



ARIZONA DEPARTMENT OF REAL ESTATE
IN AND FOR THE STATE OF ARIZONA

Arleen D Jouxson,

Petitioner,

vs.

The Villages at Aviano Condominium
Association,

Respondent.

CASE NO. HO 22-22/030
DOCKET NO. 22F-H2222030-REL
NOTICE OF HEARING

YOU ARE HEREBY NOTIFIED that pursuant to Arizona Revised Statutes (A.R.S.), § 41-1092.01, your request for hearing upon the charges made in the Petition for Hearing will be conducted through the Office of Administrative Hearings, an independent agency, and is scheduled for **April 12, 2022, at 1:00**, or as soon thereafter as can be heard. Administrative Law Judge Thomas Shedden has been assigned to your case. The Office of Administrative Hearings is located at 1740 W. Adams St., Lower Level, Phoenix, Arizona 85007.

The dispute between Petitioner and Respondent is stated in the petition as follows:

Issue #1: Whether the agreement to seat Eloise Figueroa ('Figueroa') and Linda Bahr ('Bahr') on the Board of Directors ('BOD') by The Villages at Aviano Condominium Home Owners Association ('HOA') without an election by the Association membership was an action prohibited by: the Bylaws Article 3 §3.1.; The Declaration Article 6 §6.2.; and A.R.S. 33-1243.B., and should therefore be nullified?"¹

Issue #2: Whether it was impermissible to conduct and transact business at the Special Board Meeting on June 25, 2021 without a quorum present required by Bylaws Article 3 §3.9. and should therefore be nullified?"²

You are requested to be present at the hearing and produce all association rules and regulations and any amendments thereto, correspondence, associate policy statements and other relevant evidence, including photographs. You are requested to bring three (3) copies of any documentary or photographic evidence.

¹ See Petition pgs. 1-2

² Ibid.

1 If you have filed any motions prior to the receipt of this Notice of Hearing, you must re-
2 file the motions with the Office of Administrative Hearings (OAH) electronically or at the address
3 listed above. With this notice, all verbal and written communication should be directed to the
4 OAH and a copy must be provided to the opposing party. As the hearing is scheduled and
5 before the OAH, there is no requirement by either party to copy the Arizona Department of Real
6 Estate with motions, responses or correspondence on the matter.

7 You may present evidence through your own testimony and through the testimony of witnesses
8 on your behalf. It is your responsibility to secure the attendance of your witnesses. Additional
9 information regarding rules for OAH, hearing procedures, preparing for your hearing, and frequently
10 asked questions, may be found on OAH's website at www.azoah.com.

11 If the Respondent does not appear, the hearing will proceed in the Respondent's absence. If the
12 Petitioner does not appear, the Petition may be dismissed.

13 You may be represented by legal counsel in these proceedings. If you are being represented
14 by an attorney, please notify the Office of Administrative Hearings prior to the scheduled hearing date.

15 Pending a decision in this case, if any party or counsel addresses the Office of Administrative
16 Hearings with any communication regarding this case, a copy of that communication must
17 simultaneously be addressed to the opposing parties or counsel.

18 Pursuant to the Americans with Disabilities Act (ADA), the Office of Administrative Hearings
19 endeavors to ensure the accessibility of its hearings to all persons with disabilities. Persons with a
20 disability may request a reasonable accommodation by contacting the Office of Administrative Hearings
21 at (602) 542-9826. Requests should be made as early as possible to allow time to arrange the
22 accommodation.

23 This matter has been referred to the Office of Administrative Hearings (OAH) and a hearing is
24 scheduled. Any questions regarding the hearing must be directed to the OAH:

25
26 **Location**

27 1740 West Adams Street, Lower Level
28 Phoenix, Arizona 85007

Telephone: (602) 542-9826
FAX: (602) 542-9827

1 **Motions to the Judge**

2 Send communication electronically through the Office of Administrative Hearings' website as a motion to
3 the administrative law judge in your case by going to the website at www.azoah.com and selecting the
4 "Motions/File Documents" link.

5 **General Inquiries**

6 For general inquiries please email oah@azoah.com.

7 Office Hours 8:00 - 5:00 pm Monday through Friday

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12 **DATED this day March 3, 2022.**


Louis Dettorre, Commissioner
DEPARTMENT OF REAL ESTATE

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The foregoing mailed this day March 3, 2022,

Copy sent via certified mail receipt no. to:

Arleen D Jouxson
3935 E Rough Rider Rd, Unit 1369
Phoenix, AZ 85050

9489 0090 0027 6391 5180 90

The Villages at Aviano Condo Association
c/o Diana J Elston
Jones, Skelton & Hochuli P.L.L.C.
40 N Central Ave., Ste 2700
Phoenix, AZ 85004

