

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2005-001014

03/28/2005

HONORABLE PETER C. REINSTEIN

CLERK OF THE COURT
T. Melius
Deputy

FILED: 04/01/2005

M C O PROPERTIES L P, et al.

PAUL E GILBERT

v.

NORTH HEIGHTS PROPERTY OWNERS
ASSOCIATION INC

CHARLES E MAXWELL

MINUTE ENTRY

The Court has considered Defendant's Motion to Dismiss MCO Properties as a Plaintiff, Plaintiffs' Response, and the Reply. The Court has also heard arguments of counsel. Based upon the Court's consideration of the above, the Court makes the following findings and ruling.

The Defendant Association seeks to have the Court dismiss Plaintiff MCO as a Plaintiff arguing that MCO has no standing in this matter. The Association contends that because MCO transferred the property in question to Plaintiff EN LLC 15 months prior to the litigation, MCO has been divested of standing in this lawsuit.

The Court finds that MCO, prior to this lawsuit, transferred all right, title, and interest in the property (Lot 27) to EN LLC, a wholly owned subsidiary of MCO. The Court further finds that as a result of this transfer, MCO no longer has a vested right in Lot 27 and thus has no vested rights in the restrictive covenants that run with Lot 27.

Finally, the Court finds A.R.S. §11-1134,(B)(7) to be inapplicable under the facts of the case at bar. Accordingly,

IT IS ORDERED granting the Association's Motion to Dismiss MCO Properties as a Plaintiff in this matter.

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IT IS FURTHER ORDERED setting a Telephonic Comprehensive Pretrial Conference for **April 13, 2005 at 9:00 a.m.** for 15 minutes before:

The Honorable PETER C. REINSTEIN
Superior Court of Arizona
Old Courthouse
125 W. Washington
Courtroom 303 – 3rd Floor
Phoenix, Arizona 85003
(602) 506-6368

Counsel for Plaintiff shall initiate the conference call.

Counsel for the Plaintiff(s) and Defendant(s) are to meet personally before the Pretrial Conference to discuss those subjects listed under A.R.C.P., Rule 16(c). Counsel for Plaintiff(s) and Defendant(s) shall prepare and file a Joint Pretrial Conference Memorandum five judicial days before the conference addressing all applicable subjects listed under Rule 16(c) and, in addition, **a brief description of the nature of the case, the issues, and each party's position with respect to the issues and the estimated length of the trial.**

If Counsel are unable to agree on any of the items in the Joint Pretrial Conference Memorandum, the reasons for their inability to agree shall be set forth in the memorandum.

Counsel are reminded that the Court may impose sanctions against Counsel and/or their clients for failure to participate in good faith in the Joint Pretrial Conference Memorandum or the Pretrial Conference.