IN THE SUPREME COURT OF THE STATE OF NEVADA

JAMES T. SLADE AND BARBARA J. BEANS,
Appellants,
vs.
MICHAEL T. NEUENS AND COLETTA M. NEUENS,
Respondents.

No. 38271

FILED

APR 12 2003

JANETTE M. BLOOM
CLERK OF SUPREME COURT
BY J. Richards
CHIEF DEPUTY CLERK

ORDER OF AFFIRMANCE

This is an appeal from a district court judgment denying claims for declaratory and injunctive relief in a real property case. On appeal, appellants James T. Slade and Barbara J. Beans make several arguments.

First, Slade and Beans argue that any amendment of the original CC&R's is invalid prior to the expiration of the stated renewal period. We disagree.

We interpret CC&R's based on their usual and ordinary meaning.[1] No language appears in the original CC&R's regarding successive renewal periods. The absence of any renewal period language strongly suggests that the intent of the drafter was to allow amendments at any time after the original expiration period. Thus, we conclude the original CC&R's could be amended by a majority of the homeowners at any time after the initial ten-year period.

Second, Slade and Beans argue that the proposed outbuilding of respondents Michael and Coletta Neuens is prohibited under the original CC&R's. The original CC&R's were properly amended, however,

[1]Tompkins v. Buttrum Constr. Co., 99 Nev. 142, 144, 659 P.2d 865, 866-67 (1983).

by a majority of the homeowners. Any restrictions not incorporated into the amended CC&R's are now irrelevant. The outbuilding does not violate the CC&R's as amended.

Third, Slade and Beans argue that the district court abused its discretion by ruling that the proposed outbuilding does not unreasonably impact appellant's view under the amended CC&R's. We disagree.

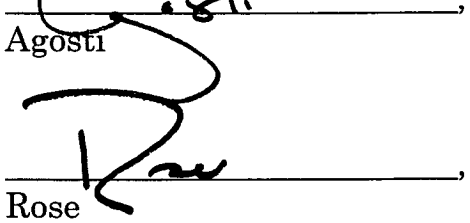
We generally will not disturb a judgment regarding factual determinations unless the findings are "'clearly erroneous and are not based on substantial evidence.'"[2] After considering all the evidence, the district court determined the proposed location was reasonable. Substantial evidence supports that conclusion. Thus, the district court did not abuse its discretion.

Finally, Slade and Beans argue that the district court erred by granting declaratory relief in favor of the respondents. After careful consideration, we conclude this argument lacks merit.

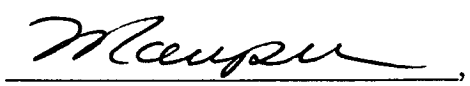
Accordingly, we

ORDER the judgment of the district court AFFIRMED.

_____, C.J.
Agosti



_____, J.
Rose



_____, J.
Maupin

---

[2]Lorenz v. Beltio, Ltd., 114 Nev. 795, 803, 963 P.2d 488, 494 (1998) (quoting Gibellini v. Klindt, 110 Nev. 1201, 1204, 885 P.2d 540, 542 (1994)).

cc: Hon. Michael P. Gibbons, District Judge
Brooke Shaw Plimpton Zumpft
Kelly R. Chase
Douglas County Clerk