

BOISE, FRIDAY, AUGUST 9, 2019 AT 8:50 A.M.

IN THE SUPREME COURT OF THE STATE OF IDAHO

**EAGLE SPRINGS HOMEOWNERS)
ASSOCIATION, INC.,)**

Plaintiff-Respondent,)

v.)

JAN RODINA,)

Defendant-Appellant.)

Docket No. 46323

Appeal from the District Court of the Fourth Judicial District, State of Idaho, Ada County. Lynn G. Norton, District Judge.

Neal Colborn PLLC, Boise, for appellant.

Vial Fotheringham LLP, Boise, for respondent.

This appeal stems from a dispute over a fence between a homeowner and a homeowners' association. In May 2016, Jan Rodina filed an application with Eagle Springs Homeowners' Association ("the HOA") seeking to repair, level, and extend his fence, in addition to landscaping the surrounding area. After receiving conditional approval, Rodina began to enlarge the fence's footprint and construct a retaining wall. Considering these changes outside the scope of its approval, the HOA required Rodina to submit a second application for the project, which it later denied. The HOA informed Rodina that his project violated several provisions of the subdivision's Declaration of Covenants, Conditions, and Restrictions ("CC&Rs").

After Rodina continued construction with no alterations, the HOA filed a complaint in the Ada County District Court seeking injunctive relief. Rodina asserted a number of equitable defenses, and the HOA moved for summary judgment. The district court granted the HOA's motion and ordered Rodina to restore his property to comply with the CC&Rs. The district court based its decision on the plain language of the CC&Rs, including its no-waiver provisions, and the evidence produced. Rodina timely appeals. He argues that: his project was approved in the first application; the CC&Rs' no-waiver provisions should not override his equitable defenses;

the HOA violated the implied covenants of good faith and fair dealing; Idaho should recognize the doctrine of reasonable expectations; and he should be able to recover attorney's fees.