

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2026-004481

03/30/2026

HONORABLE QUINTIN CUSHNER

CLERK OF THE COURT
A. Hayes
Deputy

IGOR KOKOSKOV, et al.

ELIZABETH FINE

v.

SEAN HARAPKO, et al.

MARK BAINBRIDGE

TICO GLAVAS
SHELTON L FREEMAN
JUDGE Q CUSHNER

UNDER ADVISEMENT RULING

The Court held an evidentiary hearing on March 26, 2026, regarding Plaintiffs Igor Kokoskov and Patricia Kokoskov's *Application for Temporary Restraining Order and Preliminary Injunction*. Plaintiffs and Defendants Sean Harapko, Alicia Harapko, and Grayhawk Community Association (the "Association") appeared through counsel. The Court has considered the evidence and testimony presented, and the applicable law, and hereby finds as follows.

I. Background

Plaintiffs and Defendants Sean and Alicia Harapko own neighboring homes in the Grayhawk community. Plaintiffs seek to enjoin further construction of a structure on Defendants Sean and Alicia Harapko's property. Plaintiffs contend that the structure does not comply with the Grayhawk Design Guidelines and causes ongoing harm to privacy, use, and enjoyment. Defendants contend that the structure was approved by the Association and that Defendants obtained a City of Scottsdale permit, and that the requested injunction would impose substantial hardship given the project's stage of construction.

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II. Analysis

A party seeking a preliminary injunction must establish: (1) a strong likelihood of success on the merits; (2) the possibility of irreparable injury if the requested relief is not granted; (3) a balance of hardships favoring that party; and (4) public policy favoring a grant of the injunction. *Shoen v. Shoen*, 167 Ariz. 58, 63 (App. 1990). The “scale is not absolute, but sliding.” *Smith v. Ariz. Citizens Clean Elections Comm’n*, 212 Ariz. 407, 410 (2006). The moving party may establish either: (a) probable success on the merits and the possibility of irreparable harm, or (b) the presence of serious questions and that the balance of hardships tips sharply in the party’s favor. *Id.* at 411; *Ariz. Ass’n of Providers for Persons with Disabilities v. State*, 223 Ariz. 6, 12 (App. 2009).

A. Strong Likelihood of Success on the Merits/Presence of Serious Questions

The Court finds that Plaintiffs have not met their burden because they have not shown: (a) probable success on the merits and the possibility of irreparable harm, or (b) serious questions and that the balance of hardships tips sharply in their favor. *See Smith*, 212 Ariz. at 411. Plaintiffs focused on Design Guideline provisions regarding setbacks and parapet requirements for flat roofs. Plaintiffs presented testimony from a licensed structural engineer regarding those provisions. The witness opined that the structure as designed or built does not comply because adding the minimum parapet required by the Design Guidelines would require substantial modification to remain within the Design Guidelines’ height and/or setback limitations. Defendants, however, presented evidence and argument that the structure is being built consistent with approvals. At this preliminary stage, the Court need not finally resolve the parties’ competing interpretations of the governing documents to conclude that Plaintiffs have not met their burden on this record.

B. Possibility of Irreparable Injury

On irreparable harm, Plaintiffs presented testimony about privacy and enjoyment of their property. Plaintiffs also offered testimony from a broker, who acknowledged that he was not an appraiser, on asserted diminution in value. The Court finds that Plaintiffs’ showing does not establish the type of harm that cannot be addressed through relief at final judgment on this record, particularly where the dispute is intertwined with contested interpretations of the Design Guidelines and the project is underway. On this record, Plaintiffs have not shown a possibility of irreparable injury before final judgment. This factor weighs against preliminary injunctive relief.

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C. Balance of Hardships Favoring the Moving Party

The Court finds that the balance of hardships does not tip sharply in Plaintiffs' favor. The Court notes that Defendants presented evidence and argument of substantial cost and disruption if construction is halted at this stage.

D. Whether Public Policy Favors an Injunction

The Court finds that public policy considerations are mixed. Plaintiffs identify policy concerns favoring enforcement of the community's design standards, promoting consideration among neighbors, addressing privacy, and preserving property values. Defendants have emphasized predictability and reliance on the Association's review process and the City of Scottsdale permitting process and avoiding disruption where construction has progressed. The Design Guidelines language emphasized at the hearing also reflects both latitude for improvements and discretionary authority for the Architectural Committee, in appropriate circumstances, to alter, waive, or interpret guidelines as conforming, and to treat approved nonconforming features as approved. The Court finds that public policy does not support the extraordinary relief of a preliminary injunction.

III. Ruling

IT IS ORDERED denying *Plaintiffs' Application for Preliminary Injunction*, and denying any request for a temporary restraining order to the extent it remains pending.

IT IS FURTHER ORDERED that this ruling does not adjudicate the merits of this matter.