

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of

No. 26F-H092-REL

3 Elizabeth Choi

**ADMINISTRATIVE LAW JUDGE
DECISION**

4 Petitioner

5 v.

6 Trilogy at Power Ranch Community
7 Association

8 Respondent

9
10
11 **HEARING:** August 3, 2026

12 **APPEARANCES:** Petitioner Elizabeth Choi appeared on her own behalf.
13 Respondent Trilogy at Power Ranch Community Association was represented by
14 Solomon S. Krotzer.

15 **ADMINISTRATIVE LAW JUDGE:** Adam D. Stone

16 **EXHIBITS ADMITTED INTO EVIDENCE:** Petitioner's exhibits 1-12 and
17 Respondent's exhibits A-E were admitted into evidence.

18
19 After review of the hearing record in this matter, the undersigned Administrative
20 Law Judge makes the following Findings of Fact and Conclusions of Law, and issues
21 this ORDER to the Commissioner of the Arizona Department of Real Estate
22 ("Department").

23 **FINDINGS OF FACT**

24 **BACKGROUND AND PROCEDURE**

25 1. The Department is authorized by statute to receive and to decide petitions
26 for hearings from members of homeowners' associations and from homeowners'
27 associations in Arizona.

28 2. On or about March 24, 2026, Petitioner filed a single-issue petition against
29 the Association with the Department. Petitioner tendered \$500.00 to the Department
30 with her petition.

1 3. On or about May 22, 2026, the Trilogy at Power Ranch Community
2 Association ("Association") filed its ANSWER with the Department whereby it denied all
3 complaint items in the petition.

4 4. Per the NOTICE OF HEARING issued on June 11, 2026, the Department
5 referred this matter to the Office of Administrative Hearings ("OAH"), an independent
6 state agency, for an evidentiary hearing on July 7, 2026, regarding the following issue
7 based on Petitioner's petition:

8 Petitioner alleges the Respondent of violating A.R.S. § 33-1804 by holding
9 ' a closed meeting to discuss design guideline changes without providing
proper notice to members.'

10 **THE PARTIES AND GOVERNING DOCUMENTS**

11 5. Respondent is a homeowners' association whose members own
12 properties in a residential real estate development located in Phoenix, Arizona.

13 6. Petitioner is a property owner and a member of the Association.

14 7. The Association is governed by its Covenants, Conditions, and
15 Restrictions ("CC&Rs"), and overseen by a Board of Directors ("the Board"). The
16 Association is also regulated by Title 33, Chapter 16, Article 1 of the Arizona Revised
17 Statutes ("ARIZ. REV. STAT.")

18 **HEARING EVIDENCE**

19 8. After a continuance, hearing was held on August 3, 2026.

20 Petitioner's testimony

21 9. Petitioner testified that there was not proper notice given of the November
22 5, 2025, Architectural Control Committee ("ACC") meeting, wherein changes to the
23 guidelines were discussed. Petitioner testified that she had been present at prior
24 regularly scheduled ACC meetings, but that the community was not invited to these
25 specific sessions. Petitioner testified that this not only violated the Association's
26 bylaws,¹ but Arizona Statutes as well.

27 Liz Tate's testimony

28
29

¹ See Petitioner's Exhibit 1.

10. Ms. Tate was a the Chairperson of the ACC committee at the time of the session. She testified that the purpose of the session was to review any of the ACC guidelines, based upon happenings throughout the year and resident feedback to determine if any changes were needed.

Julie Harris' testimony

11. Ms. Harris was a member of the ACC during the session. Ms. Harris' testimony echoed that of Ms. Ridge's as she stated that this was not a regularly scheduled meeting but rather a "workshop" to discuss proposed changes to the guidelines. Ms. Harris testified that while these sessions are open to the public, they are not advertised, as these sessions can last for four to five hours. Ms. Harris also testified that once a change is discussed, it then goes to the Governing Documents committee for review and then out to the community who has twenty-one days to comment, and then ultimately, a vote is taken at the open meeting. As to the session on November 5, 2025, Ms. Harris reiterated what was stated in the email dated October 31, 2025, "[t]his is not an open meeting. We will be discuss (sic) the redlines, and the additional changes to the ACC guidelines before they go to the members and board."²

CONCLUSIONS OF LAW

1. This matter lies within the Department's jurisdiction. Pursuant to ARIZ. REV. STAT. §§ 32-2102 and 32-2199 et al., regarding a dispute between an owner and a planned community association, the owner or association may petition the department for a hearing concerning violations of community documents or violations of the statutes that regulate planned communities as long as the petitioner has filed a petition with the department and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(D), 32-2199.02, and 41-1092, OAH has the authority to hear and decide the contested case at bar.

3. In this proceeding, Petitioner bears the burden of proving by a preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-1804(D).³

² See Petitioner's Exhibit 4.

³ See ARIZ. ADMIN. CODE R2-19-119.

