

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2021-000258-001 DT

01/07/2022

HONORABLE DANIEL J. KILEY

CLERK OF THE COURT
P. McKinley
Deputy

HAINING XIA

HAINING XIA
14830 E RHOADS CT
FOUNTAIN HILLS AZ 85268

v.

DORSEY PLACE CONDOMINIUM
ASSOCIATION (001)

NICHOLAS C NOGAMI

JUDGE KILEY
OFFICE OF ADMINISTRATIVE
HEARINGS
REMAND DESK-LCA-CCC

MINUTE ENTRY

Case No. 21F-H2120016-REL

The Court has reviewed and considered the Motion to Dismiss (“Motion”) filed by Appellee Dorsey Place Condominium Association (“Appellee”), the Response to Motion to Dismiss (“Response”) filed by Appellant Haining Xia (“Appellant”), and Appellee’s Reply in Support of Its Motion to Dismiss (“Reply”).

In the Motion, Appellee asserts that this appeal should be dismissed because Appellant purportedly “never filed a Notice of Action” with the Office of Administrative Hearings (“OAH”), and so “the record on appeal has never been transmitted to the Court.” Motion at p. 2. “[W]ithout the Record on Appeal,” Appellee maintains, it “will be unable to respond” to the Opening Brief that Appellant filed on October 6, 2021. *Id.*

The record indicates, however, that Appellant did, in fact, file a Notice of Action with OAH, and OAH has, in fact, transmitted the record on appeal to this Court. *See* Certification of

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Record on Review filed November 19, 2021. In its Reply, Appellee admits as much. Asserting that, “at the time [the Motion] was filed, the Certification of Record on Review had not been placed on the case docket,” Appellee acknowledges that “some of [the] concerns” it raised in its Motion have been “alleviated” now that “the Record on Appeal...appear[s] on the case docket.” Reply at pp. 1, 2.

The Court finds that Appellee is entitled to no relief on its Motion, and so will deny it.

Appellee also requests that the Court set a Status Conference, asserting that the Opening Brief that Appellant filed on October 6, 2021 “is procedurally and substantively deficient pursuant to JRAD Rules 6 and 7” and that Appellee is in need of “guidance on the briefing schedule in this matter.” Appellee’s Request for Status Conference at pp. 1-2.

The Court sees no need for a Status Conference, but will, instead, set a deadline for Appellee to respond to Appellant’s Opening Brief. If Appellee is of the view that Appellant’s Opening Brief does not comply with applicable court rules, Appellee is free to assert that position in a Motion to Strike, to which Appellant will then have the opportunity to respond. Otherwise, Appellee shall file its Answering Brief pursuant to JRAD 6(a)(2).

In accordance with the foregoing,

IT IS ORDERED denying the Motion to Dismiss.

IT IS FURTHER ORDERED that Appellee shall file either an Answering Brief or a motion challenging the sufficiency of the Opening Brief no later than **February 22, 2022**.

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.