

DEC 11 2015

CHRISTOPHER D. RICH, Clerk
By RIC NELSON
DEPUTY

IN THE DISTRICT COURT OF THE FOURTH JUDICIAL DISTRICT OF

THE STATE OF IDAHO, IN AND FOR THE COUNTY OF ADA

LAGUNA POINTE HOMEOWNERS'
ASSOCIATION, INC., an Idaho
corporation,

Plaintiff/Petitioner,

vs.

CITY OF EAGLE, a municipal corporation
of the state of Idaho, and CITY COUNCIL
OF THE CITY OF EAGLE, governing
body of a municipal corporation of the
State of Idaho,

Defendants/Respondents.

Case No. CV-OC-2015-06766

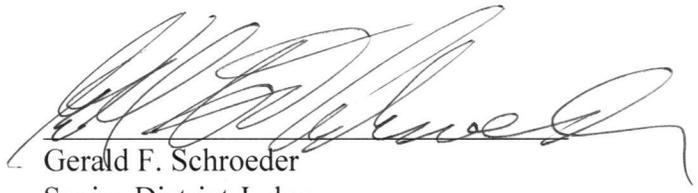
ORDER GRANTING MOTION
TO RECONSIDER

The above named matter is before the Court upon Laguna Pointe Homeowners' Association, Inc.'s motion to reconsider the orders on motions to dismiss filed on August 18, 2015. At issue is whether that portion of the order specifying that to the extent the civil complaint addresses issues resolved in the administrative proceedings the complaint is dismissed with prejudice. Laguna Pointe Homeowners' Association, Inc. had submitted a motion to dismiss the civil complaint without prejudice and maintains that the dismissal of the civil complaint should simply be without prejudice and not with prejudice to the extent issues were determined in the administrative proceedings.

The Court views the issue as one in the final result being without a difference, except that a different forum might have a different view of the law. If the order is changed to limit the language to a dismissal without prejudice, the threshold question in a separate civil suit will be to what extent the action is foreclosed by the result in the administrative proceeding. If the district judge were to agree with this Court the result would be the same. If the district court were to disagree with the initial decision of this Court the case would proceed and most likely that issue would be addressed in an appeal. As it stands the issue can now be reviewed on appeal and referred back for further proceedings if this Court is in error. Either process is burdensome to the parties. On reflection it may be a cleaner process to dismiss the civil complaint without prejudice and allow a separate proceeding with all issues claimed by Laguna Pointe Homeowners' Association, Inc. to be addressed and sorted out in one proceeding. Consequently, the motion to reconsider is granted to the extent that the language of dismissal with prejudice is withdrawn.

The motion to dismiss the civil action without prejudice is granted.

Dated this 10 day of December 2015.

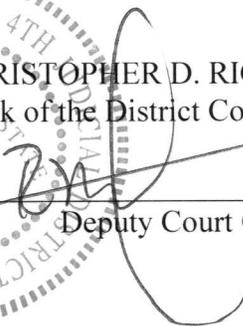

Gerald F. Schroeder
Senior District Judge

CERTIFICATE OF MAILING

I hereby certify that on this 11 day of December 2015, I mailed a true and correct copy of the within instrument to:

NICOLE C HANCOCK
STOEL RIVES LLP
101 S CAPITOL BLVD, STE 1900
BOISE, ID 83702

SUSAN E. BUXTON
MOORE SMITH BUXTON
& TURCKE CHARTERED
950 W BANNOCK, SUITE 520
BOISE, ID 83702

CHRISTOPHER D. RICH
Clerk of the District Court
By: 
Deputy Court Clerk

