

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2016-051857

08/15/2016

HONORABLE JOHN R. HANNAH JR

CLERK OF THE COURT
W. Tenoever
Deputy

RENE BISHOP

JEFFREY MILLER

v.

SUNLAND VILLAGE COMMUNITY
ASSOCIATION, et al.

NICOLE PAYNE

AUGUSTUS H SHAW IV

RULING

The Court has read and considered Defendant Board Members' Motion to Dismiss, the response and reply, and the record in this case.

The plaintiff bring claims for breach of contract (violation of the CC & Rs) and violation of A.R.S. section 33-1803, and for breach of the implied duty of good faith and fair dealing. The contract claim against the director defendants fails because the directors individually are not parties to the contract between the plaintiff and the defendant Sunland Valley Community Association. Similarly, the statutory claim against the directors fails because the statute limits the power of the Association but does not create a cause of action against individual directors for a violation.

Though an HOA director can be personally liable for dishonest or bad-faith actions on behalf of the association, See Albers v. Edelson Technology Partners L.P., 201 Ariz. 47, 31 P.3d 821, ¶ 29 (App. 2001); Restatement (Third) of Property (Servitudes) § 6.14, comment c (2000), the Amended Complaint does not allege specific facts that would support an inference of dishonesty or bad faith on the part of the directors. That the directors got a letter from the plaintiff's lawyer, giving the lawyer's opinion that their actions were illegal, is not enough.

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IT IS THEREFORE ORDERED dismissing all claims against the defendants other than the Sunland Village Community Association.