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2018 APR 13 PM 4:28

SUPERIOR COURT CLERK

1 NANCY KNIGHT
2 1803 E. Lipan Circle
3 Fort Mohave, Arizona 86426
4 (928) 768-1537
5 nancyknight@frontier.com

6 Plaintiff Pro Per

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MOHAVE**

9 NANCY KNIGHT,

10 Plaintiff,

11 vs.

12 GLEN LUDWIG and PEARL LUDWIG, Trustees of
13 THE LUDWIG FAMILY TRUST; FAIRWAY
14 CONSTRUCTORS, INC.; MEHDI AZARMI; JAMES B.
15 ROBERTS and DONNA M. ROBERTS, husband and
16 wife; JOHN DOES 1-10; JANE DOES 1-10; ABC
17 CORPORATIONS 1-10; and XYZ PARTNERSHIPS 1-
18 10.

19 Defendants

Case No.: CV 2018 04003

**NOTICE OF LODGING FINDINGS
AND ORDER DISMISSING COUNT 1**

Honorable Derek Carlisle

20 Notice is hereby given that the attached Findings and Order Dismissing Count 1 of
21 the Plaintiff's Complaint has been Lodged with this Court on this date.

22 RESPECTFULLY SUBMITTED this 13 day of April, 2018

23 *Nancy Knight*
24 Nancy Knight
25 Plaintiff Pro Per



1 **COPY** of the foregoing hand delivered
2 this 13 day of April, 2018 to:

3 The Law Office of Daniel Oehler
4 2001 highway 95, Suite 15
5 Bullhead City, Arizona 86442

6 Notice of the filing in Bullhead City
7 emailed to Mary King, District II
8 Lake Havasu City, AZ
9 making@courts.az.gov

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1 NANCY KNIGHT
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3 Fort Mohave, Arizona 86426
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LODGED 4-13-18
BY KA

6 Plaintiff Pro Per

7 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
8 **IN AND FOR THE COUNTY OF MOHAVE**

9 NANCY KNIGHT,

10 Plaintiff,

11 vs.

12 GLEN LUDWIG and PEARL LUDWIG, Trustees of
13 THE LUDWIG FAMILY TRUST; FAIRWAY
14 CONSTRUCTORS, INC.; MEHDI AZARMI; JAMES B.
15 ROBERTS and DONNA M. ROBERTS, husband and
16 wife; JOHN DOES 1-10; JANE DOES 1-10; ABC
17 CORPORATIONS 1-10; and XYZ PARTNERSHIPS 1-
18 10.

19 Defendants

20 **Case No.: CV 2018 04003**

21 **FINDINGS AND ORDER**
22 **DISMISSING COUNT 1 OF**
23 **PLAINTIFF'S COMPLAINT**

24 The Defendants having filed a Motion to Dismiss alleging Plaintiff had no authority
25 whatsoever to bring any claim for CC&R enforcement as her Tract 4163 had no CC&Rs
and her home's builder, T&M Ranching and Development, was not imposed with any
CC&R restrictions. The Court, having considered all of the evidence submitted by both
sides including the Plaintiff's Response, The Defendant's Reply, and the Plaintiff's
Objections to the Defendant's Reply. Due to the evidence presented by both sides, the
Court scheduled Oral Arguments in a Motion for Summary Judgment for April 2, 2018 and
looked at the narrow issue of does the Plaintiff have the authority to bring a claim.;

1 The Plaintiff appeared in person and the Defendants Ludwig, Azarmi, and Fairway
2 Constructors appeared through their attorney, Daniel J. Oehler. Defendants, James Roberts
3 and Donna Roberts, represented by Daniel Oehler as well, were present at the time of the
4 hearing;

5
6 The Court, made the following findings:

7 A. Tract 4076-A of Desert Lakes Golf Course & Estates is a separate
8 subdivision with separately recorded CC&Rs;

9 B. Tract 4076-B of Desert Lakes Golf Course and Estates is a separate
10 subdivision with separately recorded CC&Rs;

11 C. Desert Lakes Golf Course and Estates is a community with five separate
12 CC&Rs (4076A, 4076B, 4076C, 4076D and 4132) for the six Tracts that includes Tract
13 4163 within the CC&Rs for Tract 4076B.

