

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2017-001777

08/28/2018

HON. TERESA SANDERS

CLERK OF THE COURT
A. Durda
Deputy

JOSH CLARK FAMILY TRUST DATED MAY 9 2013, et al. JONATHAN A DESSAULES

v.

RUSSELL RANCH HOMEOWNERS
ASSOCIATION INC

GREGORY A STEIN

JUDGE SANDERS

MINUTE ENTRY

The Court has read and considered Plaintiffs' *Motion for Class Certification* filed June 29, 2018, Defendant's response filed July 23, 2018, and Plaintiffs' reply filed August 6, 2018. The Court has also considered the authorities cited by counsel. The Court does not need oral argument to determine this issue.

In their motion, Plaintiffs seek an order from the Court certifying this matter as a class action pursuant to Rule 23 of the Arizona Rules of Civil Procedure. Plaintiffs contend that this matter meets all four pre-requisites set forth in Rule 23(a), and they have established that certification is appropriate pursuant to Rule 23(b). Defendant argues that Plaintiffs have not met the condition set forth in Rule 23(a)(1), and therefore, certification is inappropriate.

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This matter involves a dispute between ten homeowners and their Homeowners Association. The homeowners claim the Association improperly imposed a Special Use Capital Improvement Charge in the amount of \$2700 against “Phase III” lot owners. There are approximately 104 additional “Phase III” homeowners who are not named-plaintiffs that are also affected by the assessment.

Rule 23(a)(1) imposes a requirement that “the class is so numerous that joinder is impracticable”. The additional homeowners are identifiable, and can be consulted with regard to whether or not they want to participate in this lawsuit. Based upon the circumstances specific to this narrow dispute, the Court cannot find that this group of homeowners “is so numerous that joinder is impracticable”.

The Court does find that Plaintiffs have established the requirements set forth in Rule 23(a)(2), (a)(3), and (a)(4).

For the reasons set forth above, it is ordered denying Plaintiffs’ *Motion for Class Certification* filed June 29, 2018.