IN THE CIRCUIT COURT
THIRD JUDICIAL CIRCUIT
MADISON COUNTY, ILLINOIS

JAMES CARROLL,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 2025MR000306
	)	
ARCHVIEW CONDOMINIUM OWNERS, INC.,	)	
	)	
Defendant.	)	

MOTION TO DISMISS

COMES NOW, Defendant, ARCHVIEW CONDOMINIUM ASSOCIATION, INC., by and through its attorneys, MATHIS, MARIFIAN & RICHTER, LTD., and in support of its Motion to Dismiss Plaintiff's Complaint for Declaratory Judgment pursuant to 735 ILCS 5/2-615 and 735 ILCS 5/2-619, states as follows:

INTRODUCTION

1. Archview is an Illinois Not for Profit, authorized to do business in the State of Illinois with its principal place of business in the County of Madison, State of Illinois. Archview is the acting board of managers for the Carroll Wood Hill condominium property established under the Condominium Property Act of the State of Illinois. As the board of managers, Archview's purpose is to promote the common interests of its members.

2. On September 22, 2025, Plaintiff James Carroll filed his one-count Complaint for Declaratory Judgment against Defendant ARCHVIEW CONDOMINIUM ASSOCIATION, INC. ("ARCHVIEW") seeking this Court to define the parties' rights under the Condominium Declaration of Carroll Wood Hill ("Declaration") and the Illinois Condominium Property Act, as they pertain to repair and maintenance of a basement/garage pipe.

3. For the reasons set forth herein, this Court must dismiss Plaintiff's Complaint for Declaratory Judgment pursuant to 735 ILCS 5/2-615 for failure to state a cause of action upon which relief can be granted and 735 ILCS 5/2-619 as no actual controversy between the parties exists and the case is moot.

LEGAL STANDARD

4. A motion to dismiss attacks the legal sufficiency of the complaint. As such, the question presented by a 2-615 motion to dismiss is whether the allegations of the complaint are sufficient to state a claim upon which relief can be granted. *Borowiec v. Gateway 2000, Inc.,* 209 Ill.2d 376, 378 (2004). To survive a dismissal under § 2-615, a complaint must allege facts that set out all the essential elements of a cause of action. *Visvardis v. Ferleger,* 375 Ill.App.3d 719, 724 (1st Dist. 2007).

5. In comparison, a § 2-619 motion to dismiss admits the legal sufficiency of the complaint and raises defects, defenses, or other affirmative matters that appear on the fact of the complaint or are established by external submissions that act to defeat the claim. *Neppl v. Murphy,* 316 Ill.App.3d 581, 585 (1st Dist. 2000). Section 2-619(a)(9), in particular, allows dismissal when "the claim asserted . . . is barred by other affirmative matter avoiding the legal effect of or defeating the claim." 735 ILCS 5/2-619(a)(9). The term "affirmative matter" as used in section 2-619(a)(9) has been defined as a type of defense that either negates an alleged cause of action completely or refutes crucial conclusions of law or conclusions or material fact unsupported by allegations of specific fact contained in or inferred from the complaint. *Neppl,* 316 Ill.App.3d at 581; *see also Krilich v. Am. Nat. Bank & Tr. Co. of Chicago,* 334 Ill.App.3d 563, 569-70 (2d Dist. 2002).

ARGUMENT

6. An action for a declaratory judgment is only proper when there is "(1) a plaintiff with

a legal tangible interest; (2) a defendant having an opposing interest; and (3) an actual controversy between the parties concerning such interests." *Toushin v. Ruggiero*, 2015 IL App (1st) 143151, ¶ 44.

7. "A declaratory judgment action is not intended to permit moot or hypothetical cases, or to enable parties to secure advisory opinions or legal advice from the court with respect to anticipated future difficulties." *Palm v. 2800 Lake Shore Drive Condominium Ass'n*, 2014 IL App (1st) 111290, ¶ 45 (internal quotations omitted).

