

necessary to prevent further harm. The Court further finds that, to date, Defendants have not demonstrated that they can operate the driving range without continuing trespass, property damage, and danger to neighboring residents. In essence, the Defendants are operating a lawful business in an unlawful manner. *See LeFurgy v. Long Cove Club Owners Ass'n, Inc.*, 313 S.C. 555, 558, 443 S.E.2d 577, 579 (Ct. App. 1994).

In balancing the equities, the Court finds that temporary injunctive relief is warranted and that such relief must be narrowly tailored to address the specific harms at issue. *See Richland Cnty. v. S.C. Dep't of Revenue*, 422 S.C. 292, 309–10, 811 S.E.2d 758, 767 (2018); *see also* 27 S.C. Jur. Injunctions §12. The Court further finds that Rule 65(c), SCRCP, requires security only to protect Defendants against damages incurred if the injunction is later determined to have been wrongfully issued and does not require a bond sufficient to insure Defendants against speculative lost profits or the economic consequences of being required to operate their business in a lawful manner such that it does not cause physical damage to Plaintiffs property.

The Court fully understands that temporary relief is an extraordinary measure. However, it is undisputed that an unreasonable number of errant shots are trespassing onto the Plaintiff's property thereby creating an empirical potential for significant injury or death (see Plaintiffs Expert Report filed in the record) temporary relief is fully justified in this case. The Court also seeks herein to temper and/or tailor the relief such that Defendants are fully able to suspend or lessen the effect through their own efforts.

Temporary Injunctive Relief and Suspension of Operations

This Court and the parties have struggled with identifying, much less implementing, intermediate safety measures short of installing a net over 130 feet. Since Defendants appear to be unable or unwilling to install such a netting system, and the trespass, damage and endangerment

has continued, this Court Orders as follows: (1) effective January 15, 2026, Defendants are ordered to temporarily suspend the golf ball hitting portions of the Defendants' TopTracer driving range for a period of sixty (60) days; (2) during this period of time, Defendants shall provide to the Court a concrete plan to modify the design and operations of the golf ball portions of the Defendants' TopTracer driving range (the "Operations Plan")¹. Defendants shall be permitted to continue their food and beverage operations and any other activities that do not involve driving golf balls.

The Court strongly encourages the Defendants to immediately develop a professionally created and verified plan such that they can use to apply to the Court to reopen operations, partial operations, conduct test periods of operations, in order to resume maximum operational efficiency in a lawful manner which means without unreasonable trespass damage and endangerment to their neighbors.

This suspension is not punitive in nature but is intended solely to prevent ongoing irreparable harm, serious injury and to provide Defendants with an opportunity to develop corrective measures that will allow operations to resume without continued trespass, damage, or danger.

During the suspension period, any proposed plan shall be reviewed and approved by an industry recognized expert, prior to submission for judicial consideration.

Defendants may apply to the Court **at any time** during the suspension period to reopen any type of operations upon submission of a proposed plan. Any application to reopen shall be subject to Court review and approval after notice to Plaintiff and an opportunity for Plaintiff to be heard.

Sixty (60) days, or soon thereafter the effective date of this Order, the Court should hold a hearing to determine whether or not the suspension or the bond should be modified in any way.

¹ The "Plan" shall be prepared by and attested to by an industry recognized and court expert for the Courts review.

RULE 65(c) BOND

Pursuant to Rule 65(c), SCRCF, the Court finds that a **low or nominal bond** is appropriate under the circumstances of this case. Requiring Plaintiffs to post a substantial bond as a condition of safety during a Court ordered suspension would improperly shift the burden of Defendants' conduct onto the injured parties. Equity does not require such a result. *See Levine v. Spartanburg Reg'l Servs. Dist., Inc.*, 367 S.C. 458, 467, 626 S.E.2d 684, 689 (Ct. App. 2006). Where a lawful business is operated in an unlawful or unreasonable manner so as to materially interfere with neighboring property rights, injunctive relief is appropriate notwithstanding economic impact. *See LeFurgy v. Long Cove Club Owners Ass'n, Inc.*, 313 S.C. 555, 558, 443 S.E.2d 577, 579 (Ct. App. 1994). Under such circumstances, the economic impact of compliance is not a "wrongful-injunction damage" **but a consequence of** bringing operations into conformity with the law.

The bond requirement is not intended to punish the party seeking injunctive relief, nor is it a proxy for alleged damages arising from the underlying dispute. Rather, the bond serves the narrow purpose of protecting the enjoined party against damages proximately caused by the injunction itself. *See Helsel v. City of N. Myrtle Beach*, 307 S.C. 29, 32, 413 S.E.2d 824, 826 (1992).

The Court finds that the likelihood of compensable damages to Defendants resulting from a wrongfully issued injunction is minimal and that any economic impact arising from compliance with this Order will not constitute wrongful-injunction damages.

Accordingly, the Court sets the Rule 65(c) bond in the amount of \$ 75,000. Upon posting of the bond, if any, this Order shall take immediate effect.

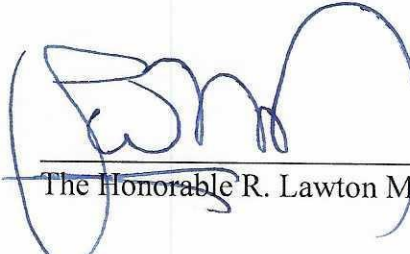
(Seventy-five Thousand)
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Scheduling and Reservation of Rights

The Court retains jurisdiction to modify this Order, including the duration of the suspension, the scope of permitted operations, the approval of any proposed operational plan, or the amount of the bond, upon motion and good cause shown.

This Order is temporary in nature and does not constitute a final adjudication of the merits of Plaintiff's claims or Defendants' defenses.

AND IT IS SO ORDERED.



The Honorable R. Lawton McIntosh