

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 John R Ashley,  
4 Petitioner,  
5 vs.  
6 Rancho Reyes II Community Association,  
7 Inc.,  
8 Respondent.

No. 20F-H2019032-REL

**ADMINISTRATIVE LAW JUDGE  
DECISION**

9 This matter was set for hearing regarding John R. Ashley's petition alleging that  
10 Respondent has violated Bylaws Article III (Meetings of Members), Section 4 (Quorum).  
11 Mr. Ashley asserts that Respondent conducted member-meetings without establishing a  
12 Board quorum at the start of each meeting. On February 10, 2020, Respondent filed a  
13 Motion to Dismiss Petition, showing that the Motion was mailed to Mr. Ashley on  
14 February 4, 2020. Respondent argues to the effect that the petition should be dismissed  
15 because Article III, Section 4 does not require that a quorum of Board members be  
16 present for a meeting of the members. Mr. Ashley did not file a response to the Motion  
17 to Dismiss.

18 Bylaws Article III, Section 4 provides that 1/10th of the membership constitutes a  
19 quorum for any action, but does not provide any requirement that a quorum of the Board  
20 be present at the member meetings.<sup>1</sup> The Bylaws are a contract between the parties  
21 and the parties are required to comply with the terms of that contract. See *McNally v.*  
22 *Sun Lakes Homeowners Ass'n #1, Inc.*, 241 Ariz. 1, 382 P.3d 1216 (2016 App.). In this  
23 case, the terms of the contract (at Article III, Section 4) are unambiguous in that there is  
24 no requirement for a quorum of Board members to be present at a meeting of the  
25 membership. The tribunal is required to give effect to those unambiguous terms. See  
26 *Grubb & Ellis Management Services, Inc. v. 407417 B.C., L.L.C.*, 213 Ariz. 83, 138 P.3d  
27 1210 (App. 2006).

28 Mr. Ashley's allegation that Respondent conducted member-meetings without a  
29 quorum of Board members present cannot be a violation of Bylaws Article III, Section 4

30 <sup>1</sup> Bylaws Article VI (Meetings of Directors), Section 3 (Quorum) sets out the quorum requirements for Board meetings.

1 because Article III, Section 4 does not require a quorum of Board members to be  
2 present at a meeting of the members.<sup>2</sup> Consequently, Respondent's Motion to Dismiss  
3 should be granted.

4 **IT IS ORDERED** that Respondent's Motion to Dismiss is granted and John R.  
5 Ashley's petition is dismissed;

6 **IT IS FURTHER ORDERED** that the hearing scheduled for March 16, 2020 is  
7 vacated.

8 **NOTICE**

9 **Pursuant to ARIZ. REV. STAT. section 32-2199.02(B), this Order is**  
10 **binding on the parties unless a rehearing is granted pursuant to ARIZ.**  
11 **REV. STAT. section 32-2199.04. Pursuant to ARIZ. REV. STAT. section**  
12 **41-1092.09, a request for rehearing in this matter must be filed with**  
13 **the Commissioner of the Department of Real Estate within 30 days of**  
14 **the service of this Order upon the parties.**

15 Done this day, March 3, 2020.

16 /s/ Thomas Shedden  
17 Thomas Shedden  
18 Administrative Law Judge

19 Transmitted by either mail, e-mail, or facsimile March 4th, 2020 to

20 Judy Lowe, Commissioner  
21 Arizona Department of Real Estate  
22 100 N. 15th Avenue, Suite 201  
23 Phoenix, Arizona 85007

John R Ashley  
2630 E Cambridge Ring Dr.  
Tucson, AZ 85706

24 Wendy Erlich  
25 Wendy Erlich Attorney PLLC  
9671 N Horizon Vista Place  
Oro Valley, AZ 85704

26 By A. Leverette  
27  
28

29 <sup>2</sup> In his petition, Mr. Ashley references Roberts Rules of Order, but construing those Rules is not within  
30 the scope of this tribunal's authority. See Ariz. Rev. Stat. § 32-2199.01.