

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-015815

07/18/2018

HON. PAMELA GATES

CLERK OF THE COURT
K. Ballard
Deputy

JOYCE JASPER-BURNETT

JOSEPH C DOLAN

v.

CHATEAU DE VIE FOUR TOWNHOUSE
ASSOCIATION, et al.

NICHOLAS C NOGAMI

UNDER ADVISEMENT RULING

The court has considered the April 23, 2018 Motion to Dismiss filed by Defendant Chateau De Vie Four Townhouse Association (“Association”) and AAM, LLC (“AAM”) (collectively “Defendants”), Plaintiff’s Response, Defendant’s Reply, and the parties’ arguments.

The narrow question presented by a motion to dismiss for failure to state a claim is whether facts alleged in a complaint are sufficient “to warrant allowing the [Plaintiff] to attempt to prove [her] case.” *Coleman v. City of Mesa*, 230 Ariz. 352, 363, ¶46, 284 P.3d 863, 874 (2012). Dismissal is permitted only when a “plaintiff[] would not be entitled to relief under any interpretation of the facts susceptible of proof.” *Fid. Sec. Life Ins. Co. v. State Dep’t of Ins.*, 191 Ariz. 222, 224, ¶4, 954 P.2d 580, 582 (1998). In assessing the Defendants’ Motion to Dismiss, the court accepts all material facts alleged by the Plaintiff as true. *See Albdabbagh v. Ariz. Dept. of Liquor License & Ctrl.*, 162 Ariz. 415, 417-18, 783 P.2d 1207, 1209-10 (App. 1989); *Mirchandani v. BMO Harris Bank, N.A.*, 235 Ariz. 68, 69, ¶2, 326 P.3d 335, 336 (App. 2014); *Cullen v. Auto–Owners Ins. Co.*, 218 Ariz. 417, 419, ¶7, 189 P.2d 344, 346 (2008).

IT IS ORDERED denying Defendants’ Motion to Dismiss Count Three, Negligence, against the Association.

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IT IS FURTHER ORDERED denying Defendants' Motion to Dismiss Count Four, Equitable Estoppel, against the Association.

IT IS FURTHER ORDERED denying Defendants' Motion to Dismiss Count One, Aiding and Abetting, against AAM, LLC.

IT IS ORDERED granting Defendants' Motion to Dismiss Count Two, Breach of Fiduciary Duty, against the Association.

IT IS FURTHER ORDERED granting Defendants' Motion to Dismiss Count Two, Negligence, against AAM, LLC.