

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-016722

09/22/2008

HON. SAM J. MYERS

CLERK OF THE COURT
L. Firriello
Deputy

VILLAS ON NORTH MOUNTAIN
CONDOMINIUM ASSOCIATION, THE

BETH MULCAHY

v.

LEE DRAPER, et al.

LEE DRAPER
1601 WEST SUNNYSIDE DRIVE
UNIT #135
PHOENIX AZ 85029

MINUTE ENTRY

The Court has read and considered Defendant Lee Draper's Motion to Dismiss, and Plaintiff's Response. No reply was filed. Oral argument was not requested.

The Court will grant a motion to dismiss for failure to state a claim only if the plaintiff would not be entitled to relief under any facts susceptible of proof in the statement of the claim. Mohave Disposal, Inc. v. City of Kingman, 186 Ariz. 343, 346, 922 P.2d 308, 311 (1996). When deciding a motion to dismiss for failure to state a claim, the trial court must assume as true the facts alleged in the complaint and affirm the dismissal only if, as a matter of law, the plaintiff would not be entitled to relief on any interpretation of those facts. Doe ex rel. Doe v. State, 200 Ariz. 174, ¶ 2, 24 P.3d 1269, 1270 (2001). The trial court must not speculate about hypothetical facts that might entitle the plaintiff to relief. Cullen v. Koty-Leavitt Ins. Agency, Inc., 216 Ariz. 509, 168 P.3d 917 (Ariz.App. Div. 2, 2007).

IT IS ORDERED denying Defendant Lee Draper's Motion to Dismiss.