

ARIZONA SUPERIOR COURT, PIMA COUNTY

HON. RICHARD S FIELDS

CASE NO. C20154900

DATE: December 08, 2015

NT PROPERTIES, LLC
Plaintiff

VS.

SYCAMORE VISTA NO. 8 HOMEOWNER'S
ASSOC.INC
Defendant

R U L I N G

UNDER ADVISEMENT

This Court has considered Plaintiff's Application for Order to Show Cause. Both parties had excellent legal representation at the hearing held December 3, 2015. This Court acknowledges a justiciable controversy pursuant to A.R.S. § 12-1831.

This Court must narrow its relief to an existing state of facts in so far as possible. *Thomas v. City of Phoenix*, 171 Ariz. 69, 828 P.2d 1210 (Ct. App. 1991).

Without deciding whether the Amendment 3 to the CC&R's was valid or not, the power to suspend voting rights is one that must be exercised by the Board after adequate due process and notice. No such exercise occurred before Plaintiff requested a meeting pursuant to A.R.S. § 33-1804(B).

While this Court admittedly empathizes with the plight of the Class A Owners/members and appreciates the inventiveness and skill of defense counsel, the law and the facts of this case favor Plaintiff.

This Court does request that the respective parties try to resolve their differences with a view towards a meaningful future balance of Declarant/homeowner interests. An exercise of power without due restraint is inadvisable.

In light of the above, this Court will not award attorney's fees at this junction. Rather, the Court will consider the progress of the parties and the litigation at a later date.

Dani DuBois
Law Clerk

RULING

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IT IS ORDERED AND DECREED that the Board shall comply with the Request for Special Meeting and call, notice and hold that meeting by no later than January 8, 2015.


HON. RICHARD S. FIELDS /sl
(ID: 39966d89-55ed-432e-b39a-80c4163e73ba)

cc: Hon. Richard S Fields
Gerald Maltz, Esq.
Jason E. Smith, Esq.
Nt Properties, LLC
Sycamore Vista No. 8 Homeowner'S Assoc.Inc
Clerk of Court - Under Advisement Clerk

Dani DuBois
Law Clerk