

Special Announcement:

The lawsuit between Sweetwater East Investment Co. d/b/a Lake Henry Estates and Brenda Hosler, John Case and Dolores Diana was sent before the Court by asking for an *Amended Motion for Rehearing* filed October 11, 2023. Based upon the Court's findings and law, the Judge ordered and adjudged on February 05, 2024 that the *Motion for Rehearing*, was DENIED.

A copy of the Order can be found in the Document section of the Newsbriefs under Notices, and hard copies will be available in the office for anyone needing one.

Lake Henry Estates Board of Directors

IN THE CIRCUIT COURT OF THE
TENTH JUDICIAL CIRCUIT IN AND
FOR POLK COUNTY, FLORIDA

Case No.: 53-2021CA-001075

Section: 04

BRENDA HOSLER, JOHN CASE, and
DOLORES DIANA,
Plaintiffs,

v.

SWEETWATER EAST INVESTMENT CO.
d/b/a LAKE HENRY ESTATES,
Defendant.

ORDER DENYING PLAINTIFFS' AMENDED MOTION FOR REHEARING

THIS CAUSE came before this Court upon Plaintiffs' *Amended Motion for Rehearing*, filed October 11, 2023. The Court, having reviewed the Motion, Order, court record, applicable statutory and case law, and being otherwise advised in the premises, finds as follows:

Having considered the substantive arguments therein, the Court denies Plaintiffs' *Amended Motion for Rehearing*. As to grounds for rehearing, *see generally* Fla. R. Civ. P. 1.530 (2024); *VME Group International, LLC v. Grand Condominium Association, Inc.*, 347 So. 3d 461 (Fla. 3d DCA 2022); *Bank of New York Mellon v. Bontoux*, 355 So. 3d 965 (Fla. 3d DCA 2022); *Balmoral Condominium Ass'n v. Grimaldi*, 107 So. 3d 1149 (Fla. 3d DCA 2013).

The current version of Fla. Stat. sec. 720.302(5) (2024) provides that:

[u]nless expressly stated to the contrary, corporations that operate residential homeowners' associations in this state shall be governed by and subject to part I of chapter 607, if the association was incorporated under that part, or to chapter 617, if the association was incorporated under that chapter, and this chapter. This subsection is intended to clarify existing law.

In part, Plaintiffs argued the 2007 statutory amendment (applying chapter 720 to for-profit corporate-residential communities) only clarified preexisting law that Defendant was already subject to, based on the following statutory language: “[t]his subsection is intended to clarify existing law.” Therefore, Plaintiffs argue, the Court’s retroactive analysis was not germane. *See* Pl.’s Am. Mot. for Rehearing at pages 4-6, *citing Madison at SoHO II Condominium Association*

v. *Devo Acquisition Enterprises, LLC*, 198 So. 3d 1111 (Fla. 2d DCA 2016); 2007 Fla. Sess. Law Serv. ch. 2007-173, sec. 8 (West) (Amending subsection 720.302(5), adding the underlined; “subject to chapter 607, if the association was incorporated under the chapter, or to chapter 617, if the association was incorporated under that chapter, and this chapter. This subsection is intended to clarify existing law.”).

However, the statutory language itself was only added when subsection 720.302(5) was amended in 2003, clarifying that not-for-profit corporate-residential communities fall under both Fla. Stat. ch. 617 and chapter 720. See 2003 Fla. Sess. Law Serv. ch. 2003-14, sec. 11 (West) (Amending subsection 720.302(5), adding the underlined; “[u]nless expressly stated to the contrary, corporations not for profit that operate residential homeowners’ associations in this state shall be governed by and subject to chapters 617 and 720. This subsection is intended to clarify existing law.” (emphasis added)).

Therefore, based upon the Court’s findings and law above, it is **ORDERED AND ADJUDGED** that Plaintiffs,’ BRENDA HOSLER, JOHN CASE, and DOLORES DIANA, *Motion for Rehearing*, is hereby **DENIED**.¹

DONE AND ORDERED in Polk County, Florida on Monday, February 5, 2024.

53-2021-CA-001075-0000-00 02/05/2024 04:30:25 PM



Michael McDaniel, Circuit Judge
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¹ No hearing on a Motion for Rehearing need be granted if, after considering the motion, the Court denies a motion for rehearing. See generally Fla. R. Civ. P. 1.530 (2023); *Harvey v. Deutsche Bank National Trust Co.*, 69 So. 3d 300 (Fla. 4th DCA 2011) (no hearing for denial of rehearing motion.); cf. *Thomas v. Cromer*, 276 So. 3d 69 (Fla. 3d DCA 2019), citing *J.R. Fenton, Inc. v. Gallery 600, Inc.*, 488 So. 2d 587 (Fla. 2d DCA 1986) (hearing required if granting motion for rehearing).