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FILED
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2018 DEC 19 AM 9:41
RYLYNN TINNELL
SUPERIOR COURT CLERK

4 Plaintiff Pro Per

5 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
6 **IN AND FOR THE COUNTY OF MOHAVE**

7 NANCY KNIGHT)
8)
9 Plaintiff,)
10 and)
11 GLEN LUDWIG and PEARL LUDWIG,)
Trustees of THE LUDWIG FAMILY TRUST;)
12 FAIRWAY CONSTRUCTORS, INC.;)
MEHDI AZARMI; JAMES B. ROBERTS and)
13 DONNA M. ROBERTS, husband and wife;)
JOHN DOES 1-10; JANE DOES 1-10; ABC)
14 CORPORATIONS 1-10; and XYZ)
15 PARTNERSHIPS 1-10.)
16 Defendants.)

Case No.: **CV 2018 04003**

**MOTION FOR
DECLARATORY JUDGMENT**

Honorable Judge Carlisle

18 Comes now Plaintiff Pro Per Nancy Knight respectfully petitioning for a
19 Declaratory Judgment affirming that the Covenants, Conditions, and Restrictions
20 (hereinafter "CC&Rs") for Desert Lakes Golf Course and Estates Tract 4076-B is valid
21 and enforceable. Pursuant to the uniform declaratory judgments act, plaintiff cites
22 specific Arizona statute sections 12-1831, 12-1833, 12-1835, 12-1838, and 12-1842.
23

24 Pursuant to 12-1842, its purpose is to settle and to afford relief from uncertainty
25 and insecurity with respect to rights, status, and other legal relations; and is to be liberally
26 construed and administered. Such declaration shall have the force and effect of a final
27 judgment or decree.
28



1 Pursuant to section 12-1835, the above cited sections do not limit or restrict the
2 exercise of the general powers conferred in section 12-1831, in any proceeding where
3 declaratory relief is sought, in which a judgment or decree will terminate the controversy
4 or remove an uncertainty.
5

6 The controversy or uncertainty of the validity of Desert Lakes Golf Course and
7 Estates CC&R enforcement arises from the Defendant's false claim that prior to this
8 action no efforts to enforce the CC&Rs were undertaken. The Defendants cited Burke v.
9 Voicestream Wireless Corporation, II, 207 Ariz, 393, 87 P.3d 81 (App 2004), and
10 Condos v. Home Dev. Co., 77 Ariz. 129, 267 P. 2d 1069 (1994).
11
12

13 "A complete abandonment of deed restrictions occurs when the restrictions imposed
14 upon the use of lots in a subdivision have been so thoroughly disregarded as to result
15 in such a change in the area as to destroy the effectiveness of the restrictions and
16 defeat the purpose for which they were imposed."

17 Neither of these cases are relevant to the Plaintiff's Complaint. The CC&Rs have
18 not been disregarded over the years. Plaintiff herself has been a party to enforcement that
19 has been ongoing for years. **Exhibit 1a, 1 b** is an example of written enforcement
20 between cordial neighbors and the photographic evidence of the violation pursuant to
21 paragraph 11 of the CC&Rs. This 2016 email correspondence with the manager of the
22 golf course, Paul Garcia, resulted in an understanding for the removal of the refuse dirt
23 pile over time as the golf course needed it for fill dirt in locations throughout the golf
24 course property. Other enforcements of this type were conducted by the Plaintiff with the
25 cooperation of the Mohave County Road department for enforcement of debris left
26 behind by pipe replacement contractors who left, on more than one occasion, broken piles
27
28

1 of cement, asphalt, and huge piles of dirt on a vacant lot at the corner of Fairway and
2 Fairway Bend and in view of the Plaintiff's rear yard. **Exhibit 2** – Photo on Oct. 30,
3 2017. The County accommodated the Plaintiff with enforcement by phone calls (for more
4 than one occurrence) and in 2018 left a voice mail message left by the County that the
5 Contractors had been informed to never do it again.
6

