



SECRET WARDLE SUCCESS STORIES

ATTORNEY: John L. Weston, Executive Partner | Lauren A. Sterrett, Partner

TYPE OF CASE: Contract

COURT/CASE #: Washtenaw County Circuit Court | 16-1182-CB

DATE OF DISPOSITION: 6/26/23

TRIED/ARGUED BEFORE: Jury

NAME OF JUDGE(S): Honorable Timothy P. Connors

VERDICT/SETTLEMENT AMOUNT: No Cause

KEYS TO THE CASE:

This 2016 business court case was a 7-year journey, with two trips to the Court Of Appeals. This case involved the potential development of a 1929 golf course located within Defendant Loch Alpine Association's residential subdivision. The golf club had fallen on hard times and Plaintiff, an investment entity out of West Virginia, purchased a note held by the club's bank, on which the club had defaulted. Plaintiff subsequently put the club into bankruptcy, then turned to the Loch Alpine Association Board of Directors, seeking to subdivide the course into approximately 120 residential lots. The issue in this case was whether Loch Alpine's 1975 Restriction Agreement governing those lots, which were platted as part of the Loch Alpine Subdivision, restricted the use of the subject property to either golf course purposes, or for park/recreation purposes.

The developer believed that, by its language, the Restriction Agreement did allow for residential development, while Loch Alpine maintained that it did not, and cross-motions for summary disposition were filed. Loch Alpine lost, and our very own Drew Broaddus filed an appeal. The Court of Appeals, however, held that: "the 1975 RA is ambiguous because it is internally inconsistent. Accordingly, the interpretation of the 1975 RA must go to trial." While this matter involved only equitable relief, which is generally a matter to be determined in a bench trial, the Court of Appeals, quoting well established Michigan law, explained that: "It is well settled that the meaning of an ambiguous contract is a question of fact that must be decided by the jury." "[W]here [a contract's] meaning is obscure, and its construction depends upon other and extrinsic facts in connection with what is written, the question of interpretation should be submitted to the jury, under proper instructions." This allowed the jury to consider the intent of the drafters of the 1975 Restriction Agreement, and we were fortunate to find a witness who was a Board member back in 1975 to provide testimony on that issue, which was key for the jury.

The jury rendered an 8-0 verdict that the 1975 Restriction Agreement precludes any residential development of the golf course.

For more information about **John L. Weston**, please visit <https://bit.ly/1cOeEgu>; to contact directly: (248) 539-2801, jweston@secretwardle.com.

For information about **Lauren A. Sterrett**, please visit <https://bit.ly/3K8hjJO>; to contact directly: (248) 539-2802, lsterrett@secretwardle.com.

For information regarding **Secret Wardle**, please visit www.secretwardle.com, email info@secretwardle.com, or phone (248) 851-9500