

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2025-012980

06/24/2025

HONORABLE RANDALL H. WARNER

CLERK OF THE COURT
C. Lacey
Deputy

LISA MARX

LISA MARX
13610 N 111TH AVE
SUN CITY AZ 85351

v.

TARA CONDOMINIUMS ASSOCIATION, et al. CHARLES H OLDHAM

ARI A BOWHAY
JUDGE WARNER

MINUTE ENTRY

Plaintiff Lisa Marx's request for preliminary injunction is under advisement following an evidentiary hearing. Marx is a homeowner and member of Defendant Tara Condominium Association. She alleges that the Association and the individual Defendants are taking action in violation of the CC&R's. She seeks a preliminary injunction on several issues.

1. Legal Standard.

A party seeking a preliminary injunction must show:

1. A strong likelihood of success at trial on the merits;
2. The possibility of irreparable injury not remediable by damages if a preliminary injunction is not granted;

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3. The balance of hardships favors a preliminary injunction; and
4. Public policy favors an injunction.

IB Property Holdings, LLC v. Rancho Del Mar Apartments Ltd. Partnership, 228 Ariz. 61, 64-65 (App. 2011). “Alternatively, the movant can seek to prove one of two conjunctive pairings: (1) probable success on the merits and the possibility of irreparable harm, or (2) the presence of serious questions and the balance of hardships tipping sharply in the movant’s favor.” *City of Flagstaff v. Arizona Dep’t of Admin.*, 255 Ariz. 7, 12 (App. 2023).

2. Insurance.

Ms. Marx first seeks injunctive relief to prevent the Association from pursuing a proposed change in its insurance. The proposal, Ms. Marx argues, violates the CC&R’s and Arizona statute.

To date, all the Association Board has done is vote to hire a lawyer to “begin the process to prepare amended CC&R’s to change our building insurance from ‘Walls-in’ H06 plans to H03 homeowner plans.” It is therefore premature for the Court to intervene on this issue. To amend the CC&R’s first requires a concrete amendment, then it requires a vote of the members. The Court has no way of deciding whether an amendment is lawful without knowing what the amendment says. And the members might not even approve such an amendment. The Court will not issue an injunction to prevent the Association from even considering an amendment that might or might not be lawful, and that might or might not be approved.

Ms. Marks has not proven serious questions on the merits as to this issue.

3. Taking Action Outside Of An Open Board Meeting.

Ms. Marks alleges that the Association and its officers have done things outside of an open board meeting which, under the CC&R’s, must be voted on in an open meeting. It is clear that the Board has taken certain actions without a vote that should have required a vote. These include appointing a new member of the Board, and hiring legal counsel. It is not clear that the deficiency cannot be ratified at a properly-notice Board meeting.

Other items of which Ms. Marks complains are less clear. She testified that some landscaping work can be done without a Board vote while other landscaping work requires a Board vote, but was unable to identify a standard in the CC&R’s by which to distinguish the two.

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On this this issue, Ms. Marks did not meet her burden of proving irreparable harm pending the resolution of this case on the merits. The Board—which does not have the assistance of a management company—needs to be more vigilant about ensuring important matters are considered and voted upon in open meetings. But there is no present harm identified which must be remedied by a preliminary injunction.

4. Production Of Records.

Ms. Marx presented evidence of delay in obtaining records from the Association. The evidence shows Ms. Marks has made dozens of records requests to the Association in the past months, and that the unpaid volunteer officers have done their best to comply. On this issue, Ms. Marks has not proven irreparable harm.

5. Criticizing Ms. Marx To Other Members.

Ms. Marks seeks injunctive relief preventing the Association and officers from criticizing her to other members of the community. She identified nothing unlawful or defamatory about the statements made about her. On this issue, Ms. Marks has not proven substantial questions on the merits.

6. Association Financials.

Ms. Marks seeks injunctive relief with regard to the Association's financial statements. The evidence showed that the Board has done its best to properly report financial information, and that it has relied on a professional to assist it. The reporting may have flaws, but it does not violate the CC&R's. Ms. Marks has not proven substantial questions on the merits as to this issue or irreparable harm.

7. Conclusion And Orders.

Based on the foregoing, Ms. Marx has not met her burden of proving both a likelihood of success on the merits or serious questions on the merits, and irreparable harm if a preliminary injunction is not issued. The request for a preliminary injunction is therefore denied.

IT IS ORDERED denying the motion for preliminary injunction.

IT IS FURTHER ORDERED, in order to bring this matter to resolution, that the parties file a joint report and proposed scheduling order by **August 15, 2025**.