IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of Braylon Hanson Petitioner vs Casabella Condominium Association Respondent	**No. 26F-H100-REL** **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: October 1, 2026

APPEARANCES: Petitioner Braylon Hanson appeared on his own behalf. Respondent Casabella Condominium Association was represented by Christina Morgan.

ADMINISTRATIVE LAW JUDGE: Adam D. Stone

EXHIBITS ADMITTED INTO EVIDENCE: Respondent's Exhibits 1-14 were admitted into evidence as well as the Arizona Department of Real Estate file.

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

FINDINGS OF FACT

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

2. On or about April 6, 2026, Petitioner filed a single-issue petition against the Association with the Department. Petitioner tendered $500.00 to the Department with his petition.

3. Per the NOTICE OF HEARING dated August 25, 2026, the Department referred this matter to the Office of Administrative Hearings ("OAH"), an independent state agency, for an evidentiary hearing on October 1, 2026, regarding the following issue based on Petitioner's petition:

> Petitioner alleges the Respondent of violating ARS §33-1221(A)(1) and CC&R Article 4, Section 4.3(B) by issuing Petitioner a violation notice for 'installing luxury vinyl park (LVP) in [their] second floor unit'

4. Respondent is a homeowners' association whose members own units in a condominium development in Scottsdale, Arizona.

5. Petitioner is a property owner and a member of the Association.

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

7. Petitioner testified Respondent violated his rights after he installed LVP flooring in the unit that he owned. Petitioner testified that shortly after he moved into his unit in 2023, he installed new flooring. In addition, he testified that it was not until 2025 that he was informed by the Association that there was a potential issue with the flooring. Petitioner testified that on or about December 16, 2025, he submitted an Architectural Design Approval Form,[1] however the request was denied on December 18, 2025.[2] Petitioner requested a hearing before the Board, and while he did not attend the same, he had his neighbor, Robert Gelinas, appear on his behalf.

8. Next, Petitioner testified that he received correspondence from the Association's attorney requesting that the Association be allowed to inspect the floor to determine if it meets the Association's standards which were enacted after the installation.[3] Petitioner testified that he refused to comply with the same and also refused to provide the flooring manufacturer as well as the specifications. Petitioner testified that instead, he chose to file the instant action.

[1] *See* Respondent's Exhibit 12.
[2] *See* Respondent's Exhibit 13.
[3] *See* Respondent's Exhibit 6.

9. Robert Gelinas testified on behalf of Petitioner. Mr. Gelinas testified that he attended the Board meeting to present Petitioner's appeal which was subsequently denied.

10. Respondent offered the testimony of Terrance Chadedock, a member of the Board as well as a member of the Architectural Committee. He testified that since the property was converted from apartments to condominiums in early 1999, there was a prohibition on the installation of hardwood flooring, although this was not specified in the rules and regulations. Mr. Chadedock testified that once ARIZ. REV. STAT. § 33-1221 was enacted in 2024, the Board passed new regulations informing owners of certain specifications which must be met for approved flooring.[4] Mr. Chadedock testified that because Petitioner has not allowed an inspection of the floor nor provided any information regarding the flooring specifications, he believed that the Notice of Violation was appropriate, however, there have been no fines or other penalties levied on the unit.

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. § 33-1221(A), and Article 4, Section 4.3(B) of the CC&R's. [5]

4. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."[6] A preponderance of the evidence

[4] *See* Respondent's Exhibit 3.
[5] *See* ARIZ. ADMIN. CODE R2-19-119.
[6] MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

is "[t]he greater weight of the evidence, not necessarily established by the greater number of witnesses testifying to a fact but by evidence that has the most convincing force; superior evidentiary weight that, though not sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than the other."[7]

5. ARIZ. REV. STAT. § 33-1221 provides as follows:

> A. Subject to the provisions of the declaration and other provisions of law, a unit owner:
> 1. May make any improvements or alterations to the unit owner's unit that do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium.
> 2. Shall not change the appearance of the common elements, or the exterior appearance of a unit or any other portion of the condominium, without written permission of the association.
> 3. After acquiring an adjoining unit or, if the declaration expressly allows, an adjoining part of an adjoining unit, may remove or alter any intervening partition or create apertures in intervening partitions, even if the partition in whole or in part is a common element, if those acts do not impair the structural integrity or mechanical systems or lessen the support of any portion of the condominium. Removal of partitions or creation of apertures under this paragraph is not an alteration of boundaries.
>
> B. In addition to allowed modifications as prescribed by subsection A of this section and notwithstanding the condominium documents, the association shall not prohibit a unit owner from improving or altering the interior of the unit in a manner that may disturb adjacent unit occupants if the unit owner purchases and installs at the unit owner's own expense any reasonably necessary improved materials, accessories or other adjustments that eliminate or minimize the potential disturbance. The association shall not prohibit a unit owner from using any manner of decoration on the interior of the unit.

6. Article 4, Section 4.3(B) of the CC&R's provide:

> (B) Any Unit Owner may make nonstructural additions, alterations and improvements within his Unit without the prior written approval of the Board, but such Unit Owner shall, to the extent permitted under Arizona law, be responsible for any damage to other Units and to the Common Elements which results from any such alterations, additions or improvements.

[7] BLACK'S LAW DICTIONARY 1220 (8th ed. 1999).

7. The Casabella Condominium Association Rules and Regulations, approved on October 11, 2021, state in pertinent part:

> . . .
> **FLOORING-SECOND LEVEL UNITS**
>
> Most second level floor replacement will require Architectural Committee Approval. To avoid non-compliance please inquire before any installation. Guidelines for acceptable second level floor replacement are available. Help to guide you through the approval process will be provided.
> . . .
> **IMPROVEMENTS (NON-STRUCTURAL)**
>
> Non-structural items include adding or changing wall coverings and floor coverings. Owners may make non-structural additions and improvements within his/her unit, without the prior written approval of the Board which are not visible from the exterior of the building in which the Unit is located. However, most flooring installations in second level units will require prior written approval. (Refer to FLOORING) Non-structural items include adding or changing wall coverings and floor coverings. In consideration of owners in downstairs units, no hard flooring (tiles, hardwood, laminate, vinyl, etc) is allowed in the following areas of upstairs units: dining room (not including entry), living room (not including fireplace surrounds) or bedrooms. In undertaking any non-structural work, the Unit Owner must abide by the following rules:. . .[8]

8. The material facts in this matter are not in dispute.

9. Petitioner installed flooring for which prior written approval was required per the above Rules and Regulations. In addition, the tribunal finds Petitioner's reliance on ARIZ. REV. STAT. § 33-1221 misplaced, as the section B of the statute requires the owner to "eliminate or minimize the potential disturbance" on adjacent neighbors. Despite numerous requests from the Association, Petitioner has yet to provide ***any*** specifications to the Association, or this tribunal for that matter, that he eliminated or minimized any potential disturbances for his neighbors. Because of this, there is no way to know if Petitioner's flooring is appropriate. Thus, the tribunal finds the Association has followed its Rules, Regulations and the statute, while Petitioner has refused to collaboratively work with the Association to reach a resolution.

[8] *See* Respondent's Exhibit 2.

10. Based upon the foregoing, Petitioner did not meet his burden of proof in demonstrating that the Association was in violation of ARIZ. REV. STAT. § 33-1221, or the CC&R's section 4.3.

ORDER

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

IT IS FURTHER ORDERED pursuant to ARIZ. REV. STAT. § 32-2199.02(A), Respondent shall not reimburse Petitioner's 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, October 16, 2026.

/s/ Adam D. Stone
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile October 16, 2026 to:

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