

1 Mark W. Drutz, #006772
2 Sharon M. Flack, #021590
3 **MUSGROVE DRUTZ KACK & FLACK, PC**
4 1135 W. Iron Springs Road
5 P.O. Box 2720
6 Prescott, Arizona 86302-2720
7 Phone: (928) 445-5935
8 Fax: (928) 445-5980
9 Firm Email: mdkpc@cableone.net
10 Counsel for Defendant Veres; Co-Counsel for Defendants Robert and Catherine Cox

SUPERIOR COURT
YAVAPAI COUNTY, ARIZONA

2014 JUL 10 PM 3:47 ✓

SANDRA K MARKHAM, CLERK

BY: M McCULLOCH

8 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
9 **IN AND FOR THE COUNTY OF YAVAPAI**

10 JOHN B. CUNDIFF and BARBARA C.
11 CUNDIFF, husband and wife; ELIZABETH
12 NASH, a married woman dealing with her
13 separate property; KENNETH PAGE and
14 KATHRYN PAGE, as Trustee of the Kenneth
15 Page and Catherine Page Trust,
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiffs,

v.

DONALD COX and CATHERINE COX,
husband and wife, et al., et ux.,

Defendants.

Case No. P1300CV20030399

Division No. 1

**DEFENDANTS' NOTICE OF ERRATA
RE: MOTION FOR NEW TRIAL RE:
GRANT OF PLAINTIFFS' MOTION
FOR SUMMARY JUDGMENT**

21 Defendants Cox and Veres, by and through undersigned counsel, submit this Notice of Errata
22 regarding Exhibit "1" attached to Defendants' Motion for New Trial Re: Grant of Plaintiffs' Motion
23 for Summary Judgment filed January 3, 2014. It has come to the attention of undersigned counsel
24 that Page 2, Footnote 1 thereof, identifies the Declaration of Restrictions at issue in this case,
25 recorded as Book 916, Page 680, Official Records of Yavapai County. Attached hereto as Exhibit
26 "1" is the correct Declaration, which should be substituted for the Exhibit "1" that is attached to
27 Defendants' Motion filed January 3, 2014.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

RESPECTFULLY SUBMITTED this 10 day of July, 2014.

MUSGROVE DRUTZ KACK & FLACK, PC

By: Sharon M. Flack

Mark W. Drutz, Esq.
Sharon M. Flack, Esq.
Attorneys for Defendants

Copy of the foregoing was mailed this
10 day of July, 2014, to:

J. Jeffrey Coughlin, Esq.
J. Jeffrey Coughlin PLLC
114 S. Pleasant Street
Prescott, AZ 86303
Attorneys for Plaintiffs

Noel J. Hebets, Esq.
Noel J. Hebets, PLC
127 East 14th Street
Tempe, AZ 84281
Attorney for William M. Grace

David K. Wilhelmsen, Esq.
Favour, Moore & Wilhelmsen, P.A.
P.O. Box 1391
Prescott, AZ 86302-1391
Attorneys for Property Owner James Varilek

Robert E. Schmitt, Esq.
Murphy, Schmitt, Hathaway & Wilson, PLLC
P.O. Box 591
Prescott, AZ 86302
Attorneys for Robert H. Taylor and Terri A.
Thomson-Taylor

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Copy of the foregoing was mailed this
10 day of July, 2014 (without exhibits)
In order to save substantial costs and for
expediency, exhibits have not been sent with
this Notice of Errata to the following parties.
Should any of the following parties desire
copies of the exhibits to this Notice of Errata,
please contact the undersigned and copies
will be provided.

William R. and Judith K. Stegeman Trust
9200 East Far Away Place
Prescott Valley, AZ 86315
pro se

Linda J. Hahn
10367 W. Mohawk Lane
Peoria, AZ 85382
pro se

Lloyd E. and Melva J. Self
9250 E. Slash Arrow Drive
Prescott Valley, AZ 86315
pro se

William and Shaunla Heckethorn
9715 E. Far Away Place
Prescott Valley, AZ 86315
pro se

James C. and Leslie M. Richie
9800 E. Plum Creek Way
Prescott Valley, AZ 86315
pro se

Kenneth Paloutzian
8200 Long Mesa Drive
Prescott Valley, AZ 86315
pro se

Gary & Sabra Feddema
9601 East Far Away Place
Prescott Valley, AZ 86315
pro se

William H. "Bill" Jensen
2428 West Coronado Avenue
Flagstaff, AZ 86001
pro se

Karen L. and Michael P. Wargo
9200 East Spurr Lane
Prescott Valley, AZ 86315
pro se

Sergio Martinez and Susana Navarro
10150 N. Lawrence Lane
Prescott Valley, AZ 86315
pro se

Rynda and Jimmy Hoffman
9650 E. Spurr Lane
Prescott Valley, AZ 86315
pro se

Leo M. and Marilyn Murphy
9366 E. Turtlerock Road
Prescott Valley, AZ 86315
pro se

Rhonda L. Folsom
9305 N. Coyote Springs Road
Prescott Valley, AZ 86315-4517
pro se

