COPY

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1:25 pm from TBID Chair

Attorneys for Plaintiff
REMLC RENTAL PROPERTY AND MANAGEMENT SERVICES, LLC, d/b/a CITY CENTER MOTEL

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT
RAVALLI COUNTY

REMLC RENTAL PROPERTY AND MANAGEMENT SERVICES, LLC, d/b/a CITY CENTER MOTEL,

Plaintiff,

v.

BOARD OF TRUSTEES OF RAVALLI COUNTY TOURISM BUSINESS IMPROVEMENT DISTRICT, INDIVIDUALLY AS TRUSTEES, and COLLECTIVELY AS THE BOARD, AND RAVALLI COUNTY BOARD OF COUNTY COMMISSIONERS, INDIVIDUALLY AS COMMISSIONERS, and COLLECTIVELY AS THE BOARD,

Defendants.

Dept. No. 2
Cause No. DV 17-376

COMPLAINT, REQUEST FOR PERMANENT INJUNCTION, and REQUEST FOR PRELIMINARY INJUNCTION

* *

COMES NOW Plaintiff REMLC RENTAL PROPERTY AND MANAGEMENT SERVICES, LLC, d/b/a CITY CENTER MOTEL, Hamilton, MT; by and through attorneys RIMEL AND MRKICH, PLLC; and Dale R. Mrkich, Esq.; and

respectfully alleges the following:

JURISDICTION AND VENUE

1. That this court has jurisdiction over this cause because it involves a case at law arising in Ravalli County, Montana. (Sec. 3-5-302(1)(c) MCA.) Plaintiff resides in and conducts business as a property and motel owner in Ravalli County. Moreover, the court has the power to issue, hear, and determine injunctions like the permanent and preliminary injunctions Plaintiff requested in his Prayer for Relief. (Sec.3-5-302(5) MCA.)
2. That Defendant Ravalli County Board of County Commissioners (Board of Commissioners) is a local government entity for Ravalli County, Montana with authority to establish and organize certain administrative boards in the county. Individual Commissioners are elected officials in Ravalli County.
3. That Defendant Ravalli County Tourism Business Improvement District (TBID) was established and authorized by the Board of Commissioners to operate from offices in Ravalli County. (Sec. 7-1-201(2)(c) MCA.) Individual Trustees are citizens who are appointed by the Board of Commissioners in Ravalli County.
4. That venue is proper in this court because Plaintiff is a resident and property owner in Ravalli County, Montana, conducting business as City Center Motel, 415 West Main St., Hamilton, Ravalli County, Montana, 59840. City Center Motel is a lodging facility for overnight stays. Defendant Board of Commissioners is located in Hamilton, Montana, and Defendant TBID operates in Ravalli County through a Board of Trustees (TBID Board of Trustees) appointed by the Board of Commissioners.
5. That the allegations herein and expected future interaction between Plaintiff and Defendants, including Commissioners, Trustees, Beneficiaries or Agents in any way involved with the allegations, will occur in Ravalli County.

FACTS

6. That TBID was established and organized by various Ravalli County tourism lodging businesses and owners in 2012.
7. That on or about 8/23/12, TBID was authorized by to operate through By-Laws and a Marketing Plan adopted by the TBID Board of Trustees and approved by the Ravalli County Board of County Commissioners by Resolution No. 2673.
8. That on or about 10/11/12, TBID was registered as a Montana Domestic Non-Profit Corporation, (No. D230565.)
9. That both documents mentioned in Para.. 7, supra, included the following Mission Statement: "The mission of Ravalli County Tourism Business Improvement District is to increase room occupancy through the effective marketing of the Bitterroot Valley's lodging facilities."
10. That the Board of Commissioners, through the reference in the Mission Statement to "increase room occupancy," authorized the TBID to be composed of noncontiguous areas with a common purpose of providing overnight stays for tourists at lodging facilities, which authorization also required inclusion of all properties in the TBID with the same identified purpose. (Sec. 7-12-1111 (4) MCA.)
11. That Plaintiff, as the owner of City Center Motel, had a common purpose of providing overnight stays for tourists at his lodging facility and was required to participate in TBID.
12. That Plaintiff's mandatory participation in TBID required and still requires Plaintiff to pay certain assessments, costs and fees.
13. That TBID Board of Trustees and/or individual Trustees failed to fulfill TBID obligations to Plaintiff that arose by operation of law.
14. That TBID Board of Trustees and/or individual Trustees failed to fulfill TBID obligations to Plaintiff, as an owner of lodging facilities for overnight stays for tourists at his lodging facility, to increase room occupancy at City Center Motel, as required by TBID By-Laws and Mission Statement.

