

1 **Final agency action regarding decision below:**

2
3 **ALJFIN ALJ Decision final by statute**

4
5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 In the Matter of
8 Daniel Hunter & Nicole Hunter

9 Petitioners

10 v.

11 Del Camino Homeowners Association, Inc.

12 Respondent
13

No. 26F-H068-REL

**ADMINISTRATIVE LAW JUDGE
DECISION**

14
15 **HEARING:** June 15, 2026

16 **APPEARANCES:** Petitioners Daniel and Nicole Hunter were represented by
17 Joshua Austin. Respondent Del Camino Homeowners Association, Inc. was
18 represented by Elizabeth Lindblom.

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

20 **EXHIBITS ADMITTED INTO EVIDENCE:** Petitioners' Exhibits 1-34 were
21 admitted into evidence.

22
23 **FINDINGS OF FACT**

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

27 2. On or about March 12, 2026, Petitioners filed a single-issue petition
28 against the Association with the Department.¹ Petitioners tendered \$500.00 to the
29 Department with his petition.

30

¹ See Exhibit 22.

1 3. On or about April 9, 2026, the Del Camino Homeowners Association, Inc.
2 ("Association") filed its ANSWER with the Department whereby it denied all complaint
3 items in the petition.

4 4. Per the NOTICE OF HEARING, the Department referred this matter to the
5 Office of Administrative Hearings ("OAH"), an independent state agency, for an
6 evidentiary hearing on June 15, 2026, regarding the following issue based on
7 Petitioners' petition:

8 on July 25, 2025, the Del Camino Homeowners Association violated Article
9 XI of the CC&Rs, Section 5.1 of the Bylaws, and A.R.S. §33-1817 by
10 denying 3 Petitioner's architectural request for window replacement
11 without citing any objective written architectural standard governing
12 windows style (and in fact having no architectural guidelines at all, in
13 violation of the association's CCR's and its bylaws) and without providing a
reasonable detailed written explanation for the denial, instead relying on
subjective aesthetic criteria such as "East Coast style' versus 'Southwest
style.'²

14 5. Respondent is a homeowners' association whose members own
15 properties in a residential real estate development located in Scottsdale, Arizona.³

16 6. Petitioners are property owners and members of the Association.

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

21 8. The Agency Record from the Department and NOTICE OF HEARING were
22 also admitted into the evidentiary record.

23 9. Mr. Hunter testified that he and his wife had been residing in the
24 community for approximately 13 years. Mr. Hunter testified that in July 2025, they
25 decided to replace the home's exterior windows, due to damage and lack of efficiency at
26 a cost of approximately \$25,000.00. Mr. Hunter testified that due to his work
27 background in commercial energy efficiency upgrades, he believed that the windows

28
29 ² See Exhibit 25.

30 ³ See Exhibit 23.

1 were a “maintenance project not a capital project” and did not think to seek permission
2 from the Association.

3 10. Next, Mr. Hunter testified that at some point after some of the windows
4 were installed,⁴ he noticed a neighbor taking pictures of the residence/windows. Mr.
5 Hunter then questioned the neighbor and was informed that the neighbor believed that
6 the windows were not in compliance with the Association’s rules and regulations. Then
7 Mr. Hunter testified that he submitted a form for Architectural Design/Change on July 7,
8 2025,⁵ as well as sending a letter to the Board of the Association, apologizing for his
9 mistake by not seeking approval sooner.⁶

10 11. Mr. Hunter then testified that on July 25, 2025, he received
11 correspondence from the Association denying his request for the windows requested
12 that Petitioner forward alternative options within 30 days.⁷ Further, Mr. Hunter testified
13 that after the denial, several letters were exchanged between himself and his uncle as
14 well as the Association.⁸

15 12. Mr. Hunter testified that he then proposed to the Association, on
16 November 3, 2025, to paint his house in a color which would allow the windows to
17 better blend in with the home,⁹ however this request was denied by the Association on
18 November 20, 2025.¹⁰ Next, Mr. Hunter testified that on December 2, 2025, he
19 proposed to the Association to paint the trim surrounding the windows, to try to match
20 the color of the home, despite the paint potentially violating his window warranty.¹¹
21 However, this request was likewise denied by the Association on December 11, 2025.¹²

22 13. Further, Mr. Hunter testified that in February 2026, he received a Notice of
23 Violation regarding his windows as they “were not in conformity with the Associations
24

25 ⁴ See Exhibit 2.

