

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-053589

05/16/2024

HONORABLE MICHAEL D. GORDON

CLERK OF THE COURT
C. Curley
Deputy

JIMMIE KLATT

JACOB A KUBERT

v.

SUNBIRD GOLF RESORT HOMEOWNERS
ASSOCIATION INC

LORI N BROWN

JUDGE GORDON

MINUTE ENTRY

The Court has reviewed Defendant Sunbird Golf Resort Homeowners Association, Inc.'s (Sunbird HOA) Motion for Clarification (filed 4/16/24). No response was filed.

Sunbird HOA seeks clarification of the Court's Under advisement Ruling (Ruling) (filed 3/20/24).

A. Issue No 1: Foreseeability.

The Court's comments about foreseeability were in response to the issues raised under *Kalway v. Calabria Ranch HOA, LLC*, 252 Ariz. 532 (2022). The Court however incorrectly stated that "Sunbird HOA has not proven the absence of foreseeability." Instead, the Court intended to state that "Sunbird HOA has not proven foreseeability . . . "

B. Issued No, 2: Law of the Case.

The "law-of-the-case" doctrine is "the judicial policy of refusing to reopen questions previously decided in the same case by the same court or a higher appellate court." *Hall v. Smith*,

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214 Ariz. 309, 317 (App. 2007) (citing *Jimenez v. Wal-Mart Stores, Inc.*, 206 Ariz. 424, ¶ 12, 79 P.3d 673, 677 (App. 2003)). While the rule is one of procedure, not substance, the rule is grounded in the policy that a “trial court’s power to reconsider an earlier ruling should not be employed lightly.” *Id.* Further, a court should not reconsider the non-final ruling of another judge of the same court in the same action unless the first decision was *manifestly erroneous or unjust, or there has been a substantial change of essential facts, issues, evidence, or law.* *Cypress on Sunland Homeowners Ass’n v. Orlandini*, 227 Ariz. 288, 296 (App.2011) (emphasis added).

The Ruling addressing A.R.S. § 33-1806 was made on the record before it. Having stated the law, the parties are free to argue whether the Court’s ruling is law of the case under that standard.

C. Conclusion.

For the foregoing reasons,

IT IS ORDERED granting Defendant’s Motion for Clarification (filed 4/16/24).

IT IS FURTHER ORDERED clarifying the Ruling as set forth *supra*.