

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of:

No. 26F-H170-REL

3 Adrianne and Joseph Coates

**ADMINISTRATIVE LAW JUDGE
DECISION**

4
5 Petitioner,
6 vs.

7 The Ocotillo Community Association

8 Respondent.

9
10 **HEARING:** August 31, 2026

11 **APPEARANCES:** Adrianne Coates (Mrs. Coates) appeared on behalf of herself.
12 Joseph Coates (Mr. Coates) appeared on behalf of himself. Josh Bolen, Esq. appeared
13 on behalf of The Ocotillo Community Association (Ocotillo).

14 **ADMINISTRATIVE LAW JUDGE:** Velva Moses-Thompson

15 **EXHIBITS ADMITTED INTO EVIDENCE:** Exhibits 1, 2, 3, and 4 submitted by
16 Ocotillo. Exhibits 3A1-3A3, 4C1 to 4C2, and 5A1-5A3 submitted by Mrs. Coates.

17
18 **FINDINGS OF FACT**

19 **BACKGROUND AND PROCEDURE**

20 1. On July 27, 2026, the Arizona Department of Real Estate (ADRE) issued a
21 Notice of Hearing setting the above-captioned matter for hearing on August 31, 2026, at
22 the Office of Administrative Hearings in Phoenix, Arizona.

23 2. The Notice of Hearing provided that the issue set for determination was
24 whether Ocotillo violated Article IV, Section 2(a) and Article XII Section 2 of its
25 Covenants, Codes, & Restrictions (CC&Rs) by denying Mr. and Mrs. Coates's
26 architectural application for permanent security lighting, "without citing any written rule,
27 applying any published standard, or enforcing the CC&RS uniformly despite approving
28 identical lighting on other homes."

29 3. A hearing was held on August 31, 2026.

1 4. At hearing, Mrs. Coates testified on behalf of herself. Mr. Coates testified
2 on behalf of himself. Cory Whyte, the Vice President of Ocotillo's Board of Directors and
3 the Chairman of the Ocotillo Design Review Board, testified on behalf of Ocotillo.

4 **RELEVANT STATUTES AND CC&Rs**

5 5. Article IV, Section 2(a) of Ocotillo's Declaration of Covenants, Codes, &
6 Restrictions (CC&Rs) provides, in relevant part, as follows:¹

7 Architectural Control.

8 the Design Review Board shall have the right to adopt from time to time
9 written architectural guidelines and standards for Ocotillo in accordance with the
10 provisions of Article XI, Section 1 below. It is intended that the Design Review
11 Board shall have the authority to approve or reject any proposed construction,
12 modification or alteration on Ocotillo on the basis of engineering as well as
architectural and/or aesthetic considerations subject, however, to the provisions
of Article XI, 5.

13 6. Article XII Section 2 of Ocotillo's CC&Rs provides, in relevant part, as
14 follows:²

15 Association's Rights of Enforcement of Provisions of this and Other Instruments.
16 The Association, as the agent and representative of the Owners, shall have the
17 right to enforce the Covenants set forth in this Declaration and/or any and all
18 covenants, restrictions, reservations, charges, servitudes, assessments,
19 conditions, liens or easements provided for in any contract, deed, declaration or
20 other instrument which (a) shall have been executed pursuant to, or subject to,
21 the provisions of this Declaration, or (b) otherwise shall indicate that the
provisions of such instrument were intended to be enforced by the Association or
by Declarant.

22 **HEARING EVIDENCE**

23 7. On January 28, 2025, the Ocotillo Design Review Board (ODRB) adopted
24 the OCOTILLO DESIGN STANDARDS AND COMMUNITY RULES (DESIGN STANDARDS).³ The
25 DESIGN STANDARDS are Ocotillo's most current design standards. The DESIGN
26 STANDARDS are accessible to all members in Ocotillo's management office and on its
27 website. See id.

28 ¹ See Exhibit 1 (CC&Rs, OCOTILLO000014-15).

29 ² See Exhibit 1 (CC&Rs, OCOTILLO000014-15).

