

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2008-000489

05/12/2011

HONORABLE J. RICHARD GAMA

CLERK OF THE COURT
D. Harding
Deputy

ROBERT J HALT, et al.

MELANIE C MCKEDDIE

v.

SUNBURST FARMS EAST INC, et al.

STEPHANIE MONROE WILSON

ROBERT MACKENZIE
JAMES L SULLIVAN
DAXTON R WATSON

MINUTE ENTRY

On June 1, 2010, the Special Master filed his Final Report on Issues Heard as of March 25, 2010, containing 29 findings of fact, 28 conclusions of law, and 18 recommendations. The Court has considered the Final Report and the parties' objections thereto. The Court issues the following rulings.

Form of Judgment.

The Court accepts the Special Master's Finding of Fact No. 1 and Conclusion of Law No. 1. The Court does not accept the Special Master's Findings of Fact No. 2 or 3 or Conclusion of Law No. 2. For reasons of judicial economy and to avoid piecemeal litigation, the Court finds that the Halts may enforce the full judgment, not just one-third of it. Mr. Lisi and Mr. and Mrs. Castro may pursue their interests in the judgment at their discretion.

Tolling of Interest on the 1985 Judgment.

The Court does not accept the Special Master's Finding of Fact No. 4 or Conclusions of Law No. 3 or 4. The Court accepts the Special Master's Findings of Fact No. 5, 6, and 7,

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Conclusion of Law No. 5. In regards to Recommendation No. 1, the Court rejects the recommendation as proposed. The Court does find that Finding of Fact No. 27 should be modified simply to state that the Association submitted the 2007 CC&R amendments with the Maricopa County Records Office on November 21, 2007.

Attorneys' Fees re: Second Attempt to Execute on Judgment.

The Court accepts the Special Master's Findings of Fact No. 8, 9, and 10, Conclusions of Law No. 6, 7, 8, 9, 10, 11, 12 & 13 and Recommendation No. 2.

Court's Findings of Fact and Conclusions of Law Concerning the Judgment Execution Issues.

The Court does not accept the Special Master's Recommendations No. 3, 5, 6, 7, or 8. The Court accepts the Special Master's Recommendation No. 4.

Braden Parties' Motion for Joinder of Indispensable Parties, or in the Alternative, Motion to Dismiss.

The Court accepts the Special Master's Finding of Fact No. 14, Conclusions of Law No. 11, 12, 13, and 14, and Recommendation No. 9. The Court does not accept the Special Master's Recommendations No. 10 or 11. The Court finds that the Arizona Rules of Civil Procedure apply and govern service of process.

Association's and Directors' Rule 12(b)(6) Motion to Dismiss the Counterclaim and the Third-Party Complaint.

The Court accepts the Special Master's Findings of Fact No. 15, 16, 17, 18, and 19, Conclusions of Law No. 15, 16, 17, and 18, and Recommendations No. 12, and 14. In regards to Recommendation No. 13, the Court rejects the recommendation as proposed. The Court does deny the Association's and Third Party Defendants Directors' Rule 12 [b][6] Motion to Dismiss Count One of the Counterclaim.

Braden Parties' Motion to Dismiss Interveners' First Amended Answer and Counterclaim.

The Court accepts the Special Master's Finding of Fact No. 20, Conclusions of Law No. 19 and 20, and Recommendation No. 15. The Court does not accept the Special Master's Findings of Fact No. 21, 22, 23, or 24 as unnecessary to the Court's ruling.

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Interveners' Motion for Summary Judgment Regarding the 1985 Judgment and 2004 Settlement Agreement as Void upon their Face.

The Court accepts the Special Master's Findings of Fact No. 25 and 26, Conclusions of Law No. 21, 22, and 23, and Recommendation No. 16.

Braden Parties' Motion for Partial Summary Judgment Declaring 2007 CC&Rs Invalid.

The Court accepts the Special Master's Findings of Fact No. 27, 28, and 29, Conclusions of Law No. 24, 25, 26, 27, and 28, and Recommendations No. 17 and 18.

Accordingly,

IT IS ORDERED in accordance with the foregoing rulings, adopting, modifying and rejecting the Special Master's Final Report on Issues Heard as of March 25, 2010.

Dated: May 18, 2011

/ s / HONORABLE J. RICHARD GAMA

JUDICIAL OFFICER OF THE SUPERIOR COURT

ALERT: eFiling through AZTurboCourt.gov is mandatory in civil cases for attorney-filed documents effective May 1, 2011. See Arizona Supreme Court Administrative Orders 2010-117 and 2011-010. The Court may impose sanctions against counsel to ensure compliance with this requirement after May 1, 2011.