

IN THE CIRCUIT COURT OF THE FIFTH JUDICIAL CIRCUIT
IN AND FOR LAKE COUNTY, FLORIDA

SUNLAKE HOMEOWNERS
ASSOCIATION, INC., individually,
and through class representation
on behalf of a class consisting
of the mobile home owners ("Residents")
of Sunlake Estates,

CASE NO: 05 CA 707

Plaintiff,

vs.

AMERICAN LAND LEASE, INC.,
A Florida corporation, and LAKE
COUNTY, a political subdivision of
the state of Florida COMMUNITY
SUNLAKE JOINT VENTURE, a Delaware
general partnership, and AIOP FLORIDA
PROPERTIES I, L.L.C., its managing
partner.

Class Action Complaint

Defendants.

2006 FEB 15 AM 11:21
CLERK OF CIRCUIT
AND COUNTY COURT
LAKE COUNTY
TAVARES FLORIDA

**SECOND AMENDED CLASS ACTION COMPLAINT
FOR DAMAGES, DECLARATORY RELIEF,
AND INJUNCTIVE RELIEF; DEMAND FOR JURY TRIAL**

Plaintiff, SunLake Homeowners Association, Inc., individually and through class representation on behalf of a class consisting of the mobile home owners of Sunlake Estates (hereinafter the "Residents"), by and through their undersigned attorney, sue Defendants, American Land Lease, Inc. (hereinafter "American Land Lease" or "Defendants") and Lake County, a political subdivision of the state of Florida (hereinafter "Lake County"), and allege as follows:

General Allegations

1. This case concerns a mobile home park involving over 400 residents. The mobile home park, Sunlake Estates Mobile Home Park, is located on Lake Yale in Lake County, Florida.
2. Plaintiff (the "Residents") is the homeowners' association representing individual mobile home owners pursuant to Florida Rule of Civil Procedure 1.222 (2005) is a properly formed home owners' association pursuant to Chapter 723, representing the homeowners of the community.
3. The Residents are bona fide owners of mobile homes in SunLake Estates Mobile Home Park (hereinafter the "Park"). A copy of the prospectus and its attachments which



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are part of the prospectus is attached as Exhibit "A" and is hereinafter referenced as the Prospectus. A copy of the Declaration of Restrictions for the lots owned is attached as Exhibit "B".

4. Defendant, American Land Lease, is a for-profit Florida corporation, is listed and traded on the New York Stock Exchange, is the owner of the Park, and is governed by Chapter 723 *FLORIDA STATUTES*.

5. Defendant, Lake County, is a political subdivision of the state of Florida, is responsible for the collection of solid waste in the Park, and charges the Residents for curbside pick up as it charges other Lake County owners throughout Lake County.

6. Defendant, American Land Lease, had not dealt with the Residents in good faith as evidenced, in part, by the attached correspondence from Defendant's prior managers attached hereto as Exhibit "C".

7. The Residents have hired the undersigned attorney to represent them in this action and are responsible for paying a reasonable fee for his services.

8. All conditions precedent to the filing of this action have occurred, including the standing requirements set forth in §723.037 *FLORIDA STATUTES*.

Count I

Declaratory Relief Concerning Excessive Solid Waste Pick Up Charges

9. This is an action against both Defendants, American Land Lease and Lake County, for Declaratory Judgment under Chapter 86, *FLORIDA STATUTES*, to declare that the Residents are being unlawfully charged for curbside solid waste pick up.

10. The Residents reallege the allegations contained in paragraphs 1 through 8 above as if fully set forth herein.

11. Both Defendants, American Land Lease and Lake County, charge the Residents for curbside pick up of solid waste. §723.031 *FLORIDA STATUTES* mandates that no charge may be collected that results in the payment of money for sums previously collected as part of the lot rental amount. In violation of the afore-cited statute, Defendants charge and collect money for curbside solid waste disposal even though Defendant, American Land Lease has previously collected such sums as part of the lot rental amount.

12. The Residents' position is that both Defendants cannot charge for the same service and that Defendants' charges for curbside solid waste pick up is unlawful under §723.031 *FLORIDA STATUTES* because the residents already pay for curbside pick up as part of the lot rental amount.

