IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of: Rainey, Chad D. / HN&CR Living Trust Dated August 13, 2019, **Petitioner**, v The Garden Lakes Community Association, **Respondent**.	No. 26F-H114-REL **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: August 31, 2026 at 1:00pm

APPEARANCES: Chad Rainey appeared on behalf of Petitioner (himself) and HN&CR Living Trust. Attorneys Lauren Stine and Jack Contrera appeared on behalf of Respondent The Garden Lakes Community Association with witnesses Stephanie Villa and Wayne Hunt.

ADMINISTRATIVE LAW JUDGE: Nicole Robinson

EXHIBITS ADMITTED INTO EVIDENCE: Arizona Department of Real Estate Packet ("Packet"). Petitioner's Exhibits A through H.

FINDINGS OF FACT

BACKGROUND AND PROCEDURE

1. The Arizona Department of Real Estate ("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 26, 2026, Chad Rainey ("Petitioner") filed a one-issue petition with the Department which alleged that The Garden Lakes Community Association ("Respondent" or "Association") violated ARIZ. REV. STAT. § 33-1805(A).[1]

3. The relief requested by Petitioner, other than ordering Respondent to pay to Petitioner the filing fee required by ARIZ. REV. STAT. § 32-2199.01 if Petitioner prevailed, includes the following (1) Order Respondent to abide by the Arizona statute

[1] *See* Packet at HOA Petition Form.

specified in the complaint section and (2) Impose a civil penalty based on the violation specified.[2]

4. On May 20, 2026, the Department sent a Homeowner's Association ("HOA") Notice of Petition to Respondent which informed Respondent of the petition initiated against it.[3] In addition, the petition informed Respondent to send a timely response to the Department and to Petitioner no later than June 14, 2026.[4]

5. On or about June 11, 2026, Respondent returned its ANSWER to the Department whereby it denied Petitioner's claims.[5]

6. On or about June 16, 2026, the Department referred this matter to the Office of Administrative Hearings ("OAH"), an independent state agency, for an evidentiary hearing to address the issues set forth, in pertinent part, as follows:

> "On April 25, 2025, and subsequently on October 30, 2025, the undersigned submitted formal written requests to the Board of Directors for association records pursuant to statutory rights. To date, the Association has failed to provide any disclosure or substantive response within the mandatory ten (10) business day period stipulated by A.R.S. § 33-1805(A). The documents in question pertain to board training sessions; while minutes are available, the complete record – as defined by statute – must include all associated documentation/records, including but not limited to: preparatory agendas, internal notes, supporting email communications, invoices, and certifications related to said training. This continuous failure constitutes an unauthorized withholding of records explicitly categorized as "records of the association" under A.R.S. § 33-1805(A)."[6]

THE PARTIES AND GOVERNING DOCUMENTS

7. Respondent is a planned community association whose members own properties in the Garden Lakes residential real estate development located in Avondale, Maricopa County, Arizona. The community has been managed by Capital Consultant Management Company ("CCMC"), a property management company, for the last eight to ten years.

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[2] *Id*.
[3] *See* Packet at Notice of Petition.
[4] *Id*.
[5] *See* Packet at Garden Lakes Response.
[6] *See* Packet at HOA Petition Form.

8. Petitioner and his wife have owned a home for approximately four years in Garden Lakes and are members of the Association. Petitioner is a "snow-bird" and lives half the year at the Garden Lakes property and the other half of the year in Colorado Springs, Colorado. Heather Rainey, Petitioner's wife, is the trustee of the HN&CR Living Trust and Petitioner has been appointed the designated representative on behalf of the Trust.[7]

9. The governing documents include the community's Declaration of Covenants, Conditions, Restrictions & Easements ("CC&Rs") and its Bylaws. However, the applicable law, in this matter, is the ARIZ. REV. STAT. § 33-1805(A) which provides, as follows:

> Except as provided in subsection B of this section, all financial and other records of the association shall be made reasonably available for examination by any member or any person designated by the member in writing as the member's representative. The association shall not charge a member or any person designated by the member in writing for making material available for review. The association shall have ten business days to fulfill a request for examination. On request for purchase of copies of records by any member or any person designated by the member in writing as the member's representative, the association shall have ten business days to provide copies of the requested records. An association may charge a fee for making copies of not more than fifteen cents per page.

