

<b>El Paso</b> County, CO <u>X</u> District County Court address: <b>20 East Vermijo Ave.</b> <b>Colorado Springs, CO 80903</b> Phone Number: <b>(719) 448-7650</b>	<b>Court Use Only</b>
Plaintiff: <b>CHARLES WARNE, ET. AL.</b> Vs Defendant: <b>WOODMEN HILLS COVENANT MANAGEMENT BOARD</b>	
	Case Number: <b>08 CV 2923</b>  Division 5 Courtroom 501
<b>ORDER re: MOTION FOR ORDER TO JOIN PROPERTY OWNERS</b>	

This is actually an order of clarification. Senior Judge Toth recently signed two orders in this case that appear to contradict one another. This order will clarify that situation.

The Defendant has filed a motion to add all additional property owners to this litigation. It asserts that all 185 property owners that might be covered by a declaration in this case could have an interest in the outcome of this litigation. The litigation surrounds the meaning and enforceability of certain restrictive covenants that the Defendants assert affect all properties. The Plaintiffs deny any connection or interest in the outcome of potential litigation with other property owners.

I don't conclude that other property owners are indispensable to the outcome of this litigation. In fact, if they aren't made parties to this action, any declaration of rights would have no legal affect on them. Therefore, the Defendants, not the Plaintiffs, have a significant interest in having them joined. Accordingly, I will approve the Defendants' request that all property owners be joined, either individually or as part of a class action. It would be unfair to place the burden of service on the Plaintiffs. Therefore, if the Defendants wish to have other property owners joined, it will be their responsibility to name them and have them served.

Done this 18 day of Sep, 2008

  
 LARRY E. SCHWARTZ  
 District Court Judge

cc:  
M. Jacqueline Gaithe  
Geoffrey Lindquist