7
8 In 2016, the Plaintiff's attorney filed a Complaint, CV 2016 04026, citing the
9 CC&R fence height violation that had been modified in a trespass on the Plaintiff's
10 property by an acrimonious self-serving adjacent neighbor. In a binding mediated
11 settlement the CC&Rs were enforced for both restoration of the original fence height and
12 for CC&R compliance of the steel rail fence sections on her own side yard fence and on
13 the adjacent neighbor's rear yard fence thereby restoring the Plaintiff's golf course views.
14 These views are protected rights established by the CC&Rs and for which the Plaintiff
15 purchased her home in 2010.
16
17

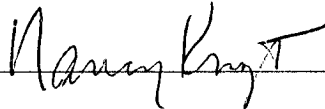
18 Other enforcements of the CC&Rs include: The side yard steel rail fence of the
19 Plaintiff's home that was originally imposed upon T&M Development in 2005 who
20 enforced this condition on the block wall fence contractor, Russels Ironworx, who had
21 planned a solid block wall side yard fence per the drawing submitted to Development
22 Services. The CC&Rs, paragraph 16, expressly forbids multifamily dwellings hence this
23 restriction was imposed upon the owner/developer of Parcel VV with the subsequent
24 rezoning to 32 single family lots (Refer to Resolution 98-348). **Supra Exhibits** on file
25 with the Court includes the permit drawing for the Plaintiff's 2005 block wall fence and
26 Res. 98-348 that changed the zoning for Parcel VV and was approved for ten foot rear
27
28

1 yard setbacks for all 32 resubdivided lots under the authority of Architectural Committee
2 member Sterling Varner.

3
4 The CC&Rs have not been abandoned and they have been actively pursued by the
5 Plaintiff and others with authority and/or imposition. Desert Lakes Subdivision Tract
6 4076 has never had a Homeowner Association. No individual property owner has a
7 fiduciary duty to enforce the CC&Rs but does have a legal right to enforce through
8 prosecution as duly noted in the CC&Rs and by the Court on April 2, 2018.

9
10 The Plaintiff would suffer substantially if the Court should deny enforcement
11 rights of the Plaintiff whereby another acrimonious adjacent neighbor could impede her
12 views again with no recourse for the Plaintiff. The Plaintiff has the legal right to
13 prosecute and needs the Court to afford relief from uncertainty and insecurity with
14 respect to Plaintiff's rights.
15

16
17 RESPECTFULLY SUBMITTED this 19th day of December 2018

18 

19 _____
20 Nancy Knight
21 Plaintiff Pro Per

22
23 Copy of the foregoing was emailed on December 19, 2018 to:
24 djolaw@frontiernet.net
25 Attorney for the Defendants

26 The Law Office of Daniel Oehler
27 2001 Highway 95, Suite 15,
28 Bullhead City, Arizona 86442

nancyknight

Exhibit 1a

From: "nancyknight" <nancyknight@frontier.com>
Date: Monday, November 07, 2016 2:36 PM
To: "Paul Garcia" <paulgarcia@fortmojave.com>
Subject: Re: Read: Desert Lakes Golf Course and Estates CC&Rs

Hi Paul,
Any feedback from the Tribal Council about enforcing our CC&Rs or from the Gas Company about the piles of dirt adjacent to Fairway 11?
Nancy

From: Paul Garcia
Sent: Tuesday, November 01, 2016 9:11 AM
To: Nancy Knight
Subject: Read: Desert Lakes Golf Course and Estates CC&Rs

Your message

To: Paul Garcia
Subject: Desert Lakes Golf Course and Estates CC&Rs
Sent: Tuesday, November 1, 2016 8:28:24 AM (UTC-07:00) Arizona

