

CAUSE NO. C2010-1332D

CANYON LAKE VILLAGE WEST  
PROPERTY OWNERS ASSOCIATION

VS.

BJ'S LAKE RETREAT, LLC

§  
§  
§  
§  
§

IN THE DISTRICT COURT

433<sup>RD</sup> JUDICIAL DISTRICT

COMAL COUNTY, TEXAS

BY  
KATHY H. FAULKNER  
DISTRICT CLERK  
COMAL COUNTY

FILED FOR RECORD  
2011 MAR - 2 PM 4:41

**AGREED FINAL PERMANENT JUDGMENT AND INJUNCTION**

Came on to be heard the above-entitled and numbered cause, and the Court was notified by the parties, acting through their counsel of record, that they had reached a settlement agreement, and wish it to be adopted as a final judgment of this Court. The Court, being fully advised, and in order to give effect to the agreement of the parties, renders judgment as set forth below:

Canyon Lake Village West Property Owners Association (hereinafter the "Association") contends in this cause that Defendant, BJ's Lake Retreat, LLC (hereinafter "BJ's") owns certain real property located at 2620 Colleen Drive, Canyon Lake, Texas 78133 (also described as Lot 41, Canyon Lake Village West, Unit 1)(hereinafter referred to as "BJ's Property"), and that contention is undisputed. The Association further contends that BJ's is using BJ's Property for uses prohibited under the Restrictions of Canyon Lake Village West, Units 1 and 2, executed on February 22, 1968, recorded at Volume 168, Page 438, Official Public Records of Real Property of Comal County, Texas (hereinafter referred to as the "Restrictions"). Specifically, the Association contends that the Restrictions prohibit leasing or renting of BJ's Property for short periods of time. BJ's denies these allegations of the Association, and contends that all use of BJ's Property has been appropriate and in compliance with the Restrictions. While each party continues to maintain that their own position is the legally valid one, the parties have agreed to

the injunction and other terms contained herein, with the understanding and agreement that nothing herein shall be construed as a finding in favor of or against the validity of either parties' position.

IT IS ORDERED, ADJUDGED and DECREED that effective January 15, 2011, BJ's Lake Retreat, LLC, and all its representatives, officers, agents and assigns acting on its behalf, with actual knowledge of this Judgment, shall not, and are hereby ENJOINED from, engaging in any lease, rental or arrangement otherwise making available for use for remuneration of BJ's Property, for any period of time of less than thirty days.

BJ's Lake Retreat LLC is ALSO ORDERED, ADJUDGED and DECREED that all lease or rental agreements of BJ's Property of less than six months must:

1. be in writing,
2. provide that BJ'S Property shall not be occupied by more than eight people at any one time,
3. require that at least one occupant of BJ's Property shall be at least thirty-five years old,
4. in cases where there is reasonably expected to be more than one regular occupant, require that at least one other occupant of BJ's Property shall be under the age of 18 years unless at least two adults occupy the property are over the age of 35, and,
5. prohibit subleasing of BJ's Property.

The above requirements are for leases less than six months. BJ's Lake Retreat has no restrictions on occupants or reporting to the Association as to any lease six months or longer in duration as to the subject property.

IT IS ALSO ORDERED, ADJUDGED and DECREED that BJ'S shall provide a copy of each lease agreement or rental agreement of less than six months pertaining to BJ'S Property to

the Association's representative, designated by the Association in writing, in advance of the commencement date of any such agreement, as soon as reasonably practicable after execution.

IT IS ADDITIONALLY ORDERED that, in the event any representative of the Association shall have any problem or complaint related to anything or any person located on or connected in any way with BJ's Property, the Association acting by and through its agents and representatives, is ORDERED and ENJOINED from having direct contact with BJ's lessees except in emergency situations. To the extent a non-emergency problem or complaint exists relating to the lessee's conduct, the Association shall first address any complaint or problem to the person designated by BJ's as the Association's point of contact with respect to BJ's Property and use good faith efforts to resolve same, prior to communicating with any tenant or guest present on BJ's Property. The Association is further ORDERED to keep the lease information confidential and not to disclose same to third parties or other members of the Associations who are not officers or board members of the Association; nothing herein prevents the Association from using a lease, however, in this proceeding in connection with any enforcement hearing.

IT IS FURTHER ORDERED, ADJUDGED and DECREED that the Association's claims for legal fees, court costs and statutory damages be, and they are hereby in all things DENIED. All parties shall bear their own attorney's fees and court costs.

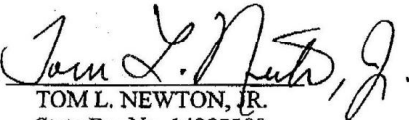
All relief which has been requested but not granted herein is DENIED. This is a final judgment, and is appealable.

Thus rendered this 2 day of March, 2011.

Original Signed By  
JACK ROBISON  
\_\_\_\_\_  
JUDGE PRESIDING

AGREED AS TO FORM AND SUBSTANCE:

ALLEN, STEIN & DURBIN, P.C.  
6243 IH-10 West, 7th Floor  
San Antonio, Texas 78201  
Telephone: (210) 734-7488  
Telecopier: (210) 738-9468

By:   
TOM L. NEWTON, JR.  
State Bar No. 14982300  
BLAIR I. FASSBURG  
State Bar No. 24044195

ATTORNEYS FOR PLAINTIFF

LANGLEY & BANACK, INC.  
745 East Mulberry, Suite 900  
San Antonio, Texas 78212  
Telephone: (210) 736-6600  
Facsimile: (210) 735-6889

By:   
PETER L. KILPATRICK  
State Bar No. 11416545

ATTORNEYS FOR DEFENDANT  
BJS LAKE RETREAT, LLC