13. Apparently, Defendants' position is that they can both charge for the same service.

14. A real and substantial controversy between Defendants and the Residents exists and a justiciable question arises as to what the legal relationship between the parties is in light of two parties charging for the same service.

WHEREFORE, Plaintiff requests this Court declare that both Defendants cannot charge for curbside solid waste pick up and that such charges are unlawful under §723.031 *FLORIDA STATUTES* with an award of costs and any other relief this Court deems proper to render justice.

Count II
Violation of §723.022 (1) FLORIDA STATUTES
Defendant's Failure to Comply with Applicable Building, Housing, and Health Codes

15. This is an action for a violation of §723.022 (1) FLORIDA STATUTES (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

16. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

17. Under § 723.022 (1) *FLORIDA STATUTES* (2005), the Defendant must comply with all applicable building, housing, and health codes.

18. In violation of the afore-cited statute, Defendant has failed to comply with all applicable building, housing, and health codes. Such violations include, but are not limited to, exceeding the permitted use under Operation Permit # FLA 010000526 and the total failure of the sewage system to the extent where Defendant was cited on more than one occasion by the Florida Department of Environmental Protection.

19. Defendant has also violated the Florida Administrative Code, including, but not limited to Fla. Admin. Code 64E-9. The Park has been cited on at least one occasion for the inadequate filtration system for the lap pool, in violation of Fla. Admin. Code 64E-9.

20. By violating applicable building, housing, and health codes, Defendant has violated §723.022 (1) *FLORIDA STATUTES* (2005), damaging the Residents as a result.

21. The Residents will suffer irreparable harm if violations of applicable building, housing, and health codes continue. Violations are likely to continue as Defendant refused and continues to refuse to take any actions to correct the violations and there is no adequate remedy at law to protect against future violations. Injunctive relief is necessary to prevent harm to the Residents' health and safety.

22. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper, including injunctive relief should the Court determine it is warranted.

Count III
Violation of §723.022 (2) FLORIDA STATUTES
Failure to Maintain in a Good State of Repair, Appearance, Safety, and Cleanliness

23. This is an action for a violation of §723.022 (2) FLORIDA STATUTES (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

24. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

25. Under § 723.022 (2) *FLORIDA STATUTES* (2005), the Defendant must maintain buildings and improvements in common areas in a good state of repair and maintenance

and must maintain the common areas in a good state of appearance, safety, and cleanliness.

26. In violation of the afore-cited statute, Defendant has failed to maintain buildings and improvements in common areas in a good state of repair and maintenance and failed to maintain the common areas in a good state of appearance, safety, and cleanliness. Such violations include, but are not limited to:

- (i) Failing to maintain the front gate at Great Lakes Blvd.
- (ii) Failing to maintain a gate at the Cayuga Drive entrance.
- (iii) Failing to maintain a gate by Thomas Boat Landing on the east side of the Park despite Defendant's representations that it would do so.
- (iv) Failing to screen non-residents who enter the Park.
- (v) Failing to maintain safety in the common areas of the Park which has lead to home burglaries, grand theft, grand theft auto, criminal mischief, and other damage.
- (vi) Failing to take adequate steps to provide reasonable security, despite being on notice of burglaries, vandalism, and other serious crimes in the Park.
- (vii) Eliminating an on-site manager further compromising Park safety, the Park's appearance, the Park's cleanliness, and causing the Park's improvements in the common areas to be in a bad state of repair and maintenance.
- (viii) Failing to maintain the Park as a gated secure community despite Defendant's representations that it would.
- (ix) Failing to maintain landscaping, plant beds, shrubs and trees in the common areas.
- (x) Failing to maintain concrete curbing in the common areas. It is broken and unsafe.
- (xi) Failing to maintain walkways, pedestrian paths, and parking lots in the common areas of the Park.
- (xii) Failing to clean and maintain the clubhouse. There has been no heating and air-conditioning in one-half of the Clubhouse since December 2003. This includes the kitchen, two rest rooms, library, and exercise and pool room.
- (xiii) Failing to repair all the broken lights throughout the common areas of the Park.
- (xiv) Failing to clean the gutters resulting in flooding of the common areas and streets.
- (xv) Failing to cut grass and maintain landscaping in the common areas causing weeds to grow in excess of four (4) feet throughout the Park.
- (xvi) Failing to maintain the clubhouse, the pool, the spa, the restrooms, and related common area facilities.