14 D. Parcels and lots in Tract 4076B have CC&Rs that run with the land, and as
15 such the Plaintiff, whose Tract 4163 was a resubdivision of Parcel VV in Tract 4163B, is
16 a person owning real property within Tract 4076B;

17 E. Plaintiff is not a person owning real property within the Desert Lakes Golf
18 Course & Estates Tract 4076-A - at the time of the oral arguments;

19 F. The CC&Rs for Tract 4076A and 4076B says, "... the violation or threatened
20 or attempted violation ...shall be lawful for ... any person or persons owning real property
21 located within the subdivision to prosecute ...";

1 G. The Court considered the language of the CC&Rs for the Committee of
2 Architecture and found that the CC&Rs defined the subdivision as a Tract;

3 H. The Court finds that there was no dispute that the Robert's home is in Tract
4 4076A;

5 I. The Court finds that the CC&Rs give the authority for someone who owns
6 property within a tract to enforce the CC&Rs for that Tract.
7

8 J. The Court finds that the Plaintiff does not have the authority to enforce any
9 CC&Rs in Tract 4076A until such time as she owns property in Tract 4076A;

10 K. The Court finds that the Order of Dismissal of Count 1 will dismiss
11 Defendants James and Donna Roberts, husband and wife, at this time, since they are in
12 Tract 4076A;

13 L. The Court denied the Motion to Dismiss with respect to Count 2 to the extent
14 that she does have the authority to assert violations of signage or other violations in 4076B;

15 **NOW THEREFORE, THE COURT ENTERS THE FOLLOWING ORDERS**

16
17 1. Count 1, defined as the Tract 4076A CC&R violations of signage on unimproved
18 lots, violations of setbacks for the home at 5732 Club House Dr., and the attempted
19 violations of reduced setbacks through BOS Resolutions as cited in the Plaintiff's
20 Complaint, is dismissed without prejudice.

21
22 2. Count 2, for Tract 4076B CC&R violations of signage on unimproved lots and
23 the attempted violations of reduced setbacks through BOS Resolutions as cited in the
24

1 Plaintiff's Complaint under paragraphs 35-37 in the "Allegations Common To All Counts",
2 is not dismissed.

3 3. The Plaintiff's claim against Glen Ludwig and Pearl Ludwig, Trustees of the
4 Ludwig Family Trust; Mehdi Azarmi, Vice President of Fairway Constructors, Inc.;
5 Fairway Constructors, Inc.; and James Roberts & Donna Roberts, husband and wife; as
6 Defendants under Count 1 of the Plaintiff's Complaint are dismissed without prejudice;
7

8 4. The Plaintiff's claim against Glen Ludwig and Pearl Ludwig, Trustees of the
9 Ludwig Family Trust; Mehdi Azarmi, Vice President of Fairway Constructors, Inc.; and
10 Fairway Constructors, Inc. as Defendants under Count 2 of the Plaintiff's Complaint are
11 not dismissed;
12

13 5. Based on the Plaintiff's argument that a Declaratory Judgment would have
14 expedited litigation in this case at a cost of 30 minutes time, the Defendant is therefore
15 entitled to an award of attorney fees incurred to date in the amount of \$ _____.

16
17 DATED this ____ day of _____, 2018.
18

19
20 _____
21 HONORABLE DEREK CARLISLE
22

1 **COPY** of the foregoing emailed
2 this ____ day of April, 2018 to:

3 Plaintiff Pro Per

4 Nancy Knight
5 1803 E. Lipan Circle
6 Fort Mohave, Arizona 86426
7 (928) 768-1537
8 nancyknight@frontier.com

9 Attorney for Defendants

10 Daniel J. Oehler, Esq.
11 Law Offices of Daniel J. Oehler
12 2001 Highway 95, Suite 15
13 Bullhead City, Arizona 86442
14 (928) 758-3988
15 (928) 763-3227 fax
16 djolaw@frontiernet.net

17 By: _____

18 Plaintiff hand delivered a courtesy copy of the foregoing
19 Objections To Defendant's Finding and Orders
20 on 13 day of April, 2018 to:

21 The Law Office of Daniel Oehler
22 2001 Highway 95, Suite 15
23 Bullhead City, Arizona 86442
24
25