26 ⁵ See Exhibit 1.

27 ⁶ See Exhibit 3.

28 ⁷ See Exhibit 5.

29 ⁸ See Exhibits 6-10.

30 ⁹ See Exhibit 11.

¹⁰ See Exhibit 12.

¹¹ See Exhibit 13.

¹² See Exhibit 14.

governing documents.”¹³, and on March 24, 2026, the Association levied a \$250.00 fine for the same.¹⁴ Mr. Hunter testified that in good-faith, he paid the fine.

14. Mr. Hunter testified that after further e-mail exchanges,¹⁵ he submitted yet another application for the Association to consider. On April 11, 2026, Mr. Hunter proposed that he be permitted to install dark sunscreens around the windows, so the frames were not visible.¹⁶ However, that too was denied on May 12, 2026.¹⁷

15. In summation, Mr. Hunter testified that he did not understand why the “pop-out” style of window was such a concern to the Association, and was actively trying to find a workable solution, yet the Board rebuked him at every turn. Lastly, Mr. Hunter testified that there were no specific guidelines as to the style of windows that were required by the Association, so he had no guidance as to the specific reasoning for the denial. Thus, Mr. Hunter concluded his testimony stating that he wanted to finish installation of his windows recognizing the fact that they are not in conformity with the rest of the homes in the Association.

16. Robert Clinger, the Association President and member of the Architectural Committee, testified for Respondent. Mr. Clinger testified that while there were no specific guidelines for the types of windows to be installed, the committee generally considers the overall aesthetic of the homes in the community, and there were no homes which had the style of windows which Petitioner installed. Further, Mr. Clinger testified that the Association has denied other homeowners’ permission to install these types of windows so was not treating Petitioner’s any differently.

17. As to the three subsequent proposals, Mr. Clinger testified that simply painting the home to match the windows would still be out of the community standards as the windows would still “pop-out”. Furthermore, Mr. Clinger testified that painting the window frame was not a solution as potentially there would need to be constant

¹³ See Exhibit 16.

¹⁴ See Exhibit 28.

¹⁵ See Exhibit 29.

¹⁶ See Exhibit 30.

¹⁷ See Exhibit 32.

1 maintenance to re-paint the same due to weather damage. Finally, Mr. Clinger testified
2 that the sunscreens were not a viable solution either.

3 18. While Mr. Clinger testified that the Association was still willing to work with
4 Petitioners to find a solution, he ultimately admitted that the windows needed to be flush
5 with the wall, was his guiding principle.

6 **CONCLUSIONS OF LAW**

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

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

15 3. In this proceeding, Petitioner bears the burden of proving by a
16 preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-1817,
17 Section 5.1 of the Bylaws and Article XI of the CC&R's.¹⁸

18 4. "A preponderance of the evidence is such proof as convinces the trier of
19 fact that the contention is more probably true than not."¹⁹ A preponderance of the
20 evidence is "[t]he greater weight of the evidence, not necessarily established by the
21 greater number of witnesses testifying to a fact but by evidence that has the most
22 convincing force; superior evidentiary weight that, though not sufficient to free the mind
23 wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one
24 side of the issue rather than the other."²⁰

25 5. ARIZ. REV. STAT. § 33-1817(3) provides as follows, "[a]pproval of a
26 construction project's architectural designs, plans and amendments shall not
27 unreasonably be withheld."

28 6. Section 5.1 of the Bylaws provides:

29 ¹⁸ See ARIZ. ADMIN. CODE R2-19-119.

30 ¹⁹ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

²⁰ BLACK'S LAW DICTIONARY 1220 (8th ed. 1999).

