

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

CV 2014-011316

11/24/2014

HONORABLE MARK H. BRAIN

CLERK OF THE COURT  
T. Springston  
Deputy

MATTHEW HILLEBRAND, et al.

TODD S KARTCHNER

v.

BOARD OF DIRECTORS OF THE  
CAMELBACK GARDEN FARMS  
HOMEOWNERS ASSOCIATION, THE, et al.

MARK E LINES

**RULING**

East Court Building – Courtroom 413

10:00 a.m. This is the time set for oral argument on Defendants' Motion to Dismiss (filed October 20, 2014). Plaintiffs are represented by counsel, Todd S. Kartchner. Defendants are represented by counsel, Mark E. Lines.

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

Oral argument is presented.

**IT IS ORDERED** taking this matter under advisement.

10:18 a.m. Matter concludes.

**LATER:**

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Plaintiffs have sued the board of directors, and named the individuals. The board is not, however, a jural entity. Plaintiffs claim that Article XI of the CC&Rs allows them to sue the board members. As a matter of law, the CC&Rs do not, however, grant the board legal status, nor does Article XI allow plaintiffs to sue the individual members of the board. Accordingly, Defendants' Motion to Dismiss is GRANTED.

Plaintiffs are entitled to file an amended complaint, and the court hereby establishes **December 23, 2014** as the deadline to do so. As discussed during the argument, the proper defendant (which owes plaintiffs contractual duties) is Camelback Garden Farms pursuant to the CC&Rs. At this juncture, the court does not believe that the offending non-party homeowners are indispensable parties, but the court notes that the failure to join such parties may, as a practical matter, significantly limit the remedies which plaintiff may seek against the homeowners' association.

The parties are reminded that, effective July 1, 2013, Maricopa County Local Rule of Practice 3.2 requires notices of settlement, stipulations to dismiss, and stipulations for the entry of judgment to contain a statement regarding whether such settlements or stipulations dispose of the entire case.