

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2001-006415

02/14/2005

HON. JONATHAN H. SCHWARTZ

CLERK OF THE COURT
D. Glab
Deputy

FILED: 02/17/2005

SUN CITY TAXPAYERS ASSOCIATION INC,
et al.

LARRY K UDALL

v.

RECREATION CENTERS OF SUN CITY INC,
et al.

CHARLES I KELHOFFER

MICHAEL M GRANT

TRIAL MANAGEMENT CONFERENCE AND HEARING ON MOTIONS

8:58 a.m. This is the time set for Trial Management Conference and oral argument on Plaintiff's Motion for Summary Judgment and Plaintiff's and Defendant's Motions in Limine. Plaintiff is represented by counsel, Larry K. Udall and William P. Sullivan. Defendant is represented by counsel, Charles I. Kelhoffer and Charles Cohen.

A record of the proceeding is made by CD/videotape in lieu of a court reporter.

Argument is held.

IT IS ORDERED taking Plaintiff's Motion for Summary Judgment and the Defendant's Cross Motion for Summary Judgment under advisement.

IT IS FURTHER ORDERED continuing this matter to 1:30 p.m. today.

9:49 a.m. Court stands at recess.

1:53 p.m. Court reconvenes with respective counsel present.

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LATER:

IT IS ORDERED denying Plaintiff's Motion for Summary Judgment and Defendant's Cross-Motion for Summary Judgment. Even though the parties have attempted to compile a complete record, the Court cannot as a matter of law, at this time state that the conveyance of the use of the RCSC's groundwater rights was or was not "any substantial part" of the assets of the RCSC. The record is still disputed on the total assets and their value. Although the Court appreciates the necessity of water to maintain the golf courses and the Court understands that the golf courses are the net asset of the RCSC, this "conveyance" involves a type of exchange of the use of groundwater for the use of Central Arizona Project (CAP) water. Therefore, the Court should hear testimony on whether the action of the RCSC in this water agreement was in the words of the Defendant "insubstantial" or in the words of Plaintiff "substantial".

When the Court uses the words "water rights", the Court means the right to "use" the water.

Argument is held on Motions in Limine.

The Court rules as follows on Plaintiff's Motions in Limine:

1. Denying the Motion in Limine Re Charles Havranek.
2. Denying in part and granting in part the Motion Re: Water Company and RCSC and government employees. Mr. Collier, Mr. Gay or Mr. Smith may testify concerning RCSC accounting issues. Mr. Larson may testify from Az-Am. However, the testimony of Mr. Jones, Mr. Frank and Mr. Putnam is not considered relevant.
3. Granting the Plaintiff's Motion Re Gary Smith. The Court will permit one of either Mr. Collins, Mr. Smith or Mr. Gay to testify on the accounting issue.
4. Granting the Plaintiff's Motion Re Former Board Members.
5. Granting the Plaintiff's Motion re Larry Fellows.
6. Granting in part and denying in part the Plaintiff's Motion Re Specific Exhibits. Exhibits not identified by RCSC as documents that RCSC plans to use at trial are therefore not a part of a Motion in Limine. The Motion is denied as to the CPA Audit Reports, the RCSC Historic Well Depth and Static Water Level Data, the RCSC Board of Directors June 28, 2001 Motion in Resolution and the Sun City Community Facilities Agreement. The Motion is granted as to the final report and complete record of the CAP Task Force and the July 2000 Preliminary Engineers Report and the Supplemental Report.

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IT IS ORDERED denying Defendant's Motion in Limine. Reasons are set forth on the record.

Defendant's proposed findings of fact and conclusions of law will be submitted by February 22, 2005. Plaintiff may amend or supplement their proposed findings of fact and conclusions of law by February 22, 2005.

2:34 p.m. Court stands at recess.