IN THE OFFICE OF ADMINISTRATIVE HEARINGS

Philip Schwartz Petitioner, vs. Tatum Ranch Community Association Respondent.	**No. 26F-H177-REL** **ADMINISTRATIVE LAW JUDGE DECISION**

HEARING: September 11, 2026

APPEARANCES: Philip Schwartz (Mr. Schwartz) appeared on behalf of himself. Robert Snyder appeared on behalf of Tatum Ranch Community Association (Tatum Ranch)

ADMINISTRATIVE LAW JUDGE: Velva Moses-Thompson

EXHIBITS ADMITTED INTO EVIDENCE: Administrative Notice was taken of the Arizona Department of Real Estate's Hearing File.

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. Tatum Ranch is a homeowners' association whose members own property and/or residences in the Tatum Ranch development in Phoenix, Arizona.

3. Mr. Schwartz owns property in Tatum Ranch and is a member of Tatum Ranch.

4. On or about June 3, 2026, Mr. Schwartz filed a single-issue petition with the Department alleging that Tatum Ranch's Board of Directors (Board) erroneously applied

Article IV, Section 2(t)[1] of Tatum Ranch's Covenants, Codes, & Restrictions (CC&Rs), by issuing a fine to Mr. Schwartz because he parked his Sprinter Van in his driveway.

5. Tatum Ranch's Board issued the fine after determining that Mr. Schwartz's Sprinter Van could not be parked in his driveway under CC&R Article IV, Section 2(t), because the Sprinter van exceeds 7 feet in height and 18 feet in length. Mr. Schwartz's Sprinter Van is ¾ ton.

6. Tatum Ranch filed a written answer to the petition, denying that it had violated any statute or bylaw.

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

8. A hearing was held on September 11, 2026.

9. At hearing, Mr. Schwartz testified on behalf of himself. Robert Snyder testified on behalf of Tatum Ranch. Cheryl Stoner, Tatum's Ranch's Community Manager, also testified on behalf of Taum Ranch. Neither party submitted exhibits into evidence.

HEARING EVIDENCE

Referenced Authorities

10. Tatum Ranch's CC&R Article IV, Section 2(t) provides as follows:

> Trucks, Trailers, Campers and Boats.
>
> No motor vehicle (classed by manufacturer rating as exceeding ¾–ton), mobile home, motor home, trailer, camper shell, detached camper, boat, boat trailer or other similar equipment or vehicle may be parked or stored on any area in Tatum Ranch so as to be Visible From Neighboring Property, Common Area or street; provided, however, this provision shall not apply to (i) pickup trucks of less than ¾–ton capacity with camper shells not exceeding seven (7) feet in height measured from ground level and mini-motor homes not exceeding seven (7) feet in height and eighteen (18) feet in length which are parked as provided in subsection (v) below and are used on a regular and recurring basis for

[1] The petition included an alleged violation of Article IV, Section 2, **9**(t). However, Tatum Ranch's Second Amended CC&Rs do not include Article IV, Section 2, **9**(t) but rather Article IV, Section **2(t)** that was referenced by both parties during the hearing. The dispute relates to Article IV, Section 2(t). *See* the SECOND AMENDED AND RESTATED DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR TATUM RANCH in the Department's Hearing File.

> basic transportation; (ii) trucks, trailers and campers parked in a recreational vehicle storage area within a residential area or other areas designated for such parking in non-residential Land Use Classifications, provided however, that all such parking areas have been approved by the governing Architectural Committee or the Declarant; or (iii) temporary construction shelters or facilities maintained during, and used exclusively in connection with, the construction of any improvement approved by the governing Architectural Committee.

CONCLUSIONS OF LAW

1. A.R.S. § 32-2199(B) permits an owner or a planned community organization to file a petition with the Department for a hearing concerning violations of Title 33, Chapter 16. This matter lies with the Department's jurisdiction.

2. Mr. Schwartz bears the burden of proof to establish that Tatum Ranch violated community documents or the statutes that regulate planned communities.[2] Tatum Ranch bears the burden to establish affirmative defenses by the same evidentiary standard.[3]

3. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."[4] 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."[5]

4. In Arizona, if a restrictive covenant is unambiguous, it is enforced to give effect to the intent of the parties.[6] "Restrictive covenants must be construed as a whole and interpreted in view of their underlying purposes, giving effect to all provisions contained therein."[7]

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[2] *See* A.R.S. § 41-1092.07(G)(2); A.A.C. R2-19-119(A) and (B)(1); *see also Vazanno v. Superior Court*, 74 Ariz. 369, 372, 249 P.2d 837 (1952).
[3] *See* A.A.C. R2-19-119(B)(2).
[4] MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).
[5] BLACK'S LAW DICTIONARY at page 1220 (8th ed. 1999).
[6] *See Powell v. Washburn,* 211 Ariz. 553, 556 ¶ 9, 125 P.3d 373, 376 (2006).
[7] *Lookout Mountain Paradise Hills Homeowners' Ass'n v. Viewpoint Assocs.,* 867 P.2d 70, 75 (Colo. App. 1993) (quoted in *Powell*, 211 Ariz. at 557 ¶ 16, 125 P.3d at 377).

5. Tatum Ranch's Board may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association. *See* A.R.S. Section 33-1803(B).

6. Upon consideration of the evidence presented at hearing, the Administrative Law Judge concludes that the Board erroneously applied CC&R Article IV, Section 2(t) when it issued a fine to Mr. Schwartz for parking his Sprinter Van in his driveway, because it exceeds 7 feet in height and 18 feet in length. The plain language of CC&R Article IV, Section 2(t) does not prohibit the parking of a vehicle in a driveway that exceeds that exceeds 7 feet in height and 18 feet in length. The ban applies to mini-motor homes. Mr. Schwartz's Springer Van is not a mini-motor home. CC&R Article IV, Section 2(t) bans all motor vehicles from parking in the residence of a driveway, and are visible from neighboring property, the common area, or the street, that are classified by manufacture rating as exceeding ¾ ton. Mr. Schwart's Sprinter Van is ¾ ton and does not exceed ¾ ton.

7. Based on the foregoing, the Administrative Law Judge concludes that Mr. Schwartz established by preponderance of the evidence that the Board erroneously applied CC&R Article IV, Section 2(t) when it issued a fine to Mr. Schwartz because he parked his Sprinter Van in his driveway.

ORDER

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

IT IS FURTHER ORDERED that Tatum Ranch pay Mr. Schwarz his filing fee of $500.00.

IT IS FURTHER ORDERED that Tatum Ranch abide by CC&R Article IV, Section 2(t) and A.R.S. Section 33-1803(B) going forward.

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 1, 2026.

/s/ Velva Moses-Thompson
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile October 1, 2026 to:

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By: OAH Staff