8. "Illinois courts may [only] rule on actual controversies", and if an actual controversy does not exist then "dismissal is proper." See *Palm* at ¶45 (internal quotations omitted).

9. An actual controversy requires that the plaintiff show that "the underlying facts and issues of the case are not moot or premature." *Howlett v. Scott*, 69 Ill.2d 135, 141 (1977).

10. "If the harm that a plaintiff claims is merely speculative or contingent, the claim is unripe and a court should not decide it." *Smart Growth Sugar Grove, LLC v. Village of Sugar Grove,* 375 Ill.App.3d 780, 789, 873 N.E.2d 20 (2d Dist. 2007).

11. At the outset, Plaintiff has not alleged that he was injured as a result of Archview's request for Plaintiff to inspect his pipes.

12. Plaintiff is the owner of Unit E located at 1061 Lafayette Ct., Collinsville, Illinois (the "Property").

13. In August of 2025, a pipe in the garage/basement of the Property began leaking.

14. Defendant investigated the cause of the leak, determined that Defendant had the responsibility to repair the leaking pipe based on the facts and circumstances. Thereafter on or about September 18, 2025, Defendant caused the pipes in the garage/basement of the Property to be repaired. See Affidavit of Natalie Stinson attached hereto as Exhibit A.

15. Plaintiff did not pay for the pipes to be repaired, and Defendant is not seeking to hold

Plaintiff responsible for the costs of the repair. See Exhibit A.

16. The alleged controversy ceased to exist upon Archview's determination of responsibility and subsequent repair of the pipe in the garage/basement.

17. Accordingly, a declaration of rights under the Declaration and/or Illinois Condominium Property Act was no longer necessary. *Excelsior Garage Parking Inc. v. 1250 North Dearborn Condominium Assn.,* 2015 IL App (1st) 133781, ¶ 31 (3d Dist. July 8, 2015 citing *Clyde Savings & Loan Ass'n v. May Department Stores,* 100 Ill.App.3d 189, 192, 55 Ill.Dec. 630, 426 N.E.2d 955 (1981)("actual controversy" requires a showing that the underlying issues are not moot or premature; a "court is not required to pass judgment on mere abstract propositions of law, to render an advisory opinion or to give legal advice as to future events.").

18. Plaintiff's action must be dismissed as no actual controversy exists and Plaintiff's claim is moot.

19. Furthermore, because no actual controversy exists Plaintiff's action is merely seeking an advisory opinion or legal advice as to a future event. Therefore, his claim for a declaratory judgment should be dismissed. *Palm,* 2014 IL App (1st) 111290 at ¶ 46 ("[a] declaratory judgment action is not intended to enable a party to secure an advisory opinion.").

WHEREFORE, for the foregoing reasons, Defendant Archview Condominium Association, Inc. respectfully requests this Court to enter an Order dismissing Plaintiff James Carroll's Complaint with prejudice, and for such other and further relief as the Court deems just and proper.

Respectfully Submitted,

MATHIS, MARIFIAN & RICHTER, LTD.

/s/ Chad J. Richter
Chad J. Richter, #6316878
Montana L. Sinn, #6339689

Connor L. Welby, #6350196
PO Box 247
101 W. Vandalia St., Suite 100
Edwardsville, IL 62025
Tel. No. (618) 656-2244
Fax No. (618) 656-1307
crichter@mmrltd.com
msinn@mmrltd.com
cwelby@mmrltd.com

Attorneys for Defendant

CERTIFICATE OF SERVICE

A copy of the foregoing instrument was served upon the following by electronic mail on this 28th day of January 2026, to:

James B. Carroll
1081 Lafyette Ct., Unit E
Collinsville, IL 62234
Jamesbcarroll1969@gmail.com

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this Certificate of Service are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that she verily believes the same to be true.

/s/ Taylor Bugg