15. That TBID Board of Trustees and/or individual Trustees failed to respond to numerous requests from Plaintiff for information about the nature and extent of TBID obligations and benefits.
16. That TBID Board of Trustees and/or individual Trustees failed to show proof of equitable benefits to Plaintiff, to increase room occupancy, from the required participation in TBID, when compared to other TBID participants and other beneficiaries in contiguous TBID areas.
17. That TBID Board of Trustees and/or individual Trustees failed to show proof of equitable benefits to Plaintiff, to increase room occupancy, from the required participation in TBID, when compared to other TBID participants and other beneficiaries in different noncontiguous TBID areas.
18. That TBID Board of Trustees and/or individual Trustees failed to show equitable benefits to Plaintiff, to increase room occupancy, from its use of monies collected from Plaintiff by TBID.
19. That TBID Board of Trustees and/or individual Trustees failed to account for the disposition of Plaintiff monies, to increase room occupancy, used by TBID Board of Trustees to support and encourage businesses participating in TBID.
20. That TBID Board of Trustees and/or individual Trustees failed to account for the disposition of Plaintiff monies, to increase room occupancy, used by TBID Board of Trustees to support and encourage businesses not participating in TBID.
21. That TBID Board of Trustees and/or individual Trustees illegally prevented Plaintiff from obtaining the information mentioned in Para. 12-18, supra, by ignoring Plaintiff's requests, in violation of Montana law.
22. That TBID Board of Trustees and/or individual Trustees illegally prevented Plaintiff from obtaining the information mentioned in Para.12-18, supra, by limiting Plaintiff's participation in TBID public meetings, in violation of Montana law.
23. That TBID Board of Trustees and/or individual Trustees illegally used monies collected from Plaintiff to benefit non-participating businesses, and businesses that were not seeking to increase room occupancy,
24. That the actions of TBID Board of Trustees and/or individual Trustees caused

Plaintiff damages, in an amount to be proved at trial.

25. That upon information and belief, the Board of Commissioners and/or individual Commissioners knew or should have known about Plaintiff's rights to the information requested from TBID Board of Trustees, as mentioned in Para. 12-18, supra.

26. That upon information and belief, the Board of Commissioners and/or individual Commissioners knew or should have known about Plaintiff's requests for information from TBID Board of Trustees.

27. That upon information and belief, the Board of Commissioners and/or individual Commissioners knew or should have known that TBID Board of Trustees ignored Plaintiff's requests for information, in violation of Montana law.

28. That upon information and belief, the Board of Commissioners and/or individual Commissioners knew or should have known that TBID Board of Trustees prevented Plaintiff from obtaining the information mentioned in Para. 12-18, supra, by allowing TBID Board of Trustees to limit Plaintiff's participation in TBID public meetings, in violation of Montana law.

29. That the Board of Commissioners caused Plaintiff damages, in an amount to be proved at trial.

REQUEST FOR PERMANENT AND TEMPORARY INJUNCTIONS

30. That Plaintiff is entitled to a permanent injunction against the mandatory participation in TBID required as the owner of a lodging facility for overnight stays.

31. That the actions and failures of TBID Board of Trustees and/or individual Trustees, and the Board of Commissioners and/or individual Commissioners, have caused Plaintiff to suffer undeserved, unnecessary, and illegal damages to Plaintiff's business in an amount that will be proved at trial.

32. That Plaintiff is entitled to a preliminary injunction in the instant case because Plaintiff must not be subjected to continued damages while the instant case is pending.

