevent such irreparable harm, Defendants must be enjoined from shutting down all Club Facilities.

43. As set forth in the governing documents described herein, it is mandatory that the Grove Isle Club and its Club Facilities shall remain operable in the same or similar manner as they have been for the last thirty years.

44. Because of the punitive designs of the current owner and his continued petty efforts to make life as uncomfortable as possible in order to achieve his aims, it is illogical to permit Defendants to continue to operate the club in the manner required and dictated. Consequently, in order to maintain operation without incident at the high level present for the past 30 years and until this matter is fully adjudicated, Plaintiff requests the immediate appointment of a disinterested third-party as a Receiver with all powers and duties as this Court may direct in order to continue the operation of the Club and its Club Facilities.

WHEREFORE, PRESERVE GROVE ISLE requests the appointment of a disinterested third party Receiver with all powers and duties as this Court may direct in order to continue the operation of the Club and its Club Facilities until this matter is fully adjudicated, and any further relief this Court deems appropriate.

Signed on this \_\_\_\_ day of April, 2015.

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