1 5.1. Committee The Architectural Committee shall promulgate architectural
2 guidelines and standards to be used in rendering its decisions (the
3 "Architectural Guidelines"). Subject to the provisions of Section 2 of Article
4 XI of the Declaration, the decision of the Architectural Committee shall be
5 final on all matters submitted to it pursuant to the Declaration. The Declarant
6 shall establish an Architectural Committee to perform the of the
7 Architectural Committee set forth in the Declaration and shall adopt the
8 procedural rules and regulations for the performance of such duties by the
9 Architectural Committee, including procedures for the preparation,
10 submission and determination of the application for any approvals required
11 by the Declaration. The Architectural Committee shall consist of such
12 number of regular members and alternative members as the Declarant may
13 designate and such members shall be appointed by the Declarant. The
14 initial Architectural Committee shall consist of two (2) regular members
15 Appointees need not be architects or Owners and do not need to possess
16 any special qualifications of any type except such as the Declarant may, in
17 its discretion, require The Architectural Committee shall hold regular
18 meetings, a quorum for such meeting shall consist of a quorum of the
19 regular members, and the concurrence of a majority of the regular members
20 shall be necessary for any decision of the Architectural Committee. An
21 alternate member, approved by the Declarant, may constitute a quorum by
22 his presence and shall have all of the authority of a regular member while so
23 participating.

16 7. Article XI of the CC&R's provides in pertinent part:

17 Section 1. Establishment. The Declarant shall establish an Architectural
18 Committee to perform the of the Architectural Committee set forth in this
19 Declaration and adopt the procedural rules and regulations for the
20 performance of such duties by the Architectural Committee, including
21 procedures for the preparation, submission and determination of the
22 application for approvals required by this Declaration. The Architectural
23 Committee shall consist of such number of regular members and alternate
24 members as the may designate and such members be appointed by the
25 Declarant. The initial Architectural Committee shall consist of two (2)
26 regular members.

24 . . .

25 8. Article III Section 2(a) of the CC&R's provides in pertinent part:

26 Section 2. Covenants, Conditions. Restrictions and Easements to Lots
27 Within Land Use Classifications. The following covenants, conditions,
28 restrictions and reservations of easements and rights shall apply to all Lots
29 and the Owners thereof.

1 (a) Architectural Control. The Property is subject to architectural
2 control as established by the Architectural Committee. No improvements,
3 alterations, repairs, excavation, grading, landscaping or other work which in
4 any way alters the exterior appearance of any of the Property, or the
5 improvements located thereon, its natural or improved state existing on the
6 date this Declaration was first recorded be made or done without prior
7 written approval of the Architectural Committee, except as otherwise
8 expressly provided in this Declaration. No building, fence, wall, residence or
9 other structure shall be commenced, erected, maintained, improved,
10 altered, or made without the prior written approval of the Architectural
11 Committee. subsequent additions to or changes or alterations in any
12 fence, wall or other structure, exterior color scheme, and all changes in the
13 grade of Lots, shall be subject to the prior written approval of the
14 Architectural Committee. No changes or deviations in or the plans and
15 specifications once approved by the Architectural Committee be without
16 prior written approval of the Architectural Committee.

17 9. The material facts in this matter are not in dispute.

18 10. Petitioners undertook a major expense in replacing their windows. While
19 the tribunal appreciates Mr. Hunter's testimony, he should have known that this
20 undertaking to change the appearance of the exterior of his home required prior
21 approval from the Association. That unfortunately is where the fault lies in this action.
22 There was no unreasonable denial in this case, as Petitioners' home is the only home
23 with these windows, and Mr. Clinger testified that other homeowner's requests were
24 denied. Thus, the tribunal finds that the Association was not in violation as asserted by
25 Petitioners.²¹

26 11. Based upon the foregoing, Petitioners did not meet their burden of proof in
27 demonstrating that the Association was in violation of ARIZ. REV. STAT. § 33-1817,
28 Section 5.1 of the Bylaws and Article XI of the CC&R's.

29 ORDER

30 **IT IS ORDERED** that Petitioners' petition in this matter be denied.

21 That being said, the tribunal believes that there still could be some room for compromise as to the painting. Perhaps, Petitioners could paint sample sections of the house or trim to show the Association how the windows would blend in. Likewise, the Association should not be concerned with the maintenance of repainting the window frames (if they otherwise match the home, and fit in with the aesthetic).

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

NOTICE

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

Done this day, July 2, 2026.

/s/ Adam D. Stone
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile July 2, 2026 to:

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