1 4. “A preponderance of the evidence is such proof as convinces the trier of
2 fact that the contention is more probably true than not.”⁴ A preponderance of the evidence
3 is “[t]he greater weight of the evidence, not necessarily established by the greater number
4 of witnesses testifying to a fact but by evidence that has the most convincing force;
5 superior evidentiary weight that, though not sufficient to free the mind wholly from all
6 reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the
7 issue rather than the other.”⁵

8 5. ARIZ. REV. STAT. § 33-1804 provides, in relevant part, as follows:

9 A. Notwithstanding any provision in the declaration, bylaws or other
10 documents to the contrary, all meetings of the members' association and the
11 board of directors, and any regularly scheduled committee meetings, are
12 open to all members of the association or any person designated by a
13 member in writing as the member's representative and all members or
14 designated representatives so desiring shall be allowed to attend and speak
15 at an appropriate time during the deliberations and proceedings. The board
16 may place reasonable time restrictions on those persons speaking during
17 the meeting but shall allow a member or member's designated
18 representative to speak once after the board has discussed a specific
19 agenda item but before the board takes formal action on that item in addition
20 to any other opportunities to speak. The board shall provide for a
21 reasonable number of persons to speak on each side of an issue. Persons
22 attending may audiotape or videotape those portions of the meetings of the
23 board of directors and meetings of the members that are open. The board of
24 directors of the association shall not require advance notice of the
25 audiotaping or videotaping and may adopt reasonable rules governing the
26 audiotaping and videotaping of open portions of the meetings of the board
27 and the membership, but such rules shall not preclude such audiotaping or
28 videotaping by those attending, unless the board audiotapes or videotapes
the meeting and makes the unedited audiotapes or videotapes available to
members on request without restrictions on their use as evidence in any
dispute resolution process. If a board records a meeting that is open to the
members, the board shall keep a copy of the recording for at least six
months and make the unedited recording available to any member on
request in compliance with section 33-1805, subsection A. Any portion of a
meeting may be closed only if that closed portion of the meeting is limited to
consideration of one or more of the following:

1 1. Legal advice from an attorney for the board or the association. On
2 final resolution of any matter for which the board received legal advice or

3 ⁴ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

4 ⁵ BLACK'S LAW DICTIONARY 1220 (8th ed. 1999).

1 that concerned pending or contemplated litigation, the board may disclose
2 information about that matter in an open meeting except for matters that are
3 required to remain confidential by the terms of a settlement agreement or
4 judgment.

5 2. Pending or contemplated litigation.

6 3. Personal, health or financial information about an individual
7 member of the association, an individual employee of the association or an
8 individual employee of a contractor for the association, including records of
9 the association directly related to the personal, health or financial
10 information about an individual member of the association, an individual
11 employee of the association or an individual employee of a contractor for the
12 association.

13 4. Matters relating to the job performance of, compensation of,
14 health records of or specific complaints against an individual employee of
15 the association or an individual employee of a contractor of the association
16 who works under the direction of the association.

17 5. Discussion of a member's appeal of any violation cited or penalty
18 imposed by the association except on request of the affected member that
19 the meeting be held in an open session.

20 . . .

21 F. It is the policy of this state as reflected in this section that all meetings of a
22 planned community, whether meetings of the members' association or
23 meetings of the board of directors of the association, be conducted openly
24 and that notices and agendas be provided in advance for those meetings
25 that contain the information that is reasonably necessary to inform the
26 members of the matters to be discussed or decided and to ensure that
27 members have the ability to speak after discussion of agenda items, but
28 before a vote of the board of directors or members is taken. Toward this end,
29 any person or entity that is charged with the interpretation of these
30 provisions, including members of the board of directors and any community
manager, shall take into account this declaration of policy and shall construe
any provision of this section in favor of open meetings.

6. The tribunal finds that Petitioner has not met her burden. The November
5, 2025, session was not a meeting contemplated by the statute, as there was no official
action to be taken at that time. From the credible testimony, all regularly scheduled
meetings of the ACC were properly noticed and open, as required by statute. While
Petitioner references section F of ARIZ. REV. STAT. § 33-1804, that also states that
members should have the ability to speak *before* a vote was taken. Again, from the
credible testimony, there was no vote taken on these proposed guideline changes, and

1 the community, and Petitioner, still retained their rights to review and comment prior to a
2 formal vote. Therefore, the tribunal finds no violation of ARIZ. REV. STAT. § 33-1804 as
3 to the November 5, 2025, ACC session.

4 **ORDER**

5 **IT IS ORDERED** that Petitioner's petition in this matter be denied.

6 **IT IS FURTHER ORDERED** pursuant to ARIZ. REV. STAT. § 32-2199.02(A),
7 Respondent shall not reimburse Petitioner's filing fee as required by ARIZ. REV. STAT. §
8 32-2199.01.

9 **NOTICE**

10 **Pursuant to A.R.S. §32-2199.02(B), this Order is binding on the parties**
11 **unless a rehearing is granted pursuant to A.R.S. § 32-2199.04.**
12 **Pursuant to A.R.S. § 41-1092.09, a request for rehearing in this matter**
13 **must be filed with the Commissioner of the Department of Real Estate**
14 **within 30 days of the service of this Order upon the parties.**

15 Done this day, August 18, 2026.

16 /s/ Adam D. Stone
17 Administrative Law Judge

18 Transmitted by either mail, e-mail, or facsimile August 18, 2026 to:

19 Susan Nicolson
20 Commissioner
21 Arizona Department of Real Estate

22 Elizabeth Choi
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25
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29 By: OAH Staff