- (xvii) Failing to keep fire hydrants in the common areas in good repair.
- (xviii) Failing to maintain the Clubhouse kitchen.
- (xix) Failing to maintain the boat slips and dock.
- (xx) Failing to maintain permanent rest rooms, walking paths, and the fountain.
- (xxi) Failing to maintain the golf course and baseball field.
- (xxii) Failing to maintain the roads.
- (xxiii) Failing to maintain the firehouse, carport, siren, and ceramic building.

27. By failing to maintain buildings and improvements in common areas in a good state of repair and maintenance and failing to maintain the common areas in a good state of appearance, safety, and cleanliness, Defendant has violated §723.022 (2) *FLORIDA STATUTES* (2005), damaging the Residents as a result. The Residents have had to pay for some of the needed maintenance for which Defendant has refused reimbursement.

28. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper to render justice.

Count IV
Violation of §723.022 (3) FLORIDA STATUTES
Failure to Provide Access

29. This is an action for violation of §723.022 (3) *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

30. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

31. Under § 723.022 (3) *FLORIDA STATUTES* (2005), the Defendant must provide access to the common areas, including buildings and improvements thereto, at all reasonable times for the benefit of the park residents and their guests.

32. In violation of the afore-cited statute, Defendant has failed to provide access to the common areas, including buildings and improvements thereto, at all reasonable times for the benefit of the park residents and their guests. Handicapped residents and guests do not have access to the common areas, including buildings and improvements thereto, at all reasonable times.

33. By failing to provide access to the common areas, including buildings and improvements thereto, at all reasonable times for the benefit of the park residents and their guests, Defendant has violated §723.022 (3) *FLORIDA STATUTES* (2005), damaging the Residents as a result.

34. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper to render justice.

Count V
Violation of §723.022 (4) FLORIDA STATUTES
Failure to Maintain Utilities

35. This is an action for violation of §723.022 (4) *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

36. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

37. Under § 723.022 (4) *FLORIDA STATUTES* (2005), the Defendant must maintain utility connections and systems for which Defendant is responsible in proper operating condition.

38. On or about November 2, 2001, May 2002, February 2003 – May 2003, May 2004 - November 2004, and January 2005 – through the present in violation of the afore-cited statute, Defendant has failed to maintain the utility connection and system for which Defendant is responsible in proper operating condition. By example and not limitation, such violations include, but are not limited to:

- (i) Failing to maintain the water system so water supply lines break frequently, resulting in boil orders which are not timely passed to the residents causing harm to the Residents.
- (ii) Failing to maintain water pressure so the residents can have functioning running water.
- (iii) Failing to maintain the sewer system in proper operating condition resulting in sewage seepage.
- (iv) Failing to maintain the integrity of the storm water collection system causing catch basins and roads to break, fail, and collapse causing unsafe conditions and severe flooding.
- (v) Defendant has even failed to monitor it's storm water retention area causing severe flooding of common areas and homes.
- (vi) Failing to maintain the master lift station where, on more than one occasion, raw sewage has spilled onto common areas, the Resident's lots, and into SunLake.

39. The Residents will suffer irreparable harm if violations of applicable building, housing, and health codes continue. Violations are likely to continue as Defendant refused and continues to refuse to take any actions to correct the violations and there is no adequate remedy at law to protect against future violations. Injunctive relief is necessary to prevent harm to the Residents' health and safety.

40. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper to render justice.

Count VI
Violation of §723.022 (5) FLORIDA STATUTES
Failure to Comply with Park Rules and Regulations

41. This is an action for a violation of §723.022 (5) *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

42. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

43. Under § 723.022 (5) *FLORIDA STATUTES* (2005), the Defendant must comply with properly promulgated park rules and regulations and require other persons in the premises with his or her consent to comply therewith.

44. On or about April 2000 – August 2000, March 2001 – August 2001, April 2002 – October 2002, January 2003 – May 2003, October 2004, and September 2005 through the present, in violation of the afore-cited statute, Defendant has failed to comply with properly promulgated park rules and regulations and failed to require other persons in the premises with his or her consent to comply therewith. By example and not limitation, such violations include, but are not limited to:

- (i) The Defendant has failed to keep vacant lots clean and free of debris as required; and
- (ii) Defendant has failed to mow lawns and common areas as required.

