

IN THE CIRCUIT COURT OF THE TWELFTH JUDICIAL CIRCUIT
IN AND FOR SARASOTA COUNTY, FLORIDA

KEITH BRADLEY,

Plaintiff,

vs.

CASE NO.: 2011 CA 009291 NC

MYAKKA VALLEY RANCHES IMPROVEMENT
ASSOCIATION, INC., JIM HOLTHAUS,
DEBRA HOUSTON, VIVIAN ZABIK,
RICHARD JOHNSON, TRUDY LAWRENZ,
JACKIE VIZZI, et al.,

DEFENDANTS.

ORDER ON DEFENDANTS MOTION FOR PARTIAL SUMMARY JUDGMENT

THIS CAUSE having come before the Court on the Defendants Motion for Partial Summary Judgment filed on or about November 20, 2013, and the Court having heard argument and now being fully advised in the premises, it is hereby Ordered and Adjudged as follows:

1. The Motion is GRANTED in its entirety.
2. The Court finds that there are no issues of material fact concerning the allegations found in Count IV and V of the Amended Complaint concerning unlawful distributions to members or officers and directors and that the Defendants are entitled to judgment as a matter of law on this issue. The payments to members or officers and directors of the Myakka Valley Ranches Improvement Association (MVRIA) and the individual Defendants named in this lawsuit were for services rendered by them to the MVRIA which is allowed by statute and the governing documents of the MVRIA and not prohibited by Article VI of the Articles of Incorporation of the MVRIA.

3. The Court finds that there are no issues of material fact concerning the allegations in Count I of the Amended Complaint and that the Defendants are entitled to judgment as a matter of law on this Count. The claims of Plaintiff as to how the Marketable Record Title Act (MRTA) should be interpreted are incorrect as a matter of law. The record is clear that MRTA did not extinguish the Declaration of Restrictions (Restrictions) of the MVRIA as to Plaintiff's property since the root of title to Plaintiff's property specifically refers to the Restrictions by book and page of record. Therefore, a Notice of Preservation was not necessary to preserve the Restrictions as to Plaintiff's property. In addition, a lot by lot analysis is required to determine whether MRTA has extinguished the Restrictions on any other lot within the MVRIA and no other lot owners are parties to this lawsuit. Section 712.03, Florida Statutes; Sunshine Vistas Homeowners Association v Caruna, 623 So. 2nd 490 (Fla 1993); Matissek v Waller, 51 So. 3rd 625 (Fla. 2nd DCA 2011).
4. The remainder of Plaintiff's claims remain pending before this Court.
5. The Court reserves jurisdiction to award attorney's fees and costs.

HONORABLE KIMBERLY C. BONNER
Circuit Court Judge **ORIGINAL SIGNED**

FEB 5 - 2014

KIMBERLY CARLTON BONNER
CIRCUIT JUDGE

Conformed copies to:
James H. Burgess, Jr., Esquire
Burgess, Harrell, Mancuso, Olson & Colton, P.A.
1776 Ringling Boulevard
Sarasota, FL 34236

Kelly M. Fernandez, Esquire
Persson & Cohen, P.A.
6853 Energy Court
Lakewood Ranch, FL 34240

Carl E. Patrick Esquire
352 North Hametown Road
Akron, OH 44333

Carl E. Patrick, Esquire
6151 Lake Osprey Drive, Third Floor
Sarasota, FL 34240