30 ³ See Exhibit 2 (DESIGN STANDARDS) and the testimony of Mr. Whyte on the Hearing Audio Record (HAR)
at 16:00 to 17:00 minutes.

8. The requirements for permanent exterior lighting are provided in Chapter 3 of the DESIGN STANDARDS as follows:⁴

LIGHTING

All exterior lighting must be approved in writing by the [Ocotillo Design Review Board]

Permanent Eave Lighting

All permanent eave lighting must be submitted to the [Ocotillo Design Review Board] for review and approved prior to any work being done. Unless otherwise approved, the [Ocotillo Design Review Board] applies the following requirements:

1. The house must have sufficient amount of eave to install tracks and tracks must not protrude pass the eve.
2. The preferred installation method is to place the lights and track system behind the eave (trim) so they do not extend beyond the eave (trim) plane.
3. Alternatively, the track system may be installed at the bottom of the eave (trim) and must be flush with the front of the eave (trim).
7. Lighting must be directed downward and may not illuminate, shine on to, or be directed towards adjacent streets and neighboring properties.

9. On or about January 8, 2026, Mr. Coates and Mrs. Coates submitted a request to the ODRB for the approval of a permanent installation of home security trim lights on the front and back of their home under the roof line (hereinafter "Design Request").⁵

10. On January 15, 2026, the ODRB notified Joseph Coates and Mrs. Coates that the Design Request was denied for the following reasons: ⁶

Permanent eave lighting does not comply with the Standards as your home does not have sufficient eave to hold the track and the lights would be at an angle and not pointing completely down.

⁴ See Exhibit 2 (DESIGN STANDARDS, OCOTILLO000072-74).

⁵ See Exhibit 3 (Permanent Eave Lighting Request).

⁶ See Exhibit 4 (Denial of Permanent Eave Lighting Request).

1 11. Mr. Whyte is a real estate professional. He has served on the Ocotillo
2 Board for five years. Mr. Whyte is the Vice President of the Board and the Chairman of
3 the ODRB.

4 12. At hearing, Mr. Whyte identified Exhibit 3, OCOTILLO000003 as the home
5 of Mr. and Mrs. Coates. The ODRB denied the Design Request because the proposed
6 track of lighting was visible. Mr. Whyte stated that the track could not be hidden due to
7 the stucco design on the front of the home. Mr. Whyte explained that there was no
8 eave, wood, or fascia allowing for the track to be hidden.

9 13. Mr. and Mrs. Coates submitted an appeal to the Board regarding the
10 denial. ODRB reviewed the appeal, the Design Request, and the denial. The ODRB
11 denied the Coates's appeal. The ODRB has denied requests for permanent eve lighting
12 from property owners who had homes similar to the Coates's home.

13 14. Mrs. Coates alleged that the ODRB told her that if she installed a sample
14 of the proposed track of lights, the ODRB would review the installation. Mrs. Coates
15 alleged that the ODRB did not review the sample track after she installed it.

16 15. Mr. Whyte explained that a member of the ODRB may have driven past
17 the Coates's home to inspect the sample. Mr. Whyte also explained that the ODRB
18 would not send two members to the home because it would have constituted a meeting,
19 and an ODRB meeting must be public.

20 16. Mrs. Coates reviewed the photos of her home in Exhibits 3A1 and 3A3
21 and opined that the track was minimally visible from the street. Mrs. Coates also stated
22 that the ODRB approved eave lighting in the home shown in Exhibits 4C1 and 4C2.
23 Mrs. Coates alleged that the roof line of the homes in those photos are like her roof line.

24 17. Mrs. Coates testified that the house in Exhibit 4C2 had a roof line similar
25 to the roof line on her home, but she acknowledged that the roof line had a different
26 style of architecture. Nonetheless, Mrs. Coates stated later in the hearing on cross-
27 examination that she could not see the photos that she submitted into evidence
28 because she has a visual impairment in her right eye.⁷ The Administrative Law Judge

29 _____
30 ⁷ See Mrs. Coates's testimony on the HAR at 1:03 to 1:05 minutes.

