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7 Attorneys for Defendant PC Village
Association, Inc.

2012 JAN -3 PM 1:55

FILED

9 **SUPERIOR COURT OF THE STATE OF ARIZONA**

10 **COUNTY OF COCONINO**

11 ROBERT R. HAWK and CECELIA J.
12 HAWK, husband and wife,

13 Plaintiffs,

14 v.

15 PC VILLAGE ASSOCIATION, INC., an
Arizona corporation,

16 Defendant.

NO. CV2011-00775

**NOTICE OF CLAIM OF
UNCONSTITUTIONALITY
PURSUANT TO A.R.S. § 12-1841**

(Assigned to the Honorable Mark R.
Moran)

17
18 Defendant, PC Village Association, INC., an Arizona corporation, submits
19 this Notice of Claim of Unconstitutionality regarding A.R.S. § 33-1808 and A.R.S. § 33-
20 441 to Attorney General Tom Horne, Representative Andy Tobin in his capacity of
21 Speaker of the Arizona House of Representatives, and Senator Steve Pierce in his capacity
22 of President-elect of the Arizona Senate.

23 Pursuant to A.R.S. § 12-1841, Defendant provides the following
24 information:

25 1. Defendant is represented by the following attorneys:

26 Edward G. Hochuli, Bar #004566
27 J. Gary Linder, Bar #020522
28 Jonathan Confer, Bar #028918

1 JONES, SKELTON & HOCHULI, P.L.C.
2 2901 North Central Avenue, Suite 800
3 Phoenix, Arizona 85012
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6 2. Case name, court name, caption and case number are set forth above.

7 3. Defendant challenges the constitutionality of two statutes, as applied
8 to Defendant:

9 a. Defendant contends that A.R.S. § 33-1808, if retroactively
10 applied to covenants, conditions and restrictions implemented prior to the statute's
11 passage, is unconstitutional as a law impairing contractual obligations contrary to Article
12 II, § 25 of the Arizona Constitution. *See also* USCS Const. Art. I, § 10, Cl 1.

13 b. Defendant contends that A.R.S. § 33-441, if retroactively
14 applied to covenants, conditions and restrictions implemented prior to the statute's
15 passage, is unconstitutional as a law impairing contractual obligations contrary to Article
16 II, § 25 of the Arizona Constitution. *See also* USCS Const. Art. I, § 10, Cl 1.

17 4. A Response to Motion for Summary Judgment and Cross Motion for
18 Summary Judgment are being filed simultaneously with this Notice, copies of which are
19 attached.

20 5. Parties have requested a declaratory judgment as to the
21 constitutionality of the above statutes. A hearing has not yet been scheduled in this
22 matter.
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1 DATED this 29th day of December , 2011.

2 JONES, SKELTON & HOCHULI, P.L.C.

3
4 By 

5 Edward G. Hochuli
6 2901 North Central Avenue, Suite 800
7 Phoenix, Arizona 85012
8 Attorneys for Defendant PC Village
9 Association, Inc.

10 ORIGINAL of the foregoing mailed via federal
11 express for filing this 29th day of December, 2011 to:

12 Clerk of the Court
13 Civil Filings
14 Coconino County Superior Court
15 200 N. San Francisco St. (Courthouse)
16 Flagstaff AZ 86001
17 COPY of the foregoing mailed
18 this 29th day of December, 2011, to:

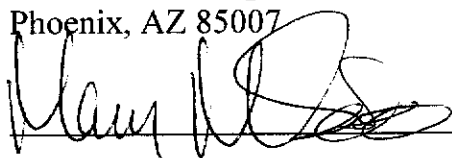
19 Tevis Reich
20 Attorney at Law
21 6 East Dale Avenue
22 Flagstaff, Arizona 86001
23 Attorney for Plaintiffs

24 *Courtesy Copies* mailed this 29th day of
25 December, 2011, to:

26 Office of the Attorney General
27 1275 W. Washington Street
28 Phoenix, AZ 85007

Andy Tobin, Speaker of the House
Capital Complex
1700 W. Washington
Phoenix, AZ 85007

Steve Pierce, President of the Senate
Capital Complex
1700 W. Washington
Phoenix, AZ 85007



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Category

CV



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1



Party Type

D



Party Number

D-1



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