IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of: Sophia Xu, Petitioner, v. Magic Ranch Community Association, Respondent.	No. 26F-H194-REL **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: September 28, 2026

APPEARANCES: Petitioner Sophia Xu appeared on her own behalf. Eric DeBoer appeared on behalf of Respondent Magic Ranch Community Association.

ADMINISTRATIVE LAW JUDGE: Sondra J. Vanella

EXHIBITS ADMITTED INTO EVIDENCE: Administrative Notice was taken of the Agency Record. Petitioner Sophia Xu's Exhibits C, D, H, and J.

FINDINGS OF FACT

1. On or about June 26, 2026, Sophia Xu ("Petitioner") filed a Homeowners Association (HOA) Dispute Process Petition ("Petition") with the Arizona Department of Real Estate ("Department") alleging a violation by Magic Ranch Community Association ("Respondent") of A.R.S. § 33-1807 and A.R.S. § 33-1803. Petitioner indicated a single issue would be presented and paid the appropriate $500.00 filing fee.

2. On or about August 24, 2026, the Department issued a Notice of Hearing in which it set forth the issue for hearing as follows:

> Petitioner alleges Respondent of violating ARS §33-1807 and §33-1803 by "prematurely recording a property lien without providing verified delivery proof of mandatory notices to my primary residence–where I have continuously resided throughout the entire period of alleged debt accrual– while instead issuing an electronic transmission on April 3, 2026 containing an incorrect off-site rental property address."

3. At hearing, Petitioner testified on her own behalf. Respondent presented the testimony of Eric DeBoer, Community Manager.

Referenced Statutes

A.R.S. § 33-1807

L. For a delinquent account for unpaid common expense liens, the association shall provide the following written notice to the member at the member's address as provided to the association at least thirty days before authorizing an attorney, or a collection agency that is not acting as the association's managing agent, to begin collection activity on behalf of the association:

> Your account is delinquent. If you do not bring your account current or make arrangements that are approved by the association to bring your account current within thirty days after the date of this notice, your account will be turned over for further collection proceedings. Such collection proceedings could include bringing a foreclosure action against your property.

The notice shall be in bold-faced type or all capital letters and shall include the contact information for the person that the member may contact to discuss payment. The notice shall be sent by certified mail, return receipt requested, and may be included within other correspondence sent to the member regarding the member's delinquent account.

A.R.S. § 33-1803

A. Unless limitations in the community documents would result in a lower limit for the assessment, the association shall not impose a regular assessment that is more than twenty percent greater than the immediately preceding fiscal year's assessment without the approval of the majority of the members of the association. Unless reserved to the members of the association, the board of directors may impose reasonable charges for the late payment of assessments. A payment by a member is deemed late if it is unpaid fifteen or more days after its due date, unless the community documents provide for a longer period. Charges for the late payment of assessments are limited to the greater of fifteen dollars or ten percent of the amount of the unpaid assessment and may be imposed only after the association has provided notice that the assessment is overdue or provided notice that the assessment is considered overdue after a certain date. Any monies paid by the member for an unpaid assessment shall be

applied first to the principal amount unpaid and then to the interest accrued.

Hearing Evidence

4. At hearing, Petitioner attempted to argue that Respondent ignored its CC&Rs and violated federal statute. Petitioner utilized AI in formulating her arguments and was advised by the Tribunal that any citations to legal authority that were not set forth in her Petition and the Notice of Hearing could not be considered and were beyond the scope of the hearing.

5. Petitioner asserted at hearing that Respondent violated the requirements for notification and "rushed to record a lien without proper debt validation." Petitioner referenced A.R.S. §§ 1803(A) and 1807(L).

6. Petitioner testified that Respondent sent notice to Petitioner's rental property address and that the notice contained an incorrect name, city and zip code. Petitioner also testified that Respondent charged a late fee in excess of what statute allows, and Respondent misapplied the assessment funds.

7. Petitioner offered into evidence her exhibits C, D, H, and J.

8. Contained within Exhibit D is a March 31, 2026 Notice of Assessment Lien Demand Letter addressed to Hong Xu with an address of 1105 S. 4th Ave., Apt. 2, Phoenix, AZ 85005. Petitioner testified that this address belongs to her rental property and the correct zip code is 85003.

9. Petitioner asserted that Respondent "didn't do the right thing" as a board member lives "four doors down."

10. Mr. DeBoer referenced a July 9, 2025 letter titled in red, capital, bold letters, Final Notice of Delinquency.[1] Mr. DeBoer testified that this letter was sent to the address that was exported from data obtained from the previous management company which contained Petitioner's off site address, leading Respondent to believe that she lived off site.

[1] *See* Agency Record.

11. The Notice contains the statutorily required elements, specifically, the Notice states:

> **Your account is delinquent. If you do not bring your account current or make arrangements that are approved by the association to bring your account current within thirty days after the date of this notice, your account will be turned over for further collection proceedings. Such collection proceedings could include bringing a foreclosure action against your property.**
>
> If you have already paid the delinquent balance shown above, please disregard this notice.
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> 1. To view and manage your account online, or to make electronic payments, please visit azhoaportal.com and click the "Login" button at the top of the homepage.
> 2. If you need to discuss your account, or if you would like to discuss a payment plan, please contact the management office at (480) 908-2250.
> The Notice was sent by certified mail and was returned as “unclaimed.” It was sent to Petitioner at Petitioner’s address as provided to the association, at least thirty days prior to collection activity on behalf of the association.

12. The Unit Ledger for Petitioner’s Unit indicates that Petitioner was assessed a $15.00 late fee per month that was charged on the following month which is in accordance with the statutory allowance: “[c]harges for the late payment of assessments are limited to the greater of fifteen dollars or ten percent of the amount of the unpaid assessment . . .” Regarding the application of payments made by Petitioner, Petitioner failed to provide persuasive evidence that those payments were misapplied.

CONCLUSIONS OF LAW

1. Arizona statute permits an owner or a planned community organization to file a petition with the Department for a hearing concerning violations of planned community documents or violations of statutes that regulate planned communities.[2] That statute provides that such petitions will be heard before the Office of Administrative Hearings.

[2] *See* A.R.S. § 32-2199.

2. Petitioner bears the burden of proof to establish that Respondent committed the alleged violation by a preponderance of the evidence.[3] Respondent bears the burden to establish affirmative defenses by the same evidentiary standard.[4]

3. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."[5] A preponderance of the evidence 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."[6]

4. Petitioner alleged a violation of A.R.S. § 33-1807 and A.R.S. § 33-1803. Based on a review of the credible and relevant evidence of record, it is concluded that Petitioner failed to establish by a preponderance of the evidence that Respondent violated the cited statutory provisions. The credible evidence of record established that Respondent sent proper notice to Petitioner of the delinquency and the potential of her account being sent to collections. The notice was sent to Petitioner's address of record and contained the required statutory elements. Petitioner failed to establish by a preponderance of the evidence that Respondent improperly applied her payments.

ORDER

IT IS ORDERED that no action is required of Respondent in this matter and that Petitioner's Petition is dismissed.

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.

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[3] *See* A.R.S. section 41-1092.07(G)(2); A.A.C. R2-19-119(A) and (B)(1); *see also Vazzano v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).
[4] *See* A.A.C. R2-19-119(B)(2).
[5] MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).
[6] BLACK'S LAW DICTIONARY at page 1220 (8th ed. 1999).

Done this day, October 9, 2026.

/s/ Sondra J. Vanella
Administrative Law Judge

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

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