

# NEWS RELEASE

Arizona Supreme Court  
Administrative Office of the Courts

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## **Court Rules Contractor May Continue Lawsuit Against Landowners for Unpaid Infrastructure Work**

**PHOENIX** – The Arizona Supreme Court today ruled in *Markham Contracting Co. v. Cahava Springs Phase I, Inc.*, that a contractor may continue its lawsuit against landowners who allegedly received the benefit of public infrastructure work but did not pay anyone for it.

Markham Contracting agreed with a public improvement district to build roads, water lines, and other infrastructure for a planned community in Cave Creek. The landowners had helped create the district and agreed to use special assessments to help pay for the work.

A dispute later arose between Markham and the district. Markham sued the landowners, arguing that they were unjustly enriched because the improvements benefited their property, but Markham was not fully paid.

The landowners argued that Markham's claim should be dismissed because Markham did not allege that the landowners acted improperly, as required by an earlier case involving a landlord, a tenant, and contractors who improved leased property.

The Supreme Court said that the earlier case applies only in the landlord-tenant setting. In that situation, a property owner is not usually responsible for a tenant's unpaid construction bills unless the owner acted improperly regarding the improvements to the property.

But the Court said this case is different. Markham alleged that the landowners themselves sought the improvements, helped arrange them, agreed to fund them, and then received the benefit without paying anyone for the work.

The Court did not decide whether Markham would win its claim. It ruled only that Markham alleged enough facts for the case to move forward.

Because of that, the Supreme Court reversed the trial court's dismissal of Markham's complaint and sent the case back to the trial court for more proceedings. The Court also vacated the court of appeals' memorandum decision.

Chief Justice Timmer wrote the opinion, and all the justices joined.

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*This summary is intended solely to notify the public about an Arizona Supreme Court Opinion. It is not to be considered an official commentary by the Court or any member of the Court, nor may it be cited as legal authority for any reason or purpose. The full Opinion is available [here](#) for those seeking details about the Court's reasoning.*

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