

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2015-095897

04/15/2016

HONORABLE DAVID M. TALAMANTE

CLERK OF THE COURT
M. Kay
Deputy

TURTLE ROCK III HOMEOWNERS
ASSOCIATION

CLINT G GOODMAN

v.

LYNNE A FISHER

ERIN SELENE IUNGERICH

J ROGER WOOD
SCOTT L POTTER

MINUTE ENTRY

Courtroom 207 – SEA

Prior to the commencement of today's proceeding, Plaintiff's exhibits 1-5 are marked for identification.

10:16 a.m. This is the time set for Evidentiary Hearing re: Plaintiff's request for monetary penalties and injunctive relief. Counsel, Clint G. Goodman, is present on behalf of Plaintiff (members, Annette Milauskas and Verl Curtiss, are present). Counsel, J. Roger Wood, is present on behalf of Defendant, who is not present.

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

The Court has reviewed the case file and the pleadings filed by the parties.

Counsel address the Court regarding the circumstances of this case.

Pursuant to the stipulation of counsel,

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Plaintiff's exhibits 1-5 are received in evidence.

Plaintiff's case:

Verl Curtiss is sworn and testifies.

The witness is excused.

Plaintiff rests.

Defendant waives presentation of testimony.

Closing arguments are presented.

With regard to the outstanding violations, there being no objection,

IT IS ORDERED that the backyard door be replaced with an appropriate exterior door that closes, latches and locks. Defendant is allowed through **May 27, 2016** to replace the door.

IT IS ORDERED that the Defendant continue to be diligent in ensuring that the front and back yard is kept clean so that weeds do not become out of control.

IT IS FURTHER ORDERED that Defendant is to remove the sun screen placed on the front window and replace the dilapidated blinds with blinds that close properly so as not to permit view into the interior of the residence.

IT IS FURTHER ORDERED if there are items in the interior of the residence that prevent the blinds from closing properly or operating in their normal manner, those items are to be removed or pulled back from proximity of the blinds.

The Court recommends that the Association reconsider their posting policy regarding fine assessment so that the fines are not actually posted to the account until after 30 days from the date that notice is given of the violation and an opportunity to cure.

THE COURT FINDS that notwithstanding what appears to be some deviation from the 30 day requirement, the postings have been made retroactive of the second letter of violation. There has been no violation of the 30 day notice requirement.

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With regard to the Rules and Regulations, counsel for Defendant is correct that no written evidence has been presented to support the fine schedule. However, the Court finds Ms. Curtiss' testimony sufficient under the circumstances to support as a matter of evidence the fine assessment of \$25.00 per day.

IT IS ORDERED directing Plaintiff to provide Defendant with a copy of the Rules and Regulations that sets out the fine assessment of \$25.00 per day.

THE COURT FINDS that the Association is entitled to an award of attorneys' fees for enforcement of the CC & R's.

IT IS ORDERED directing Plaintiff to submit a final form of Judgment along with a Statement of Costs no later than **April 25, 2016**. Defendant may respond or object to the form of Order or any of the requested costs. The Court will rule on the matter without further argument.

With regard to the fines assessed, at the time that the Association submits its request for fines, based on the violations that occurred, the Court will consider any arguments made with regard to the reasonableness of the fine schedule.

11:25 a.m. Hearing concludes.