PETITIONER'S REQUEST #1 AND REQUEST #2

10. On April 25, 2025, Petitioner sent an email ("Request #1") to Stephanie Villa, employed by CCMC and the Association Community Manager, titled "*Garden Lakes Homeowner: Board Training Info/Document Request*."[8] The body of the email provided, as follows:

> Good afternoon!
>
> Please provide the following:
>
> 1. Dates each of the current board members attended HOA board member training.
> 2. Which company did the training for each.
> 3. Agendas for each of those sessions above.

[7] *See* Packet at HeatherRaineyDesignation.
[8] *See* Packet at Initial Request.

4. Any certificates or documentation showing successful completion of training for each current board member.

Let me know if any questions.

Thanks!

Chad[9]

11. On October 30, 2025, Petitioner sent an email ("Request #2") to Ms. Villa and manager@gardenlakesaz.com, titled "*Garden Lakes Homeowner Designated Representative: Documents Request 10/30/2025*."[10] The body of the email provided, as follows:

> Good afternoon! Circling back around to some unanswered requests:
>
> As the designated representative for the alleged homeowner (as documented in the letter from Heather Rainey you received on 8/3/2025) of 11017 W Poinsettia Dr, Avondale AZ 85392 I respectfully ask for these documents.
>
> Please provide access to these documents (pursuant to applicable provisions of A.R.S. § 33-1805):
>
> 1. For the past 36 months, any communication, notes, records, emails etc. regarding when each of the current board members attended HOA board member training, which company did the training and that invoice, agendas for each of the training sessions for each board member or group, and any certificates or documentation showing successful completion of training for each current board member. This is a pointed and reasonable request by the homeowner seeking to determine whether the board members have received appropriate training, the nature and content of such training, and whether any board actions may constitute willful misconduct.
>
> Let me know if any questions.
>
> Thanks!
> Chad[11]

HEARING EVIDENCE

12. Petitioner testified on behalf of the Trust and his own behalf. Respondent had legal representation and presented the testimony of Ms. Villa and Wayne Hunt,

[9] *Id*.
[10] *See* Packet 2nd Request.
[11] *Id*.

Board Member. Administrative notice was taken of the Department's electronic file and NOTICE OF HEARING. The substantive evidence of record was as follows:

a. On July 16, 2020, the Board Meeting Minutes state "*Board Training Date – The Board set the Board training date for August 12, 2020 at 10:00am*."[12]
b. On May 20, 2021, the Board Meeting Minutes state "*Board Training Date – The Board will attend a Board training session with Carpenter Hazlewood on June 7 at 3:00pm*."[13]
c. On May 19, 2022, the Board Meeting Minutes state "Board Training Date – The Board training date was set for June 28 at noon."[14]
d. On April 25, 2025, Petitioner sent Request #1 to the Association.
e. The Association did not respond to Request #1.
f. On October 30, 2025, Petitioner sent Request #2 to the Association. Ms. Villa conducted an inquiry to see if she could locate any of these documents and found no agendas, certificates, or any other documents besides the basic statements in the 2020, 2021, and 2022 minutes referenced above.
g. After Ms. Villa's inquiry, she forwarded Request #2 to Curtis Ekmark, CCMC attorney representative.
h. On November 14, 2025 at 4:36pm, Mr. Ekmark emailed Petitioner and cc'd Ms. Villa. Mr. Ekmark advised Petitioner that he was "not sure what you are looking for when you ask about board training," and informed Petitioner that he conducted a legislative update for CCMC and all of their Associations, but he would not characterize that as "training."[15] Mr. Ekmark added that there were no certificates and there was no cost to attend the update.[16]
i. On November 14, 2025 at 4:52pm, Petitioner replied and wrote "Well I have proof of some sort of board training. If the management company and association is willfully deleting association records, that's a problem."[17]
j. On November 14, 2025 at 4:58pm, Mr. Ekmark replied "As stated, your use of the word 'training' was not clear. However, if you provide a date or the name of the organization that provided this 'training' or some other more specific details, I will certainly look into it and respond."[18]

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[12] *See* Packet at Board Training 2020-07-16 Open Minutes.
[13] *See* Packet at Board Training 2021-05-20 Open Minutes.
[14] *See* Packet at Board Training 2022-05-19 Open Minutes.
[15] *See* Petitioner Exhibit H.
[16] *Id*.
[17] *Id*.
[18] *Id*.

k. On November 14, 2025 at 4:59pm, Petitioner responded, "Well it's past the 10 days, so really too late to have a conversation about this…Maybe ask the board members about it."[19]

ARGUMENTS

Petitioner's argument

13. Petitioner argued that Request #1 and Request #2 were not responded to within ten business days which was a violation of ARIZ. REV. STAT. § 33-1805(A). Petitioner argued that the CCMC legislative update held in the Summer of 2025 should be classified as a "board training" because it was an organized, structured Board event and he should have been provided documentation per his requests. Petitioner further argued that between Mr. Hunt's testimony, the 2025 CCMC event, the November 14th correspondence and the absence of evidence showing a complete responsive search established that it was more than likely there were Association records to fulfill his request and the Association failed to provide these records.

