

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2006-017259

11/19/2007

HONORABLE JOHN A. BUTTRICK

CLERK OF THE COURT
C. Castro
Deputy

MEL MILLSAP, et al.

JONATHAN A DESSAULES

v.

VENTANA LAKES PROPERTY OWNERS
ASSOCIATION

J ROGER WOOD

MINUTE ENTRY

Courtroom 704 – Central Court Building

11:07 a.m. This is the time set for oral argument. Plaintiffs are represented by counsel, Jonathan A. Dessauls and Laura Balza. Defendant is represented by counsel, Jason E. Smith.

A record of the proceedings is made by CD/videotape in lieu of a court reporter.

Oral argument is presented.

IT IS ORDERED taking this matter under advisement.

11:32 a.m. Matter concludes.

LATER:

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Plaintiffs Mel Millsap, et. al. (“Millsap”) and Defendant Ventana Lakes Property Owners’ Association (the “Association”) have filed cross-motions for summary judgment, each asking the Court to interpret certain provisions of the Master Declaration of Ventana Lakes in a matter dispositive of all claims in this matter.

The key issue to be decided is which party is responsible for maintenance of an eight (8) foot strip of land adjacent to the lake in one portion of the subdivision.

Article X of the Master Declaration states that the Association “shall maintain and otherwise manage all Common Areas, including...the landscaping.”

Article IV, Section 2 (d) of the same document states that “Each Owner shall keep all [landscaping] located on his Lot...maintained.”

Significantly, the areas in question are agreed by the parties to be Common Areas as that term is used in the Master Declaration. In this instance it is clear that the provision of Article X controls and the Association has the obligation to maintain the landscaping in the subject easement area.

Millsap’s Motion is granted and the Association’s Motion is denied.

Millsap shall lodge an appropriate form of Judgment by December 15, 2007.