WHEREFORE, Plaintiff prays for Judgment against Defendants as follows:

1. That the court order Judgment in favor of Plaintiff in an amount to be proved at trial.
2. That the court issue a permanent injunction in favor of Plaintiff against the mandatory participation in TBID required of Plaintiff as the owner of a lodging facility for overnight stays.
3. That Defendants take nothing by the Complaint or any counterclaim.
4. That Defendant Board of Trustees of Ravalli County Tourism Business Improvement District be dissolved.
5. That any and all of Plaintiff's obligations connected in any way to TBID be completely and permanently discontinued or removed.
6. That the court award to Plaintiff all costs and fees associated with this cause, including but not limited to reasonable attorneys fees, filing fees, costs of service of process, costs associated with informal and formal discovery, costs incurred for expert testimony and such other and further relief as to the court appears equitable and proper, reasonable and just.

FURTHERMORE, Plaintiff prays the court issue against Defendants for the duration of this cause a Preliminary Injunction that prohibits TBID assessments or demands for payment or collection of taxes or costs or penalties of any kind for nonpayment made against Plaintiff. (Sec. 3-5-302(5) MCA.)

Plaintiff respectfully demands a jury trial for all issues raised in the Complaint..

DATED this 8th day of September, 2017.

RIMEL AND MRKICH, PLLC

Dale R. Mrkich
Attorney for Plaintiff

STATE OF MONTANA)
: ss.
Ravalli County)

Clayton H. Dethlefsen being first duly sworn, upon oath, deposes and says:

That he is the Senior and Managing Partner for Plaintiff REMLC Rental Property and Management Services, LLC in the above-entitled Complaint; that he has read the foregoing; and that the allegations, facts and other matters contained herein are true, correct and complete to the best of his knowledge and belief.

Clayton H. Dethlefsen, Senior and Managing Partner for Plaintiff REMLC Rental Property And Management Services, LLC

SUBSCRIBED AND SWORN TO before me on this 8th day of September, 2017.

SANDRA L SHEETS
NOTARY PUBLIC for the
State of Montana
Residing at Corvallis, Montana
My Commission Expires
April 01, 2021

Notary Public
Residing at: Corvallis
My Commission Expires: 04-01-2021

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ATTORNEYS FOR PLAINTIFF
REMLC RENTAL PROPERTY AND MANAGEMENT SERVICES, LLC, d/b/a CITY CENTER MOTEL

MONTANA TWENTY-FIRST JUDICIAL DISTRICT COURT, RAVALLI COUNTY

REMLC RENTAL PROPERTY AND MANAGEMENT SERVICES, LLC, d/b/a CITY CENTER MOTEL,	)	Cause No. DV 17-376
Plaintiff,	)	Dept. No. 2
vs.	)	
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Defendants.	)	

THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED

DEFENDANT: Board of County Commissioners of Ravalli County, Montana; Ravalli County

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Melanie L. Rimel, Esq
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Defendants.	)	

THE STATE OF MONTANA SENDS GREETINGS TO THE ABOVE-NAMED

DEFENDANT: Board of Trustees of Ravalli County Tourism Business Improvement District,

c/o Board Chair, Dorothy Eppich, Bitterroot River Ranch, 4301 West Fork Road, Darby, MT, 59829.

YOU ARE HEREBY SUMMONED AS FOLLOWS:

To Answer the Complaint, Request for Permanent Injunction, and Request for Preliminary Injunction, in the above-entitled action, which is filed in the Office of the Clerk of the above-named court, a copy of which is herewith served upon you;

To file your Answer and serve a copy thereof upon Plaintiffs' attorney, RIMEL AND MRKICH, PLLC, P.O. BOX 1027, MISSOULA, MT, 59806; within twenty (20) days after the service of this Summons upon you; excluding the day of service.

In case of your failure to APPEAR or ANSWER, Judgment will be taken against you by Default; for the relief requested in the Complaint, Request for Permanent Injunction and Request for Preliminary Injunction.

GIVEN UNDER MY HAND this 8th day of September, 2017.

Page Trautwein, Clerk of the District Court

COURT SEAL

BY: /s/ KIMBERLY PROVENCE