45. By failing to comply with properly promulgated park rules and regulations, Defendant has violated §723.022 (5) *FLORIDA STATUTES* (2005) and has damaged the Residents.

46. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper to render justice.

Count VII
Action Under §723.0381 FLORIDA STATUTES
Unreasonable Rental Increases, Changes, Charges, and Reduction in Services

47. This is an action against Defendant, American Land Lease, under §723.0381 *FLORIDA STATUTES* (2005), for violations of §§ 723.033, 723.037, 723.031 *FLORIDA*

STATUTES (2005), for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

48. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

49. Under § 723.033 *FLORIDA STATUTES* (2005), Defendant may not charge unreasonable rent, enact unreasonable increases, or make unreasonable changes to the Park.

50. Under § 723.037 (1) *FLORIDA STATUTES* (2005), Defendant shall provide written notice of the reduction in services 90 days prior to reducing the services.

51. In violation of the afore-cited statutes, Defendant, in 2002, 2003, and 2004, has charged unreasonable rent, enacted unreasonable rent increases despite actually reducing services, has made unreasonable changes to the Park, and has reduced services in the Park without the required notice, including, but not limited to, the elimination of an onsite-manager and thus, the services he provided, as well elimination of maintenance personnel and services they provided, and elimination of the services provided through channel 12.

52. Defendant has also unlawfully "passed on" charges for curbside solid waste disposal even though Defendant already charges the Residents a fee for curbside solid waste disposal as part of the rent imposed. §723.031 *FLORIDA STATUTES* mandates that no charge may be collected that results in the payment of money for sums previously collected as part of the lot rental amount. In violation of §723.031 *FLORIDA STATUTES*, Defendants charge and collect money for curbside solid waste disposal even though Defendant, American Land Lease, has previously collected such sums as part of the lot rental amount. The unlawful charges also violate § 723.033 *FLORIDA STATUTES* (2005) because they are unreasonable. All these violations have caused the Residents substantial damage.

53. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents respectfully request judgment (i) declaring the lot rental amount charged by Defendant to be unreasonable, (ii) refusing to enforce the unreasonable increases in lot rental amount, (iii) awarding a refund to the Residents for increases and fees Defendant already unlawfully collected and requiring that the increased rental amount of future payments and future fees be deposited in the Court's registry pending a resolution of this dispute, (iv) awarding the residents all damages, their costs, reasonable attorney's fees, and pre-judgment interest as entitled, and (v) granting such other relief as the Court deems proper to render justice.

Count VIII
Breach of Contract

54. This is an action for Breach of Contract against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

55. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

56. The Residents and Defendant entered into a settlement agreement (hereinafter "Agreement") wherein Defendant agreed to increase rent pursuant to Chapter 723 and to

increase rent only by the Consumer Price Index (CPI) for those participating in the CPI program described in paragraph 6(b) of the Agreement and incorporated herein. A true and correct copy of the Agreement is attached hereto as Exhibit "D".

57. Defendant breached the Agreement by charging more than the Consumer Price Index (CPI). Defendant increased rent by 5% in excess of the Consumer Price Index (CPI).

58. Defendant also agreed that, for those residents who do not participate in the lifetime CPI Certificate program under paragraph 6(b) of the Agreement and for those who do not participate in the Lifetime Fixed Amount Certificate under paragraph 6(c) of the contract, that "The Base Rent for any Homeowner who reaches the 'market' Base Rent will thereafter only be increased if 'market' Base Rent is adjusted." See paragraph 6(a) of the Agreement, Exhibit "D".

59. Defendant breached the Agreement by increasing the Base Rent even though there has been no adjustment in Market Rent and no legitimate justification for the adjustment. Owner has failed to provide Plaintiff with "the name and address of each community considered, a listing of the amenities provided for each community and any pass on or pass through charges that the community charges in addition to Base Rent."

60. Defendant has also breached the Agreement by failing to comply with Chapter 723 as noted in paragraph 51 and 52 of this Complaint which is hereby incorporated herein.

