

FILED
5/31/18 4:43 p.m.
CHRIS DEROSE, Clerk
By W. Tenover
W. Tenover, Deputy

SUPERIOR COURT OF MARICOPA COUNTY, ARIZONA

LINDA W. SWAIN, an individual; and EILEEN
T. BRESLIN, an individual,

Plaintiffs

vs.

TTLC AHWATUKEE LAKES INVESTORS,
LLC, an Arizona limited liability company,

Defendant.

Case No. CV2014-051035

**FINAL JUDGMENT AND
ORDER FOR PERMANENT
INJUNCTION**

(Assigned to Hon. John R. Hannah, Jr.)

JUDGMENT AGAINST TTLC AHWATUKEE LAKES INVESTORS, LLC

Partial summary judgment was entered in this matter, in favor of plaintiffs Linda W. Swain and Eileen T. Breslin ("Plaintiffs") and against defendant TTLC Ahwatukee Lakes Investors, LLC ("Defendant"), in a formal order issued on July 11, 2016. The matter then came on for a bench trial on the remaining issues in the First Amended Complaint and the issues in Defendant's Counterclaim filed against Plaintiffs.

Based on the evidence presented at trial and the Court's Findings of Fact and Conclusions of Law, the Court finds in favor of Plaintiffs and against Defendant on Plaintiffs' First Claim for Relief that Defendant breached the terms of the Declaration of Covenants, Conditions, Restrictions and Easements recorded November 11, 1992 by Maricopa County Recorder as Instrument No. 92-646838) (the "1992 Covenants, Conditions and Restrictions"), on Plaintiffs' Second Claim for Relief that Defendant breached the covenant of good faith and fair dealing implied in the 1992 Covenants, Conditions and Restrictions, and on Plaintiffs' Third Claim for Relief that Plaintiffs are

1 entitled to injunctive relief. The Court further finds in favor of Plaintiffs (Counter-
2 defendants) and against Defendant (Counterclaimant) on Defendant's Counterclaim
3 seeking declaratory relief requesting a modification of the 1992 Covenants, Conditions
4 and Restrictions. The Court further finds Plaintiffs are eligible for an award of
5 attorneys' fees and court costs. Accordingly,

6 IT IS HEREBY ORDERED that the owners of the Ahwatukee Lakes Golf Course
7 (legally described on Exhibit A (pages 11-17) to the 1992 Covenants, Conditions and
8 Restrictions) are permanently enjoined to and shall operate a golf course on the subject
9 property, for the benefit of those described in the 1992 Covenants, Conditions and
10 Restrictions as Benefitted Persons, in conformity with the "Declaration of Use
11 Restriction" set forth in paragraph 2 of the 1992 Covenants, Conditions and Restrictions.

12 IT IS FURTHER ORDERED that the owners of the Ahwatukee Lakes Golf
13 Course shall provide information concerning the restoration of the golf course to the
14 plaintiffs, their attorneys and representatives and to any other Benefitted Persons, upon
15 reasonable request, sufficient to allow the plaintiffs and Benefitted Persons to determine
16 whether the property owners are complying with the permanent injunction.

17 IT IS FURTHER ORDERED that TTLC Ahwatukee Lakes Investors, LLC shall
18 take nothing on their claim for modification of the 1992 Covenants, Conditions and
19 Restrictions, and the request for modification is denied.

20 IT IS FURTHER ORDERED awarding judgment in favor of Linda W. Swain and
21 Eilcen T. Breslin and against TTLC Ahwatukee Lakes Investors, LLC for Plaintiffs'
22 reasonable attorneys' fees in the amount of \$128,819.50, with interest at the legal rate of
23 5.75% per annum from the date this Judgment is entered until paid in full.

24 IT IS FURTHER ORDERED awarding judgment in favor of Linda W. Swain and
25 Eileen T. Breslin and against TTLC Ahwatukee Lakes Investors, LLC for Plaintiffs'
26 taxable costs in the amount of \$2,798.62, with interest at the legal rate of 5.75% per
27 annum from the date this Judgment is entered until paid in full.

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