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C. Chavez, Deputy

Form 1 – Notice of Appeal of Administrative Decision

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\$ 333.00
RH 29268640

A.R.S. §§ 12-901(2), 12-904, 12-906, 12-909(A),
12-914, JRAD Rule 4

Distribution:

Clerk of Superior Court – Original Each
Appellee – 1 (served as provided in Rule 4,
Ariz. R. Civ. P.)

Time to File: Within 35 days from the date when a
copy of the final administrative decision, as defined
in A.R.S. § 12-901(2), sought to be reviewed is
served upon the party affected.

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LC2023-000179-001

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

TOM BARRS)	
Appellant)	
)	
v.)	NOTICE OF APPEAL FOR
)	JUDICIAL REVIEW OF
)	ADMINISTRATIVE DECISION
)	(Administrative Review)
Desert Ranch Homeowners Association)	
Appellee)	
)	

Pursuant to A.R.S. § 12-904, Tom Barrs appeals from the final administrative decision “In the Matter of Tom Barrs vs. Desert Ranch Homeowners Association” issued by the Office of Administrative Hearings on February 21, 2023 in case numbers HO22-22050 & HO22-22054 (Docket numbers 22F-H2222050-REL & 22F-H2222054-REL) and the “Order Denying Rehearing Request” (File number HO22-22050 & HO22-22054) issued by the

Department of Real Estate on April 18, 2023. The notice of “Order Denying Rehearing Request” was mailed out to all parties on April 19, 2023 and received by Appellant on or around April 25, 2023.

Pursuant to JRAD Rule 4, the following items are included in this Notice of Appeal:

1. The caption of the case and the administrative agency case number are HOA NOTICE OF PETITION in Case #HO22-22050 and CORRECTED HOA NOTICE OF PETITION in Case #HO22-22054 (Docket Numbers 22F-H2222050-REL & 22F-H2222054-REL respectively)
2. The party or parties filing the appeal are as follows: Tom Barrs.
3. The final administrative decision from which the party is appealing is “ADMINISTRATIVE LAW JUDGE DECISION”, which was issued on February 21, 2023. A rehearing was requested by Petitioner and was denied in an ORDER titled “Order Denying Rehearing Request” issued April 18, 2023. The notice of “Order Denying Rehearing Request” was mailed out to all parties on April 19, 2023 and received by Appellant on or around April 25, 2023.
4. The findings and decision or part of the findings and decision sought to be reviewed is as follows:

Finding of Fact 14(b)(i), Finding of Fact d(i), Finding of Fact e(i), Finding of Fact 14(f), Finding of Fact 14(i)(ii), Finding of Fact 14(j), Finding of Fact 14(k)(i), Finding of Fact 14(n)(i), Finding of Fact 14(o)(i), Finding of Fact 14(p)(i), Finding of Fact 15, and Finding of Fact 20, all have errors, are missing important relevant testimony/evidence from the record, and/or are contrary to the evidence/testimony in the record.

Numerous findings of fact [e.g. 14(f), 14(g), 14(k), 14(i), 14(m), 14(n), and 14(q)] include

irrelevant items requested that were not raised by Petitioner during the hearing; thus causing the ALJ to reach inaccurate conclusions and contaminating the ruling(s).

Conclusion of Law 10, Conclusion of Law 12, Conclusion of Law 13, and Conclusion of Law 14 are in error based a number of factors including but not limited to being contrary to evidence in the record and testimony presented at the hearing.

The Order on page 18 stating, "IT IS FURTHER ORDERED that all remaining portions of petitions 1 and 4, and the entirety of petitions 2 and 3, in this matter be denied."

The Order on page 18 stating, "IT IS FURTHER ORDERED that Petitioner's request to levy civil penalties against Respondent is denied."

The Order on page 18 stating, "IT IS FURTHER ORDERED pursuant to ARIZ. REV. STAT. § 32-2199.02(A), Respondent shall not reimburse Petitioner's filing fee as required by ARIZ. REV. STAT. §32-2199.01."

5. The issues presented for review are as follows:

Petitions 1 & 4:

- 1) Did the admission of numerous irrelevant items into the findings of fact cause confusion of the final ruling and lack of relief granted?
- 2) Did the ALJ's lack of inclusion of Petitioner's valid testimony in the findings of fact impact the final ruling?
- 3) Did the rejection of relevant evidence during the hearing by the ALJ prejudice the Petitioner's ability to impeach witnesses during the hearing?
- 4) Did false testimony from respondent adversely impact the ruling?
- 5) Was the alleged statute properly applied in all instances?
- 6) Should Petitioner be awarded his filing fees for issues in which he prevailed as required by A.R.S. §32-2199.02(A)?

Petition 2:

- 1) Did clearly inaccurate findings of fact lead to an unfavorable ruling for Petitioner?

- 2) Did the lack of inclusion of relevant testimony and evidence in the findings of fact lead to an unfavorable ruling for Petitioner?
- 3) Was the ruling a misinterpretation of the petition and alleged statute?
- 4) Was legislation given sensible construction to avoid absurd results?

Petition 3:

- 1) Does the evidence in the record support the findings of fact?
- 2) Did findings of fact that were contrary to evidence lead to an unfavorable ruling for Petitioner?
- 3) Did the lack of inclusion of relevant testimony and evidence in the findings of fact lead to an unfavorable ruling for Petitioner?
- 4) Did false testimony from Respondent's witnesses adversely impact the final order?
- 5) Based on the allegation set forth in petition #2 regarding Respondent's assertion that "...AAM is not providing **any type** of listing..."; Did the final ruling error in concluding that providing a listing after 10 business days was not a violation of A.R.S. §33-1805?

6. A request for trial de novo, is not requested.

[Appellant requests an award of attorney's fees incurred pursuant to A.R.S. §12-341.01.]

DATED this 22nd day of May, 2023

Tom Barrs

Tom Barrs
Appellant

The following parties appeared before the agency:

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