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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MOHAVE

NANCY KNIGHT,)	NO.:
	CV-2018-04003	
)	
Plaintiff,)	
)	FINDINGS AND ORDER
)	DISMISSING COUNT 1 OF
vs.)	PLAINTIFF'S
)	COMPLAINT
)	
GLEN LUDWIG and PEARL LUDWIG, Trustees)	
of THE LUDWIG FAMILY TRUST; FAIRWAY)	
CONSTRUCTORS, INC.; MEHDI AZARMI;)	
JAMES B. ROBERTS and DONNA M.)	
ROBERTS, husband and wife; JOHN DOES 1-10;)	
JANE DOES 1-10; ABC CORPORATIONS 1-10;)	
and XYZ PARTNERSHIPS 1-10.)	
)	
Defendants.)	
_____)	

The Defendants having filed a Motion to Dismiss, the Plaintiff having filed a Response to Defendants' Motion, and Defendants having filed a Reply to the Plaintiff's Response, the Court, having considered the pleadings and filing of all parties, set this matter for oral argument. The Plaintiff appeared in person and the Defendants appeared through their attorney, Daniel J. Oehler,

the Defendants, James A. Roberts and Donna M. Roberts, were also present before the Court on April 2, 2018, at the time set for hearing;

The Court, having read the pleadings, Motion, Response and Reply, and having further reviewed the various exhibits and recorded governmental records appended thereto, and having further considered the parties' oral arguments, makes the following findings:

A. Tract 4076-A Desert Lakes Golf Course & Estates is a separate subdivision with separately recorded CC&Rs separate and apart from Tract 4076-B, and separate and apart from the remaining Desert Lakes Golf Course & Estates subdivisions each of which were developed by multiple and different owners/developers over the period of approximately 13 years (1989 - 2002);

B. Desert Lakes Golf Course & Estates and the various Tracts are not a master planned community subject to a single or **master** set of CC&Rs. Each separated subdivision has its separate CC&Rs except only Tract 4163 which has no separately recorded CC&Rs;

C. Plaintiff is not the Declarant, nor is Plaintiff the Declarant's successor or assign, nor is Plaintiff an owner, nor a person owning real property within the subdivision Desert Lakes Golf Course & Estates Tract 4076-A;

D. Defendants, James A. Roberts and Donna M. Roberts, his wife, own their home and reside in Desert Lakes Golf Course & Estates Tract 4076-A (Defendants' Motion to Dismiss Exhibit C);

E. Count 1 of Plaintiff's Complaint alleges a breach of **set back** requirements regarding the Roberts' residence alleging claims against all Defendants, including the Roberts Defendants, the prior owners of the lot upon which the Roberts' residence was constructed, Defendants Glen Ludwig and Pearl Ludwig, Trustees of the Ludwig Family Trust, Fairway Constructors, Inc., a former owner of the lot on which the Roberts home was constructed as well

as the general contractor of the Roberts' home, and finally, Mehdi Azarmi, the Vice President of Fairway Constructors, Inc. (Defendants' Motion to Dismiss Exhibits **B** and **C**);

F. The Court further finds that the Plaintiff resides in a subdivision known as Desert Lakes Golf Course & Estates Tract 4163 (Defendants' Motion to Dismiss Exhibit **A**);

G. That Tract 4163 is a resubdivision of Parcel VV and a part of abandoned Parcel KK of Desert Lakes Golf Course & Estates Tract 4076-B (Exhibit **H**, Defendants' Reply to Response (p. 4); and Exhibits **M** and **N** to Defendants' Reply to Response);

H. That Plaintiff's ownership in Tract 4163 as an original **parcel** within Tract 4076-B gives the Plaintiff ownership standing to enforce the CC&Rs for Tract 4076-B, the same having been recorded in the Official Records of Mohave County in Book 1641 at Page 895, and the Tract 4076-B wherein the CC&Rs authorize at paragraph 20 **any person or persons owning real property located within the subdivision** to enforce the Tract 4076-B CC&Rs (Exhibit **H**, Defendants' Reply to Response (p. 4); and Exhibits **M** and **N** to Defendants' Reply to Response);

I. The Court specifically finds that the Plaintiff, as a property owner in Tract 4163, is, therefore, also a property owner within Tract 4076-B as required by paragraph 20 Tract 4076-B CC&Rs, above-referenced and designated Exhibit **F** to Defendants' Motion to Dismiss.

NOW THEREFORE, THE COURT ENTERS THE FOLLOWING ORDERS:

1. The Plaintiff lacks standing to bring this action under Count 1 of Plaintiff's Complaint as Plaintiff is not a lot owner nor does Plaintiff own any property within Tract 4076-A;

2. That James A. Roberts and Donna M. Roberts are owners of their home located in Tract 4076-A and are therefore dismissed with prejudice from this action;

3. That Plaintiff's claim against Defendants Glen Ludwig and Pearl Ludwig, Trustees of the Ludwig Family Trust, Mehdi Azarmi, Vice President of Fairway Constructors, Inc., and

Fairway Constructors, Inc., under Count 1 of Plaintiff's Complaint are dismissed with prejudice;

4. That Plaintiff has standing to prosecute this action as an owner of land in Tract 4163 which is a resubdivision of a parcel of land originally within Tract 4076-B and therefore is an **owner of land** in Tract 4076-B, and pursuant to Tract 4076-B's CC&Rs as an owner or person owning property is authorized to bring an action to enforce the CC&Rs governing Tract 4076-B as complained of in Count 2 of Plaintiff's Complaint.

DATED this 11th day of June, 2018.



HONORABLE DEREK CARLISLE

cc:

Plaintiff Pro Per

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