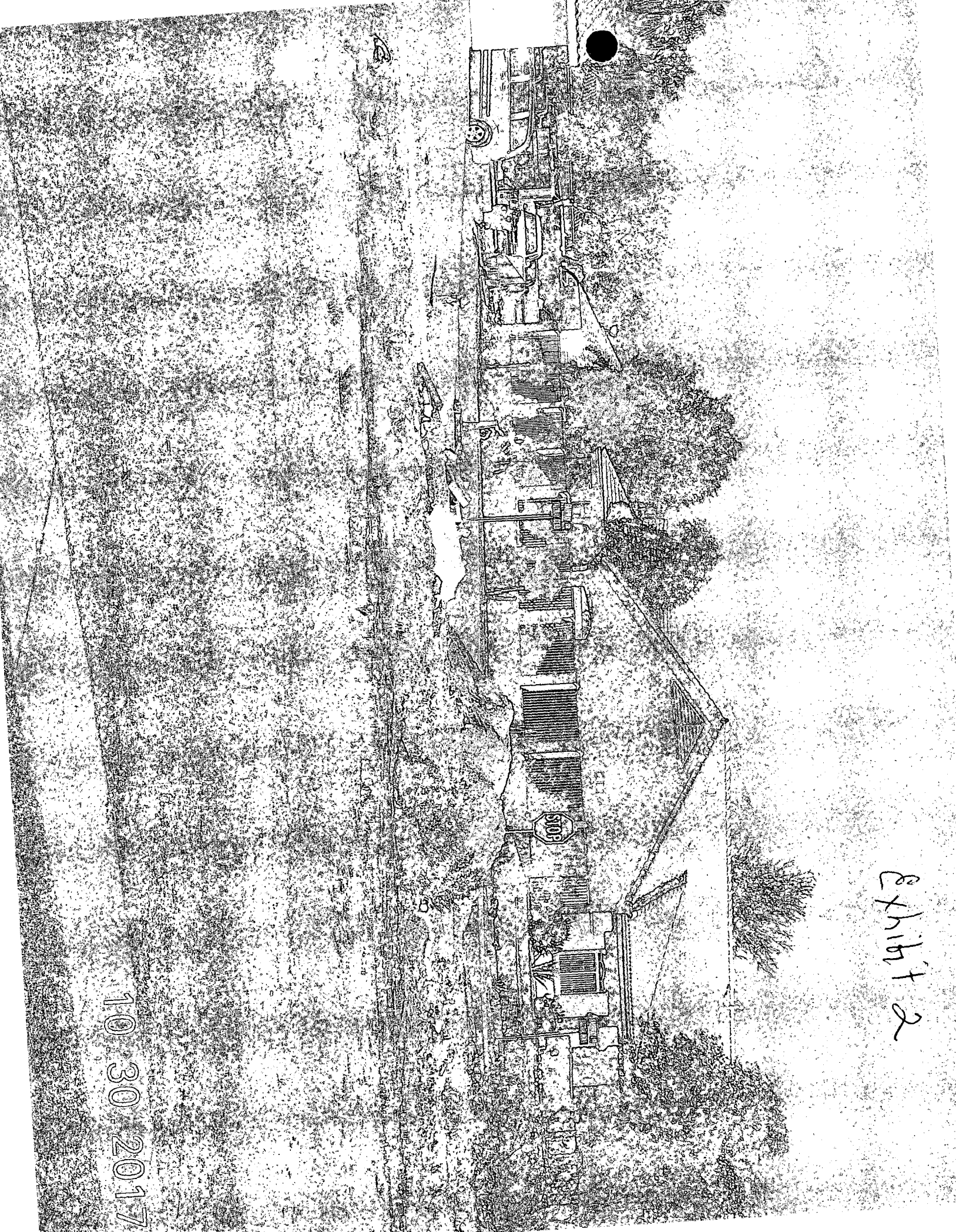
was read on Tuesday, November 1, 2016 9:11:53 AM (UTC-07:00) Arizona.

Exhibit 11



11 03 2016

Exhibit 2



10 30 2017