Bonnie Rosson
8950 E. Plum Creek Way
Prescott Valley, AZ 86315
pro se

1 John and Rebecca Feddema
2 9550 E. Spurr Lane
3 Prescott Valley, AZ 86315
4 pro se
5
6 John D. and Dusti L. Audsley
7 966 N. Stirrup High Drive
8 Dewey, AZ 86327
9 pro se
10
11 Richard and Beverly Strissel
12 9350 E. Slash Arrow Drive
13 Prescott Valley, AZ 86314
14 pro se
15
16 Nicholas Corea
17 4 Denia
18 Laguna Nigel, CA 92677
19 pro se
20
21 Eric Cleveland
22 9605 E. Disway
23 Prescott Valley, AZ 86315
24 pro se
25
26 Robert and Patricia Janis
27 7685 N. Coyote Springs Road
28 Prescott Valley, AZ 86315
pro se
Richard and Patricia Pinney
P.O. Box 1558
Chino Valley, AZ 86323
pro se

23 *Shari Kays*

Robert Lee Stack and Patti Ann Stack
Trustees of the Robert Lee and Patti
Ann Trust utd March 13, 2007
10375 Lawrence Lane
Prescott Valley, AZ 86315
pro se
Dane E. and Sherrilyn G. Tapp
8595 E. Easy Street
Prescott Valley, AZ 86315
pro se
Jesus Manjarres
105 Paseo Sarta #C
Green Valley, AZ 85614
pro se
Jack and Dolores Richardson
505 Oppenheimer Drive, #4
Los Alamos, NM 87544
pro se
Robert and Patricia Janis
7685 N. Coyote Springs Road
Prescott Valley, AZ 86315
pro se
Mike and Julia Davis
9147 E. Morning Star Road
Prescott Valley, AZ 86315
pro se

383
MAY 2

When recorded, return to:
Robert D. Conlin
2233 North 7th Street Phoenix, Az 85006

STATE OF ARIZONA, County of Yavapai—ss. 17.161
I do hereby certify that the within instrument was filed and recorded at the request of Tom Lynch
or June 13 A.D. 1974 at 1:35 o'clock P. M. Book 916 Official Records
Page 680-681-682 Records of Yavapai County, Arizona.

WITNESS my hand and official seal the day and year first above written.

PATSY C. JENNEY, County Recorder
By Mary E. Hampton Deputy 20c

COYOTE SPRINGS RANCH

DECLARATION OF RESTRICTIONS

KNOW ALL MEN BY THESE PRESENTS:

That Robert D. Conlin and Margaret Dell Conlin, his wife, and David A. Conlin, Jr., husband of Anne Conlin, dealing with his sole and separate property, being the owners of all the following described premises, situated in the County of Yavapai, State of Arizona, to-wit:

GOVERNMENT LOTS One (1) and Two (1) and the South half of the Northeast quarter and the Southeast quarter of Section One (1); all of Section Twelve (12); the East half and the East half of the East half of the Southwest quarter and the East half of the East half of the Northwest quarter and the Northwest quarter of the Northeast quarter of the Northwest quarter of Section Thirteen (13); the East half of Section Twenty-four (24); the East half of Section Twenty-five (25), all in Township Fifteen (15) North, Range One (1) West of the Gila and Salt River Base and Meridian; and

All of Section Six (6); all of Section Seven (7), GOVERNMENT LOTS One (1), Two (2), Three (3), and Four (4), and the Southeast quarter of the Southwest quarter and the South half of the Northeast quarter of the Southwest quarter of Section Nineteen (19), all in Township Fifteen (15) North, Range One (1) East of the Gila and Salt River Base and Meridian.

and desiring to establish the nature of the use and enjoyment of the premises hereinabove described, sometimes hereinafter referred to as property or premises, does hereby declare said premises subject to the following express covenants and stipulations as to the use and enjoyment thereof, all of which are to be construed as restrictive covenants running with the title to said premises and each and every part and parcel thereof and with each and every conveyance thereof hereafter made to-wit:

1. Each and every parcel of the above-described premises shall be known and described as residential parcels; that is to say, mobile, modular or permanent dwellings may be erected and maintained upon said premises, subject to limitations with respect thereto as hereinbelow set forth.

2. No trade, business, profession or any other type of commercial or industrial activity shall be initiated or maintained within said property or any portion thereof.

3. Said property or any portions thereof shall not be conveyed or subdivided into lots, parcels or tracts containing less than nine (9) gross acres, nor shall improvements be erected or maintained in or upon any lot, parcel or tract containing less than such nine (9) gross acres.

4. No structure or improvement of any kind or nature whatsoever shall be erected, permitted or maintained upon, over or across the easements or reservations for utilities or drainage, if any.

5. Residence buildings must be completed within twelve (12) months from commencement of construction. No garage, carport or other building shall be commenced or erected upon any portion of said property until the main dwelling building complying with this Declaration is under construction or has been moved onto the premises. Commencement of construction, for the purposes of this Declaration, shall be deemed to be the date material, raw or otherwise, shall have been placed or stored upon the premises.

