

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-050963

02/23/2007

HONORABLE MICHAEL D. JONES

CLERK OF THE COURT
M. L. Smith
Deputy

TROON NORTH ASSOCIATION

FREDERICK E DAVIDSON

v.

STEPHEN WILSON, et al.

STANLEY R LERNER

BRIAN G LESTER

MINUTE ENTRY

NORTHEAST COURTROOM 104

9:08 a.m. This is the time set for oral argument Re: Defendants' Motion for Reconsideration and Motion for Clarification, and Plaintiff's Cross-Motion for Reconsideration. Plaintiff is represented by counsel, Frederick E. Davidson and Brian G. Lester. Defendant is represented by counsel, Stanley R. Lerner.

A recording of this proceeding is made by CD (FTR) in lieu of a court reporter.

Oral argument is presented to the Court.

In regard to the request to strike the Affidavit of Eric Gerster,

IT IS ORDERED granting the motion to strike the affidavit of Eric Gerster.

In regard to the Motions for Reconsideration of the Court's Rulings of November 15, 2006,

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IT IS ORDERED denying both Motions for Reconsideration.

IT IS FURTHER ORDERED granting the Motion for Clarification in part.

LET THE RECORD REFLECT it was the Court's intent to grant partial summary judgment on the limited issue finding a legal duty under the CC&R's and the Defendants' failure to comply or satisfy the legal duty. Specifically, the Court finds the Defendant had a duty under the CC&R's to seek and obtain approval from the Architectural Review Committee of his house's paint color – that is, the color itself. The court was not able to find the same duty of the light reflective value. The court further found the Defendant failed to do this and there was no reasonable dispute that Defendant failed to do this

In terms of actually finding which of the particular claims or elements of Plaintiff's case, this is left to the parties.

The parties are reminded this is only partial summary judgment in this case.