

STATE OF MICHIGAN
COURT OF APPEALS

CITY OF SOUTH LYON,

Plaintiff/Counterdefendant-
Appellee,

v

DEMARIA BUILDING COMPANY, ST. PAUL
TRAVELERS COMPANY, INC., and UNITED
STATES FIDELITY & GUARANTY
COMPANY,

Defendants,

and

DEMARIA INVESTMENTS,

Defendant/Counterplaintiff/Third-
Party Plaintiff/Third-Party
Counterdefendant-Appellant,

and

TROTTERS' POINTE HOMEOWNERS
ASSOCIATION,

Third-Party Defendant/Third-Party
Counterplaintiff-Appellee.

UNPUBLISHED
January 28, 2010

No. 287703
Oakland Circuit Court
LC No. 2005-071288-CK

Before: Murphy, C.J., and Jansen and Zahra, JJ.

ZAHRA, J. (*concurring*).

I concur in the result reached by the majority opinion. I write separately to express my view that DeMaria lacked authority to unilaterally amend the Master Deed and the Condominium Subdivision Plan for the purpose of inserting an option to remove property from the original plan. Article IX, Section 3 limits the developer's right to unilaterally make amendments to the Master Deed and the Condominium Subdivision Plan. Unilateral

amendments are not permitted if the proposed amendment “materially affect[s] any rights of any Co-owners or mortgagees in the Project.” In my opinion, amending the Master Deed and Subdivision Plan to allow DeMaria the option to “withdraw[] from the project the southeastern most portion of the previously designated General Common Element at the corner of Pontiac Trail and Eleven Mile Road” materially affects the rights of co-owners. For this reason, I would affirm.

/s/ Brian K. Zahra