

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2010-026289

09/29/2011

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT
D. Harding
Deputy

DONALD R GATTS, et al.

MATTHEW ALLEN KLOPP

v.

DREAMLAND VILLA COMMUNITY CLUB
INC

CHARLES E MAXWELL

MINUTE ENTRY

Defendant Dreamland Villa Community Club, Inc. (Defendant) requests Rule 56(f) relief from Plaintiffs' pending Motion for Summary Judgment. The Court having reviewed Defendant's request, Plaintiff's responsive pleading and the reply submitted by Defendant, the Court herein denies the request.

The dispositive issue in this matter centers on the validity of the Second Amended Declarations recorded by Defendant against the individual Plaintiffs' (homeowners) property. The nature of these claims has been well known to these parties for years and these legal issues have been addressed in another action and also addressed in several appellate decisions. In addition, the issue presented in the dispositive motion filed by Plaintiffs presents legal issues for this Court's consideration. Counts I-III are claims for quiet title, fraudulent recording and declaratory and injunctive relief.

It also appears that this action has been pending for approximately one year and to date, Defendant has not requested discovery on the legal issue presented in relation to Counts I-III. The legal issue centers on the validity of the Second Amended Declarations.

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This Court finds that the summary judgment motion filed by Plaintiffs is not premature, that there has been sufficient time to conduct discovery and further that further discovery will not lead to evidence concerning material facts or giving rise to defenses in connection with Counts I-III of Plaintiffs' complaint. Defendant has failed to meet its burden of proof with the specificity required to justify a Rule 56(f) continuance.

For these reasons and those set forth in Plaintiffs' responsive pleading,

IT IS ORDERED denying Defendant's Rule 56(f) request.

Dated _____

/ s / HONORABLE J. RICHARD GAMA

JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: Effective September 1, 2011, the Arizona Supreme Court Administrative Order 2011-87 directs the Clerk's Office not to accept paper filings from attorneys in civil cases. Civil cases must still be initiated on paper; however, subsequent documents must be eFiled through AZTurboCourt unless an exception defined in the Administrative Order applies.