

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-053595

03/27/2015

HONORABLE THOMAS L. LECLAIRE

CLERK OF THE COURT
K. Hartley
Deputy

RALPH BIANCO, et al.

J ROGER WOOD

v.

TERRAVITA COUNTRY CLUB INC, et al.

JOSHUA M BOLEN

CURTIS S EKMARK
SALLY FOSTER
6572 E SLEEPY OWL WAY
SCOTTSDALE AZ 85266
DON FOSTER
6572 E SLEEPY OWL WAY
SCOTTSDALE AZ 85266
JOHN WALKER
6724 E SOARING EAGLE WAY
SCOTTSDALE AZ 85266

UNDER ADVISEMENT RULING

This matter comes before the Court on Defendants' Partial Motion to Dismiss Counts II, IV, V, and VI. The Court has reviewed the filings, considered the arguments of counsel, and the applicable law.

For the reasons set forth on the record on January 27, 2015 at the Oral Argument, Defendants' Motion and Reply, the legal reasoning of which the Court adopts, and for the reasons set forth herein, the Motion is GRANTED.

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2014-053595

03/27/2015

The Court notes further that the Complaint is largely premature. Even if Plaintiffs had the authority to challenge the determinations of Terravita Country Club, Inc. ("TCC"), the TCC has taken no permanent action in the contested matter. It has not implemented any changes to the courts at the County Club. It has only appointed an ad hoc group to study whether "Pickle Ball" courts ought to be incorporated with the existing multi-use courts (tennis, basketball). As noted at the hearing, the Court does not sit as an overseer of the activities of private entities. To do so would invite the Court to adjudicate endless minor matters to which some members of the Country Club may or may not agree. Such examples include selection of paint colors, shrub removal or planting, changes in furniture, adding or removing drapery or other window coverings. The Court is not required and is unwilling to serve in that role.

Further, since there has been no permanent action taken by the TCC, even if the Court were inclined to become involved, there is nothing to adjudicate. The issue of whether to adapt the present multi-use courts to include pickle ball is merely in discussion. The Court fails to find that matters at the discussion phase are actionable.

Therefore,

IT IS ORDERED that Defendants Partial Motion to Dismiss Counts II, IV, V, and VI of the Verified First Amended Complaint is **GRANTED**.