IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of Thea White vs Encanto Garden Townhouses Association	No. 26F-H223-HOA **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: October 9, 2026

APPEARANCES:

Petitioner: Thea White

Respondent: No Appearance

ADMINISTRATIVE LAW JUDGE: Nedra-Su Kawasaki

EXHIBITS ADMITTED INTO EVIDENCE: Administrative notice was taken of the Hearing File submitted by the Department of Real Estate.

FINDINGS OF FACT

Petitioner's Claim

1. Encanto Garden Townhouses Association (Respondent) was a condominium association located in Phoenix, Arizona.

2. Thea White (Petitioner) owned a home located at 2941 North 19th Avenue, Unit 95 and was a member of Respondent.

3. On July 17, 2026, Petitioner paid the requisite $500.00 fee and filed a Petition with the Arizona Department of Real Estate (Department) alleging that Respondent had violated Condominium Statute A.R.S. §§ 33-1242(A) and Covenants, Conditions, and Restrictions (CC&Rs) Article VIII, Section 1. The issue identified in the Petition, read as follows:

> On June 22, July 1, and July 6, 2026, Respondent three times denied Petitioner's June 17, 2026 application for open security bars; each denial evaluated the request as an enclosed back porch, a design Petitioner never submitted; the first two denials relied on police and fire guidance

concerning enclosed spaces, and the third asserted a grandfathering restriction; despite two written requests, dated July 6 and July 13, 2026, Respondent has produced neither the police and fire documentation nor any governing document establishing the grandfathering restriction; these actions violate Article VIII, Section 1 of the Declaration, which governs architectural review, and A.R.S. § 33-1242(A), under which the Association's powers are exercised subject to the Declaration.[1]

4. On July 21, 2026, through USPS certified mail, the Department sent a Notice of Petition to Respondent, in care of Pride Community Management. The Department mailed the Notice of Petition to both P.O. Box 13615, Chandler, AZ 85248 and 2450 S. Gilbert Rd., Ste. 205, Chandler, AZ 85286.[2]

5. The Notice of Petition advised Respondent that it was required to complete and submit the enclosed Response Form to the Department no later than August 10, 2026. Respondent was further advised that a failure to submit a response by the deadline may be deemed as an admission of the allegations within the Petition and an Order of Default may be issued.

6. The Department confirmed delivery of the Notice of Petition through the USPS tracking data.

7. The Department did not receive a response from Respondent.

8. The Department referred the Petition to the Office of Administrative Hearings, an independent state agency, for an evidentiary hearing.

9. A hearing was held on October 9, 2026. Administrative Notice was taken of the Department record.

10. Although the hearing was delayed 15 minutes, no member or representative appeared on behalf of Respondent.

11. Petitioner testified in support of the facts as detailed above.

REFERENCED STATUTES

12. A.R.S. § 33-1242(A) provides as follows, in pertinent part:

(A) Subject to the provisions of the declaration, the association may:

[1] Not. of Hr'g. File, Homeowners Association (HOA) Petition Request Form (all errors included in original).
[2] Not. of Hr'g. File, HOA Notice of Petition.

1. Adopt and amend bylaws and rules.

. . . .

16. Exercise any other powers conferred by the declaration or bylaws.

17. Exercise all other powers that may be exercised in this state by legal entities of the same type as the association.

18. Exercise any other powers necessary and proper for the governance and operation of the association.

REFERENCED CC&RS[3]

13. Article VIII, Section 1 provided, in pertinent part, as follows:

Architectural Control

§ 1 No improvement, whether a building, fence, wall or other structure shall be commenced, erected or maintained, until the plans and specifications for the same showing all construction details, including the nature, shape, height, materials, floor plans, location and approximate cost thereof shall have been submitted to and approved in writing by ENCANTO GARDEN TOWNHOUSES ASSOCIATION, its successors or assigns. Said Association shall have the right to deny approval of any plans or specifications which are not, in its opinion, suitable or desirable for aesthetic or any other reason, and shall have the right to take into consideration the harmony and conformity of the building with the surrounding buildings and suitability of the same withy surrounding area and the effect of such structure or building as seen from adjacent or neighboring properties. All subsequent replacements, alteration, repainting or improvements of any building, fence, wall or other structure, also shall be subject to the prior approval of ENCANTO GARDEN TOWNHOUSES ASSOCIATION, its successors or assigns. If the Association fails to approve or [illegible] such plans and specifications within thirty (30) days after submission thereof, approval will not be required and this ARTICLE will be deemed to have been fully complied with; provided, however, that in no event shall any unit owner have the right to make changes or additions to his or her residence which would exceed in any amount the original square footage of the said residence.[4]

/ / / /

/ / / /

CONCLUSIONS OF LAW

[3] *See* Not. of Hr'g File, HOA Petition Request Form at 35-69.

[4] *Id.* at 50-51.

1. A.R.S. § 32-2199 authorizes the administrative law judge to "adjudicate complaints regarding and ensure compliance with . . . [t]itle 33, chapter 9 and condominium documents."

2. A.R.S. § 32-2199.01 provides the following, in pertinent part:

> A. For a dispute between an owner and a condominium association or planned community association that is regulated pursuant to title 33, chapter 9 or 16, the owner or association may petition the department for a hearing concerning violations of condominium documents or planned community documents or violations of the statutes that regulate condominiums or planned communities. The petitioner shall file a petition with the department and pay a filing fee in an amount to be established by the commissioner.
>
> . . . .
>
> C. On receipt of the petition and the filing fee the department shall mail by certified mail a copy of the petition along with notice to the named respondent that a response is required within twenty days after mailing of the petition showing cause, if any, why the petition should be dismissed.
>
> . . . .
>
> E. Failure of the respondent to answer is deemed an admission of the allegations made in the petition, and the commissioner shall issue a default decision.

3. A.R.S. § 32-2199.02 authorizes the administrative law judge to "order any party to abide by the statute, condominium documents, community documents or contract provision at issue and may levy a civil penalty on the basis of each violation." This Tribunal is not authorized to order other remediation or order civil penalties for other conduct.

4. In the instant matter, Respondent failed to submit a response to the Petition by the August 10, 2026, deadline. Therefore, the allegations as set forth in the Petition are deemed admitted.

ORDER

IT IS ORDERED that Petitioner be deemed the prevailing party in this matter.

IT IS FURTHER ORDERED that Respondent pay Petitioner the filing fee of $500.00, to be paid directly to Petitioner within thirty (30) days of this Order.

IT IS ORDERED Respondent is directed to comply with the requirements of the Association's CC&Rs.

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 9, 2026.

/s/ Nedra-Su Kawasaki
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile October 9, 2026 to:

Susan Nicolson
Arizona Department of Real Estate - HOA
Attn:
snicolson@azre.gov
vnunez@azre.gov
hoa@azre.gov

Thea White
2941 N 19th Ave Unit 95
Phoenix, AZ 85015
whitetshirt1963@gmail.com

Encanto Garden Townhouses Association
c/o Pride Community Management
PO Box 13615
Chandler, AZ 85248
austin@pridemgmt.com

By: OAH Staff