Respondent's argument

14. Respondent asserted that there was no merit to Petitioner's petition. Respondent argued that Petitioner did not request "documents" but requested information such as, people's names or firm names, and no documents existed such as agendas, notes, or association records. Respondent argued that Petitioner had access to meeting minutes which mentioned Board trainings in 2020, 2021 and 2022. Respondent argued that Mr. Ekmark responded to Petitioner to gather further information on Request #2, however, Petitioner only responded that the Association was beyond the statutory deadline. Respondent further argued that the CCMC legislative update in 2025 was not a Board training and not specific to the Association. Respondent requested that the Tribunal deny Petitioner's petition.

CONCLUSIONS OF LAW

1. The Department's jurisdiction pursuant to ARIZ. REV. STAT. §§ 32-2102 and 32-2199 *et seq*., regarding a dispute between an owner and a planned community association. The owner or association may petition the department for a hearing

[19] *Id*.

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(A), 32-2199.01(D), 32-2199.02, and 41-1092 *et seq*., OAH has the authority to hear and decide the contested case at bar. OAH has the authority to interpret the contract between the parties.[20]

3. In this proceeding, Petitioner bears the burden of proving by a preponderance of the evidence that Respondent violated the aforementioned ARIZ. REV. STAT. § 33-1805(A).[21]

4. A preponderance of the evidence means "proof which leads the [trier of fact] to find that the existence of the contested fact is more probable than its nonexistence."[22]

5. ARIZ. REV. STAT. § 33-1805(A) provides, in pertinent part, that "[t]he association shall have ten business days to fulfill a request for examination." The statute does not require Respondent to provide documents that it does not have or that do not exist.

6. In this case, the evidence established that Petitioner was not provided with any records from the Association because the requested records do not exist. The Meeting Minutes from 2020, 2021, and 2022 refer to Board trainings which showed that there were three trainings available to the Board. The credible testimony and evidence established that there were no agendas, certificates, or documentation from those trainings. Petitioner's allegations that the Association was acting nefariously was completely irrational. Furthermore, the legislative update put on by Mr. Ekmark through CCMC was for all of its many contracted associations. The evidence established that there was no agenda or certification for participants and that the legislative update did

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[20] *See Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).
[21] *See* ARIZ. ADMIN. CODE R2-19-119.
[22] *In re William L*., 211 Ariz. 236, 238 (App. 2005) (quoting *Matter of Appeal in Maricopa Juv. Action No. J-84984*. 138 Ariz. 282, 283 (1983)).

not constitute a Board "training." The only individual that called the Summer 2025 legislative update a "training" was the Petitioner.

7. Although there were no documents to provide to Petitioner, Respondent failed to 'fulfill'[23] Request #1 because the Association did not respond at all or even acknowledge the request. Although, Mr. Ekmark responded on the tenth business day, November 14, 2025, to Request #2, unfortunately, no one responded at all to Request #1 which was required per the Tribunal's interpretation of ARIZ. REV. STAT. § 33-1805(A).

8. The undersigned Administrative Law Judge concludes that, because Petitioner sustained his burden of proof that Respondent committed the alleged violation to Request #1, his petition must be granted.

ORDER

Based on the foregoing,

IT IS ORDERED that Petitioner's petition is **GRANTED**.

IT IS FURTHER ORDERED that Respondent reimburse Petitioner's filing fee of $500.00 in certified funds. No civil penalty is found to be appropriate in this matter.

IT IS FURTHER ORDERED that Respondent shall henceforth comply with ARIZ. REV. STAT. § 33-1805(A) that when no documents exist then convey that fact to the requestor.

NOTICE

Pursuant to ARIZ. REV. STAT. §32-2199.02(B), this Order is binding on the parties unless a rehearing is granted pursuant to ARIZ. REV. STAT. § 32-2199.04. Pursuant to ARIZ. REV. STAT. § 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/ Nicole Robinson
Administrative Law Judge

[23] https://www.dictionary.com/browse/fulfill Fulfill defined as (1) to carry out or bring to realization; (2) to perform or do, as duty; obey or follow, as commands; (3) to satisfy; and (4) to bring to an end; finish or complete.

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

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