

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2019-000424-001 DT

05/20/2020

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT

C. Avena

Deputy

JOYCE H MONSANTO

JONATHAN A DESSAULES

v.

FOUR SEASONS AT THE MANOR
HOMEOWNERS ASSOCIATION (001)

JONATHAN D EBERTSHAUSER

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

FINAL JUDGMENT

This judgment follows an application for attorney's fees and a request for an award of costs submitted by appellee Four Seasons at the Manor Homeowners Association, which is the successful party in this matter. As explained in the April 1 minute entry that the court issued in this case, and contrary to the response submitted in opposition to the application, awards of fees and costs are mandatory. That said, the Association is entitled only to attorney's fees that are reasonable in the circumstances here and to those costs permitted by statute.

The Association's success in this case turned on two easily proven facts: the Association board was authorized to adopt a one-flagpole limit under the covenants, conditions, and restrictions that govern Joyce Monsanto's property, and the board did so before she bought that property. Moreover, the law applicable to those facts was hardly obscure or otherwise complicated. Everything else in the case was noise.

As such, the Association's request for an award of \$57,000.00-plus as attorney's fees overstates what a reasonable effort required to the point of being profoundly unrealistic. Based on this court's knowledge of the issues in this case and understanding of how those issues could be

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treated efficiently, an award of \$5,000.00 as attorney's fees for work undertaken before the appeal process started, and an award of \$3,000.00 as attorney's fees for work on appeal are reasonable in the circumstances here. *See Baum v. Baum*, 120 Ariz. 140, 146 (App. 1978) ("In determining what is a reasonable fee, the trial judge can draw upon his knowledge of the case and upon his own experience"). The Association's request for an award of \$280.00 as its costs is allowed.

IT IS ORDERED:

1. The decision of the Arizona Department of Real Estate in *Monsanto v. Four Seasons at the Manor Homeowners Association* (case no. 19F-H1919053-REL-RHG (11/18/19)) is affirmed.

2. Judgment is awarded in favor of Four Seasons at the Manor Homeowners Association and against Joyce Monsanto in the amount of \$8,280.00 (\$8,000.00 as reasonable attorney's fees and \$280.00 as costs) with interest accruing on the unpaid amount at the annual rate of 4.25 percent (not compounded) beginning on the date that this judgment is entered.

3. All other pending motions and requests are denied.

4. This case is remanded to the Arizona Department of Real Estate for any further proceedings that may be necessary.

5. No matters remain pending in connection with this appeal. This is a final order. JRAD 13; Ariz. R. Civ. P. 54(c).

/ s / HONORABLE DOUGLAS GERLACH

HONORABLE DOUGLAS GERLACH
JUDGE OF THE SUPERIOR COURT

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