

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2021-019511

06/22/2023

HONORABLE JOAN M. SINCLAIR

CLERK OF THE COURT
L. Gilbert
Deputy

JENNIFER DUNCAN, et al.

RODNEY GALARZA

v.

LABLONDE DEVELOPMENT
CORPORATION, et al.

BENJAMIN J BRANSON

VENESSA J BRAGG
J GREGORY CAHILL
JCL FRAMING L L C
C/O JUAN CARLOS LOPEZ
7714 W WELDON AVE
PHOENIX AZ 85033
JENNIFER R REBHOLZ
KURT M ZITZER
BETH MULCAHY
RINA K RAI
JUDGE SINCLAIR

MINUTE ENTRY

On October 11, 2022, this Court filed a minute entry ruling in favor of the Defendant Talus Homeowners' Association ("Defendant HOA") relative to its Motion to Dismiss. In that order, the Court dismissed count 5 of the First Amended Complaint which removed the HOA completely from this case. Plaintiff then filed a Motion for Reconsideration and Request for Evidentiary Hearing on November 18, 2022. This motion for reconsideration was fully briefed and argued on May 4, 2023.

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At the hearing on May 4, 2023, the Court ordered the Plaintiffs and the Defendant HOA to submit separate notices to the Court relative to the status of the case as a mediation was scheduled between the parties on May 31, 2023. The Court gave these two parties until June 16, 2023, to file those notices, at which point the Court would take under advisement the Plaintiffs' Motion for Reconsideration and the Defendant HOA's Application for Attorneys' Fees and Costs. In the meantime, a Rule 16 Scheduling Conference has been set at the request of the Plaintiffs.

The Court understands from the notices filed by the Plaintiffs and the Defendant HOA that all claims were settled between the Plaintiffs and the Troon North Master HOA (which is not a party to this case), but that no settlement was reached between the Plaintiffs and the Defendant HOA. The Court notes that it issued a preliminary injunction prohibiting additional fines by the Defendant HOA as of May 4, 2023. This issuance of the preliminary injunction, in and of itself, was a reversal of the Court's prior determination. Moreover, the Court was unaware of the existence of the Troon North Master CC&Rs when the October 11, 2022, ruling was issued. The Court has not analyzed the interplay between the Defendant HOA's CC&Rs relative to the Troon North Master CC&Rs. Therefore,

IT IS ORDERED granting the Plaintiffs' Motion for Reconsideration.

IT IS FURTHER ORDERED vacating the Court's October 11, 2022, minute entry ruling.

IT IS FURTHER ORDERED denying the Plaintiffs' request for an evidentiary hearing on the cost of remediation to the home. In its prior ruling, the Court had assumed the truth of the Plaintiffs' allegations concerning the alleged cost of repairs and considered that factor under the preliminary injunction analysis to be in favor of the Plaintiffs.

IT IS FURTHER ORDERED holding the Defendant HOA's Application for Fees and Costs in abeyance at this time.

The Court will discuss with the Plaintiffs and the Defendant HOA how the case will move forward as to Count 5 of the First Amended Complaint at the Rule 16 Scheduling Conference set on July 11, 2023. The Court encourages these two parties to continue to explore creative solutions concerning Count 5 of the First Amended Complaint.

IT IS FURTHER ORDERED that there will be no discovery at this time between the Plaintiffs and the Defendant HOA.