

1 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
 2 **IN AND FOR THE COUNTY OF MARIPOSA**

3 LUSHMEADOWS ASSOCIATION, INC.,)
 4 A California Corporation, nonprofit mutual)
 benefit corporation,)
 5 Plaintiff(s),)

6 vs.)

7 EUGENE TAGGS and DOES 1-200, inclusive.)
 8 Defendant(s).)

9 CECILIA WRAY, an individual,)
 JEFFREY WHALLEY, an individual,)
 10 MARY ALICE WHALLEY, an individual,)
 Plaintiff(s),)

11 vs.)

12 LUSHMEADOWS ASSOCIATION, INC.,)
 13 A California Corporation, nonprofit mutual)
 benefit corporation, and DOES 1-50 inclusive)
 14 Defendant(s).)

15)
 16 AND ALL RELATED CROSS-ACTIONS)
 17)

FILED
 MARIPOSA SUPERIOR COURT
 OCT 17 2008

Helena Jisbe
 COURT CLERK

Case No.: 9018

DECISION

18 These matters came on for hearing as a consolidated court trial commencing on September 8 and
 19 concluding on September 11, 2008, Honorable Judge Terry K. Cole, Ret. Presiding by
 20 assignment. Lushmeadows Association, Inc., Plaintiff and Cross-Defendant in Action 9018, and
 21 Defendant and Cross-Complainant in Action 9070 was represented by Ann Rankin, Law Offices
 of Ann Rankin, and by Edward Nemetz, Law offices of Edward Nemetz. Eugene Taggs,
 22 Defendant and Cross-Complainant in Action 9018, and Jeffrey Whalley, Mary Alice Whalley,
 23 and Norman Wray as Successor Trustee of the Robert H, Wray and Cecilia K. Wray Trust dated
 24 September 15, 1995, Plaintiffs and Cross-defendants in action 9070, were represented by Nanette
 25 Beaumont of Jamison and Chappel. Both parties, after concluding their presentations requested
 and were granted until September 19, 2008, to file Closing Briefs whereupon the matters were
 considered under submission. The Court, having considered the pleadings, heard the testimony,

1 considered the documentary evidence and read and considered Closing Trial Briefs and good
2 cause appearing therefore, renders its decision and enters Judgment as follows:

- 3 1. The court issues a declaratory judgment that the Amended Declaration of Covenants,
4 Conditions and Restrictions for Lushmeadows Mountain Estates, recorded December
5 10, 2003 in the official Records of Mariposa County as instrument No. 2038701
6 constitutes valid and binding equitable servitudes that run in the chain of title and
7 bind the real property described the recitals contained in said instrument
- 8 2. All property owners within Lushmeadows Mountain Estates are required to and do,
9 by virtue of said ownership, belong to Lushmeadows Association, Inc. and are
10 required to pay dues, assessments and other legal obligations to the Association
11 accordance with the recorded Declaration identified in Paragraph 1 above as it may
12 be modified from time to time in accordance with its provisions and as required by
13 Applicable California law;
- 14 3. For delinquent assessments and late charges against Eugene Taggs in the amount of
15 \$814.38 as of May 1, 2008;
- 16 4. For delinquent assessments and late charges against Norman Wray as Successor
17 Trustee of the Robert H. Wray and Cecilia K. Wray Trust dated September 15, 1995
18 in the amount of \$532.50 as of May 1, 2008;
- 19 5. For delinquent assessments and late charges against Jeffrey Whalley and Mary Alice
20 Whalley in the amount of \$945.53 as of May 1, 2008;
- 21 6. The court issues a Declaratory Judgment that the Declaration of Covenants,
22 Conditions and Restrictions for Lushmeadows Mountain Estates, recorded on July 2,
23 1990 in the Official Records of Mariposa County as instrument No. 904235,
24 supplemented by Instrument No. 905262, recorded in the Official Records of
25 Mariposa County on August 12, 1990 was, at the time of its recordation and
subsequently thereto, until it was superceded by the recorded instrument identified in

1 paragraph 1 hereof, valid and binding equitable servitudes that benefited and
2 burdened the parcels identified in the recitals of said instrument;

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4 7. A cost of suit incurred herein, to be more particularly identified in a Memorandum of
5 Costs to be filed herein, is awarded to Lushmeadows Association, Inc.

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7 Date: October 17, 2008

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Terry K. Cole, Assigned Superior Court Judge