61. Defendant's breach has caused the Residents damage.

62. The Agreement at issue provides for the recovery of attorney's fees to the prevailing party.

WHEREFORE, The Residents demand judgment against Defendant, American Land Lease, for damages, all attorney's fees and costs, prejudgment interest and any and all other relief the Court deems proper to render justice.

Count IX
Violation of §723.045 FLORIDA STATUTES
Unlawful Charges on Water in Excess of Costs

63. This is an action for a violation of §723.045 *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

64. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

65. Under § 723.045 *FLORIDA STATUTES* (2005), the Defendant may charge for maintenance costs actually incurred and administrative costs in distributing water.

66. On or about November 19, 2001 through the present in violation of the afore-cited statute, Defendant has made the distribution of water a profit center by charging for administrative costs allegedly incurred by Defendant including charging the Residents fees for "water meters" which were not actually incurred.

67. On or about October 1999 through the present, Defendant has made the profit by charging for maintenance costs not actually incurred over and above the costs incurred by Defendant, which Defendant has violated §723.045 *FLORIDA STATUTES* (2005) and has

damaged the Residents.

68. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper to render justice.

Count X
Violation of §723.0615 FLORIDA STATUTES
Retaliatory Conduct

69. This is an action for a violation of §723.0615 *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

70. The Residents reallege the allegations contained in paragraphs 1 through 8 previously asserted as if fully set forth herein.

71. Under § 723.0615 *FLORIDA STATUTES* (2005), the Defendant may not discriminatorily decrease services primarily because Residents have (i) complained in good faith to a governmental agency charged with responsibility for enforcement of building, housing, and health codes, (ii) organized, encouraged, or participated in a homeowner's association, and (iii) complained to Defendant for its failure to comply with applicable building, housing, and health codes, its failure to maintain common areas in a good state of appearance, safety, and cleanliness, its failure to provide access to common areas, its failure to maintain utility systems for which it is responsible, and its failure to comply with park rules and regulations.

72. In violation of the afore-cited statute, Defendant has reduced services in retaliation against the Residents for (i) complaining in good faith to a governmental agency charged with responsibility for enforcement of building, housing, and health codes, (ii) participating in a homeowner's association, and (iii) complaining to Defendant for its failure to comply with applicable building, housing, and health codes, its failure to maintain common areas in a good state of appearance, safety, and cleanliness, its failure to provide access to common areas, its failure to maintain utility systems for which it is responsible, and its failure to comply with park rules and regulations.

73. By retaliating against the Residents, Defendant has violated §723.00615 *FLORIDA STATUTES* (2005) and has damaged the Residents.

74. Attorney's fees are recoverable to the prevailing party pursuant to §723.068 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper.

Count XI
Deceptive and Unfair Trade Practices

75. This is an action against Defendant, American Land Lease, for damages which exceed \$15,000.00 in amount, exclusive of interest, costs, and attorney's fees under the

Florida Deceptive and Unfair Trade Practices Act, *FLORIDA STATUTES* Chapter 501.

76. The Residents reallege the allegations contained in paragraphs 1 through 8 and paragraphs 38, 52, and 69 previously asserted as if fully set forth herein.

77. The Residents are Consumers under the Florida Deceptive and Unfair Trade Practices Act, § 501.202 *FLORIDA STATUTES*.

78. Defendant is engaged in "Trade and Commerce" under the Florida Deceptive and Unfair Trade Practices Act, §501.202 *FLORIDA STATUTES* by offering goods and services to the Residents.

79. Defendant charges a fee to the residents, included in their rent, which is greater than the fee charged by Lake County for curb side pick up. The residents not only pay Lake County's fee for solid waste curb side pick up, but are unlawfully charged an additional fee by Defendant.

80. Defendant's above-noted actions are deceptive and unfair, offend public policy, are unethical, and have caused substantial injury to the Residents.

81. As a result of Defendant's deceptive and unfair trade practices, the Residents have suffered substantial damages.

82. All conditions precedent to the bringing of this action occurred or have been performed.

83. Attorney's fees are recoverable to the prevailing party under §501.2105 *FLORIDA STATUTES*.

WHEREFORE, the Residents demand judgment against Defendant (i) awarding damages, (ii) awarding the Residents prejudgment interest, reasonable attorney's fees, and costs as provided under §501.2105 *FLORIDA STATUTES*, and (iii) ordering such other relief as the Court deems proper to render justice, including injunctive relief should the court find that there is no adequate remedy at law and that the public will continue to suffer irreparable harm should Defendant continue to violate the Florida Deceptive and Unfair Trade Practices Act and chapter 723.

