

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2023-008406

10/12/2023

HONORABLE KATHERINE COOPER

CLERK OF THE COURT
N. Johnson
Deputy

MERRICK AVENUE MANAGEMENT L L C, et al. CODY J JESS

v.

TROON VILLAGE ASSOCIATION, et al. QUINTEN T CUPPS

GEOFFREY G COLLINS
TESSA HUSTEAD
SHARI L WEINTRAUB
25586 N 104TH WAY
SCOTTSDALE AZ 85255
TODD D WEINTRAUB
25586 N 104TH WAY
SCOTTSDALE AZ 85255
STEVEN A COHEN
JUDGE COOPER

RULING RE AMCOR MOTION TO DISMISS

Pending is the fully-briefed Rule 12(b)(6) Motion to Dismiss filed by Defendant Amcor Property Professionals, Inc. (“Amcor”). The Court reviewed the Motion, Response, Reply and Complaint.

Dismissal is appropriate only if “as a matter of law []plaintiffs would not be entitled to relief under any interpretation of the facts susceptible of proof.” *Coleman v. City of Mesa*, 230 Ariz. 352, 356 (2012). In considering a motion to dismiss, the Court construes well-pled factual allegations and their inferences favorably for the non-moving party. *Id.*

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The Complaint adequately alleges that Amcor owed a duty to Plaintiffs. Construing the allegations most favorably to Plaintiff, as the Court must, the Complaint infers a duty derived from the obligations imposed by the CC&Rs on the defendant HOAs, board members, and property owner.

This ruling does not mean that the Court finds that Amcor owed a duty to Plaintiffs, nor does it preclude Amcor from filing a motion for summary judgment at the appropriate time on this issue.

IT IS ORDERED denying the Motion to Dismiss.