

Union Hills Country Club residents continue hold out against deed restriction changes, sale

NORA AVERY-PAGE, DAILY NEWS-SUN

Residents living near the Union Hills Country Club in Sun City are increasingly concerned about possible changes to deed restrictions that have led to a lawsuit against them.

Catherine Larson and about 20 other residents were sued by the club in May after refusing to sign a waiver that would change the deed restrictions on the golf course bordering their properties.

"I'm looking right now at probably 40 pounds of paper that has been generated by this lawsuit," Larson said.

The waiver would allow the country club to sell part of its land at the corner of Lindgren Avenue and Conestoga Drive to developers, who would then build a 72-unit condominium in the place where the current clubhouse sits.

Philip McKenney, Larson's son and the lawyer representing several of the defendants in the case, explained that the deed restrictions clearly state that the land can only ever be used for golf course purposes, and never residential.

But because of a bad economy and a loss of members, the country club argues that the sale would allow it to stay afloat, so the change to deed restrictions is justified.

"I think the situation there is really bad," Larson said. "They just don't want to give up."

Larson won't give up, either. Even if she and the other defendants lose the case and are asked to pay for the club's legal fees, she said she feels the club is pushing residents to sign the waiver.

Union Hills Country Club general manager Nate Oberhofer told the Daily News-Sun in June that 174 of 185 homeowners have signed the waiver of deed restrictions, but a sale cannot go through until all residents are on board.

McKenney said the Arizona Supreme Court set a precedent in 2006 stating if the deed

restrictions in a community are clear and unambiguous, which he said is the case in this matter, it will be enforced. But the legal counsel for the club is citing earlier cases to argue that it should be allowed to sell.

"From our perspective, it should be simple for the court," McKenney said.

The legal counsel for the country club declined to comment because it is an ongoing case.

The briefing for the case should be concluded by mid-January, McKenney said, but no court date has been set, and a ruling could take months.

Doug Bailey's 93-year-old mother is one of the defendants named in the suit.

"I think it's pathetic that they've even gotten this far," Bailey said.

His concerns about the potential sale of the club land center on the environmental impact it could have — a condo building would not only change the look of the neighborhood, but bring in extra traffic to an already busy street. The noise and dust from construction would also be a nuisance, he contends.

"I don't want the property to be devalued," Bailey said.

Emotions are running high for his mother and others, McKenney said, not only because they feel pressured to sign away valuable property rights, but they could potentially owe a lot of money, and many are on fixed incomes.

"It's a little bit emotional for them," McKenney said. "They're scared."