9489 0090 0027 6391 5181 06

Copy electronically filed with:
Office of Administrative Hearings
1740 W. Adams St.
Lower Level
Phoenix, AZ 85007
www.azoah.com
jouxsonmeyers@outlook.com
delston@jshfirm.com
minuteentries@jshfirm.com

By: *Dan Gardner*
Dan Gardner
HOA Coordinator

BASIC INFORMATION ABOUT THE OFFICE OF ADMINISTRATIVE HEARINGS

This insert is intended to provide you with general answers to questions that may arise when you are before the Office of Administrative Hearings (OAH) in a case arising out of Homeowners Association (HOA) disputes. **It is not exhaustive and should not be construed as any type of legal advice.** It is simply intended to provide you with basic information at a glance about the process before the Office of Administrative Hearings. More detailed information about OAH and the legal process surrounding HOA disputes can be found on the internet at www.azoah.com and at <https://www.azre.gov/HOA/HOA.aspx/>.

WHAT IS A HEARING LIKE?

An administrative hearing is like a trial, but less formal. Evidence is presented to an administrative law judge (ALJ) by each party, either as sworn testimony or documents. Before the hearing, each party may make an opening statement to tell the ALJ what the party believes the evidence will show. At the end of the hearing, each party may present a closing argument to explain why the ALJ should rule one way or the other. After the hearing, the ALJ will review all the evidence and issue a decision. Rules relating to the hearing process (A.A.C. R2-19-101 through A.A.C. R2-19-122) can be found on OAH's website at <https://www.azoah.com/Rules.html>

WHAT IS AN ADMINISTRATIVE LAW JUDGE (ALJ)?

The ALJ is an employee of the Office of Administrative Hearings and not an employee of the Department of Real Estate. The ALJ will take evidence at your hearing, decide facts, apply law, and make a decision in your case.

DO I NEED A LAWYER?

Individuals may always represent themselves. However, when an individual wishes to be represented by another in an HOA proceeding, the Arizona Supreme Court restricts that representation to licensed attorneys. Homeowners Associations are not individuals and therefore must be represented by a licensed attorney unless the exception contained in 17A Pt. 2 A.R.S. Sup. Crt. Rules, Rule 31(d)(11) is met. This rule can be found on the internet at: [https://govt.westlaw.com/azrules/Document/NAE025A20A48C11DE97CFC30D94C59A9E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/azrules/Document/NAE025A20A48C11DE97CFC30D94C59A9E?viewType=FullText&originationContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default))

Please remember that no employee of the OAH may give legal advice to any party in a case.

HOW DO I ASK THE JUDGE TO DO SOMETHING?

You may ask the judge to take some action in the case (for example, to continue the matter or to rule on an issue regarding the case), by filing a request or motion. Ordinarily, you must file a

request or motion at least 15 days before the hearing takes place. The opposing party will be given time to respond to any motion. See OAH procedural rule A.A.C. R2-19-106.

WHERE DO I SEND REQUESTS OR MOTIONS?

After you receive the "Notice of Hearing" in your case, generally speaking you file any requests or motions with the ALJ through the OAH website. You must send a copy of whatever you file to any other party and the Department of Real Estate. You may also have some documents that you wish to present at the hearing to make your point. In that case, you must make those other documents reasonably available for inspection by the other party if requested prior to the hearing. Be sure to list on whatever you file both the names and addresses of everyone who has been given a copy. For more information see OAH procedural rule A.A.C. R2-19-108. You may file or respond to requests or motions on line at: <https://www.azoah.com/motions.html>

HOW DO I REQUEST A SUBPOENA?

A party to a case can obtain an order from the judge for someone to appear at hearing (subpoena) or to obtain documents that are relevant to the case (subpoena duces tecum). If you want either of these types of subpoena, you must prepare a subpoena form for the ALJ's signature. The second type of subpoena requires a justification as well, normally a letter attached to the subpoena. The subpoena may not be served by a party but must be served by a process server. Process servers can be found in the yellow pages. A copy of the subpoena, along with an affidavit from the person serving the original subpoena must be returned to the OAH. Subpoena forms, along with a guide on how to fill them out and have them served, are available through the OAH website at <https://www.azoah.com/subpoena.html> . Since you are required to have the subpoena served, you should request subpoenas well in advance of the hearing. For more information see OAH procedural rule A.A.C. R2-19-113.

WHAT IF I NEED A SPECIAL ACCOMMODATION?

The Office of Administrative Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities. Should you, or anyone you call as a witness need special accommodations, contact the Office of Administrative Hearings at (602) 542-9826 at least three working days before the hearing.

HOW CAN I CONTACT THE OAH?

OAH can be reached by telephone, facsimile, through email or through regular US Mail.

Main telephone number: (602) 542-9826

Facsimile: (602)542-9827

By email: oah@azoah.com

Mailing Address: 1740 E. Adams, Lower Level
Phoenix, AZ 85007