1 finds that Mrs. Coates's testimony regarding the photographs that she submitted into
2 evidence is reliable. Exhibits 3A1-3A3 and 4C1 to 4C2.

3 18. Mr. Coates testified that he believed that the track in Exhibit 3A1 was
4 metallic. Mr. Coates stated that the light coming from the light track that would be
5 permanently installed would be facing down.

6 19. Mr. Whyte stated that the Design Request was not denied solely because
7 the lights would not face downward.⁸

8 20. On cross examination, Mr. Coates admitted that there was no eave on his
9 home to block the visibility of the track of lights.⁹

10 21. Mr. Coates also admitted that the homes depicted in Exhibit 4C1 and 4C2,
11 (which are designated as approved homes,) have a space that prevents the track from
12 being seen. Mr. Coates also admitted that there were no stucco structures in the photos
13 in Exhibit 4C1 and 4C2.

14 **CONCLUSIONS OF LAW**

15 1. Arizona Revised Statutes (A.R.S.) § 32-2199(B) permits an owner or a
16 planned community organization to file a petition with the Department for a hearing
17 concerning violation of planned community documents under the authority Title 33,
18 Chapter 16.¹⁰ Such petitions will be heard before the Office of Administrative Hearings,
19 an independent state agency.

20 2. Mr. and Mrs. Coates bear the burden of proof to establish that Respondent
21 violated the Act or Respondent's CC&Rs by a preponderance of the evidence.¹¹
22 Respondent bears the burden to establish affirmative defenses by the same evidentiary
23 standard.¹²

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25
26 ⁸ See also the denial of the Design Request showing that the request was also denied because there was
27 an insufficient amount of eave to hold the track.

28 ⁹ See Mr. Coates's testimony on the HAR at 1:00:00 to 1:01:20 minutes.

29 ¹⁰ See A.R.S. § 33-1803, which authorizes homeowners associations in planned communities to enforce
30 the development's CC&Rs.

¹¹ 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).

¹² See A.A.C. R2-19-119(B)(2).

3. "A preponderance of the evidence is such proof as convinces the trier of fact that the contention is more probably true than not."¹³ 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."¹⁴

4. In Arizona, if a restrictive covenant is unambiguous, it is enforced to give effect to the intent of the parties.¹⁵ "Restrictive covenants must be construed as a whole and interpreted in view of their underlying purposes, giving effect to all provisions contained therein."¹⁶

5. The evidence presented at hearing shows the ODRB may deny a request for permanent eave lighting pursuant to Ocotillo CC&R Article IV, Section 2(a), and Ocotillo's DESIGN STANDARDS, if there is insufficient eave on the home to install tracks of light behind the eave. The preponderance of the evidence shows that Coates's home lacked enough eave to properly mount and hide the track of lights. The preponderance of the evidence shows that the ODRB appropriately denied the Request for Permanent Eave Lighting pursuant to Ocotillo's CC&Rs and the DESIGN STANDARDS.

6. Mr. and Mrs. Coates failed to meet their burden to establish by a preponderance of the evidence that Ocotillo violated Article IV, Section 2(a) and Article XII, Section 2 of the CC&Rs. Mr. and Mrs. Coates failed to establish by a preponderance of the evidence that Ocotillo failed to uniformly enforce the CC&Rs.

ORDER

Because Adrienne and Joseph Coates have failed to establish by a preponderance of the evidence that Ocotillo violated its CC&Rs as alleged,

IT IS HEREBY ORDERED that the petition is dismissed.

¹³ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

¹⁴ BLACK'S LAW DICTIONARY at page 1220 (8th ed. 1999).

¹⁵ See *Powell v. Washburn*, 211 Ariz. 553, 556 ¶ 9, 125 P.3d 373, 376 (2006).

¹⁶ *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).

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, September 18, 2026.

/s/ Velva Moses-Thompson
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile September 18, 2026 to:

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By: OAH Staff