

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2018-000316-001 DT

10/25/2018

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT

C. Avena

Deputy

C B S - 136 HOMEOWNERS ASSOCIATION

BRIAN E DITSCH

v.

ANNETTE COHEN (001)
ARIZONA DEPARTMENT OF REAL ESTATE
(001)

ANNETTE COHEN
13603 W COUNTRYSIDE DR
SUN CITY WEST AZ 85375
LYNETTE EVANS

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

MINUTE ENTRY

The Court has considered the Motion to Dismiss Party Appellee and the Amended and Restated Motion to Dismiss Appeal filed by Appellee Annette Cohen, the Responses filed by Appellant CBS-136 Homeowners Association, and the Consolidated Reply.

Appellant requested oral argument, but the Court finds argument would not aid its disposition of this matter. The request for oral argument is therefore denied.

First, the Court finds that as the Petitioner in the administrative hearing, and as a party of record, Appellee Cohen is a proper party to this appeal. Appellee did not act improperly or violate any right of Appellee Cohen by filing this action, or including her as a party.

Second, there is no basis for dismissal of the appeal pursuant to Rule 12(b)(6), Ariz. R. Civ. P. The Rules of Civil Procedure generally do not apply to administrative appeals, unless specifically provided for in the Rules of Procedure for Judicial Review of Administrative

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Decisions (“JRAD Rules”). Rule 1(b), JRAD Rules. Rule 12, Ariz. R. Civ. P., is not one of the Rules which applies. Moreover, Cohen’s arguments would more appropriately be made in an Answering Brief.

Thus,

IT IS ORDERED denying the Motion to Dismiss Party Appellee Annette Cohen.

IT IS FURTHER ORDERED denying the Amended and Restated Motion to Dismiss.

IT IS FURTHER ORDERED denying Appellant’s requests for attorneys’ fees and costs, as the Court does not find Appellee’s motions to be frivolous.

IT IS FURTHER ORDERED signing the minute entry as a formal order of the Court.

/s/ Patricia A. Starr

THE HON. PATRICIA A. STARR
JUDGE OF THE SUPERIOR COURT

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