6. All residence buildings to be erected, constructed, maintained or moved upon the premises or any portion thereof, as the case may be, shall be of new construction. Residence buildings shall have concrete foundations and hardwood or concrete floorings.

7. (a) All single family residences other than mobile homes shall require 1,000 square feet of ground floor area including storage but exclusive of any portion thereof used for open porches, pergolas, patios, carports or garages, whether or not they are attached to, or adjacent to said residence.

(b) Mobile homes shall (1) contain not less than 720 square feet of ground floor area devoted to living purposes; (2) be not less than 12 feet in width; (3) be placed so that the floor thereof is not more than 8 inches above the ground level;

(c) Travel Trailers or campers may occupy homesites during vacation periods, not to exceed three (3) weeks in any one season, or during the period of residence construction.

(d) No prefabricated or pre-erected dwelling having less than the above applicable square foot requirements, exclusive of open porches, pergolas or attached garage, if any, shall be erected, permitted or maintained on any portion of said property.

(e) No structure whatever other than one single family dwelling or mobile home, as herein provided, together with a private garage for not more than three (3) cars, a guest house, service quarters and necessary out buildings shall be erected, placed or permitted to remain on any portion of said property.

8. No 'Real Estate' or 'For Sale' sign or signs exceeding 24" by 24" may be erected or maintained on said premises. No general advertising signs, billboards, unsightly objects or public or private nuisances shall be erected, placed or permitted to remain on any portion of said premises.

9. No abandoned auto or auto parts or used machinery or other salvage or junk shall be placed or permitted to remain on any portion of said premises.

10. No swine shall be raised, bred or kept upon said premises. Said premises shall not be used in any way or for any purpose that may emit foul or noxious odors.

11. No mobile home shall be used or permitted to remain upon any lot unless such mobile home shall have two hundred (200) square feet of permanent roof, exclusive of mobile home roofing, and two hundred (200) square feet of concrete flooring, including cabanas, porches, storage, carports and garages, but exclusive of any portion thereof used as flooring or base for said mobile home.

12. All structures on said lots shall be of new construction, not exceeding 35 feet in height, and no buildings shall be moved from any other location onto any of said lots with the exception of prefabricated or pre-erected dwellings where the use thereof is permitted.

13. No temporary building may be moved onto or constructed on said premises, with the exception of temporary shop or office structures erected by contractors, or buildings during the actual bonafide construction or a permitted structure upon the premises, provided the contractor or builder agrees to remove such temporary shop or office structure within five (5) days after the actual final completion date of his construction activities of the premises.

14. No construction shed, basement, garage, tent, shack or other temporary structure shall at any time be used as a residence either temporarily or permanently.

15. No residence or dwelling shall be occupied or used prior to installations therein of water flush toilets and sanitary conveniences or facilities and shall be maintained in a sanitary manner and in conformity with all applicable local, county or state laws, as the case may be. No outside toilet or other sanitary conveniences or facilities shall be erected or maintained upon said premises.

16. All garbage or trash containers, oil tanks, bottled gas tanks and other such facilities must be underground or placed in an enclosed area so as to not be visible from the adjoining properties.

17. The foregoing restrictions and covenants run with the land and shall be binding upon all parties and all persons claiming through them until June 1, 1994, at which time said covenants and restrictions shall be automatically extended for successive periods of ten (10) years, or so long thereafter as may be now or hereafter permitted by law.

18. Invalidation of any of the restrictions, covenants or conditions above by judgment or court order shall in no way affect any of the other provisions hereof, which shall remain in full force and effect.

JAN 28 1974

19. If there shall be a violation or threatened or attempted violation of any of said covenants, conditions, stipulations or restrictions, it shall be lawful for any person or persons owning said premises or any portion thereof to prosecute proceedings at law or in equity against all persons violating or attempting to, or threatening to violate any such covenants, restrictions, conditions or stipulations, and either prevent them or him from so doing or to recover damages or other dues for such violations. No failure of any other person or party to enforce any of the restrictions, rights, reservations, limitations, covenants and conditions contained herein shall, in any event, be construed or held to be a waiver thereof or consent to any further or succeeding breach or violation thereof. The violation of these restrictive covenants, conditions or stipulations or any one or more of them shall not affect the lien of any mortgage now of record, or which hereafter may be placed of record, upon said premises or any part thereof.

IN WITNESS WHEREOF, the above named parties have executed the within Declaration of Restrictions this 12th day of June, A.D., 1974.

Robert D. Conlin

 Robert D. Conlin

Margaret Dell Conlin

 Margaret Dell Conlin

David A. Conlin, Jr.

 David A. Conlin, Jr.

STATE OF ARIZONA)
 County of Maricopa) ss.

On this, the 12th day of June, 1974, personally appeared Robert D. Conlin and Margaret Dell Conlin, his wife.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 2-26-77

William J. Anderson

 Notary Public

STATE OF ARIZONA)
 County of Maricopa) ss.

On this, the 12th day of June, 1974, personally appeared David A. Conlin, Jr.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal.

My commission expires: 2-26-77

William J. Anderson

 Notary Public