Count XII
Injunction Preserving Golf Course

84. This is an action for injunctive relief to preserve the recreational facility known as the "Sunlake Golf Course" by prohibiting Defendants, American Land Lease, Community Sunlake Joint Venture, a Delaware general partnership, and AIOF Florida Properties I, L.L.C., its managing partner (hereinafter jointly and severally referred in the Count as "Defendant") from destroying and eliminating the Sunlake Golf Course.

85. The Residents reallege the allegations contained in paragraphs 1 through 8 above as fully set forth herein.

86. The Prospectus, Exhibit "A," lists the Sunlake Golf Course, more particularly described in Exhibit "E", as a recreational facility for use by the Residents and their guests for "free."

87. Under §723.003 (4) *FLORIDA STATUTES*, the written prospectus, Exhibit "A," is part of

the Residents' mobile home lot agreement (the "Agreement").

88. Defendant has breached its Agreement and is continuing to breach its Agreement with the Residents by taking actions to eliminate the Sunlake Golf Course, failing to maintain the Sunlake Golf Course encumbering the Residents' use of the Sunlake Golf Course, and asserting that the Sunlake Golf Course is not for the use of the Residents and their guests and that Defendant can develop the Sunlake Golf Course to place more mobile homes thereon.

89. There is no adequate remedy at law because the Sunlake Golf Course is unique and once it is destroyed and mobile homes are placed on it, it will be lost forever. Damages are inadequate to compensate the Residents for the loss of their Sunlake Golf Course.

90. The Residents have been and will continue to be irreparably harmed should Defendant continue its actions to eliminate the Sunlake Golf Course.

WHEREFORE, The Residents request this Court enter a temporary injunction with notice preserving the status quo until this litigation is resolved, thereafter a permanent injunction prohibiting Defendant from destroying and eliminating the Sunlake Golf Course until each of the Residents no longer resides in the Park, and awarding any other relief this Court deems proper to render justice, including the taxable costs of this action.

Count XIII
Violation of §723.021 FLORIDA STATUTES
Failure to Act in Good Faith and Deal Fairly

91. This is an action for a violation of §723.021 *FLORIDA STATUTES* (2005), against Defendant, American Land Lease, for damages exceeding \$15,000.00, exclusive of interest, costs, and attorney's fees.

92. The Residents reallege the allegations contained in paragraphs 1 through 8, 18, 19, 26, 27, 38, 44, 52, 66, 72 previously asserted as if fully set forth herein.

93. Under § 723.021 *FLORIDA STATUTES* (2005), the Defendant has an obligation of good faith and fair dealing in performing its obligations under Chapter 723.

94. In violation of the afore-cited statute, Defendant has not acted in good faith and has not dealt fairly with the residents in performing its obligations under Chapter 723 *FLORIDA STATUTES*.

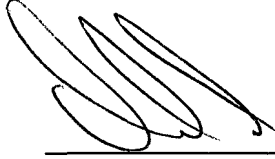
95. By not acting in good faith and not dealing fairly with the Residents in performing its obligations under Chapter 723, Defendant has violated §723.021 *FLORIDA STATUTES* (2005) and has damaged the Residents.

96. Attorney's fees are recoverable to the prevailing party pursuant to §723.021 *FLORIDA STATUTES* (2005).

WHEREFORE, the Residents request this Court enter judgment against Defendant, American Land Lease, for damages, costs, pre-judgment interest, attorney's fees, and any and all other relief this Court deems proper.

Demand For A Jury Trial

The Residents demand that the issues presented herein be tried by a jury.



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Florida Bar No. 0352070

CERTIFICATE OF SERVICE

I certify that a copy of the Second Amended Complaint has been furnished to David D. Eastman, Esq., 155 Delta Blvd., Suite 210-B, Tallahassee, FL 32303 and to Sanford A. Minkoff, Esq., Lake County Attorney, Post Office Box 7800, Tavares, FL 32778, by regular mail this 14th day of February, 2006.



Derek A. Schroth