FILE-STAMPED:
APRIL 04, 2024

Anatomy of a Legal Victory

The True Cost of Withholding a Homeowner Roster

LC2023-000179-001 | Tom Barrs vs. Desert Ranch Homeowners Association

A visual case study in administrative appeals, limited-scope representation, and the friction between transparency and institutional stubbornness.

The Catalyst: A Basic Request Denied

The Request

October 21, 2021 — Tom Barrs, a property owner and member of Desert Ranch (a 28-home, 6-lot community), formally requests an **updated 2021 membership list**.

The Rejection

The Association's management company responds with a definitive block: **"The Owner Directory is not made available to the residents."**

Context Note: The Association had previously provided membership lists with names, addresses, and phone numbers for decades. **In July 2022**, they provided a heavily redacted roster containing only names and account numbers.

The Escalation Timeline

The Statutory Conflict

Transparency vs. Privacy Matrix

Appellant's Shield	HOA's Shield
A.R.S. § 10-11601(C)	A.R.S. § 33-1805(B)(4)
The Non-Profit Requirement. Corporations must maintain a record of members allowing preparation of a list with names and addresses.	**The Privacy Exception.** Allows withholding of "personal, health or financial records of an individual member."

The Judicial Synthesis

The fundamental legal question: Is an address standard corporate data (subject to disclosure), or is it inherently private "personal information" (subject to withholding)?

The Administrative Failure & The Appeal

The Setback

On February 21, 2023, the ALJ ruled in favor of the HOA, denying Barrs's petition. The Department of Real Estate subsequently denied a rehearing.

The Appeal

On May 23, 2023, Barrs paid the $333 filing fee to escalate the case to the Superior Court of Arizona for Judicial Review of an Administrative Decision.

The Alleged Errors

Barrs cited numerous errors in the ALJ's decision, specifically noting that critical 'Findings of Fact' were either missing relevant evidence or relied on irrelevant items that contaminated the final ruling.

C. Chavez, Deputy

Form 1 – Notice of Appeal of Administrative Decision

PAID
\$333.00
R# 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.

LC2023-000179-001

SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

v.

NOTICE OF APPEAL FOR JUDICIAL REVIEW OF ADMINISTRATIVE DECISION

The “Pro Per” Playbook: Limited Scope Counsel

Tom Barrs (Pro Per)

Retains control of the case, filing documents, and making strategic decisions.

Dessaules Law Group

Retained in August 2023 for early strategic alignment, drafting the initial stipulation, and advising on the remand order.

$1,716.00

Burch & Cracchiolo, P.A.

Retained in September 2023 specifically to draft, refine, and research the appellate brief regarding the “personal information” exception.

$5,480.00

Takeaway: By utilizing Rule 80(c) permitted limited-scope representation, Barrs accessed elite legal drafting for the appeal brief without paying for a lawyer to formally enter an appearance or litigate the entire case.

The Settlement Window

The Action

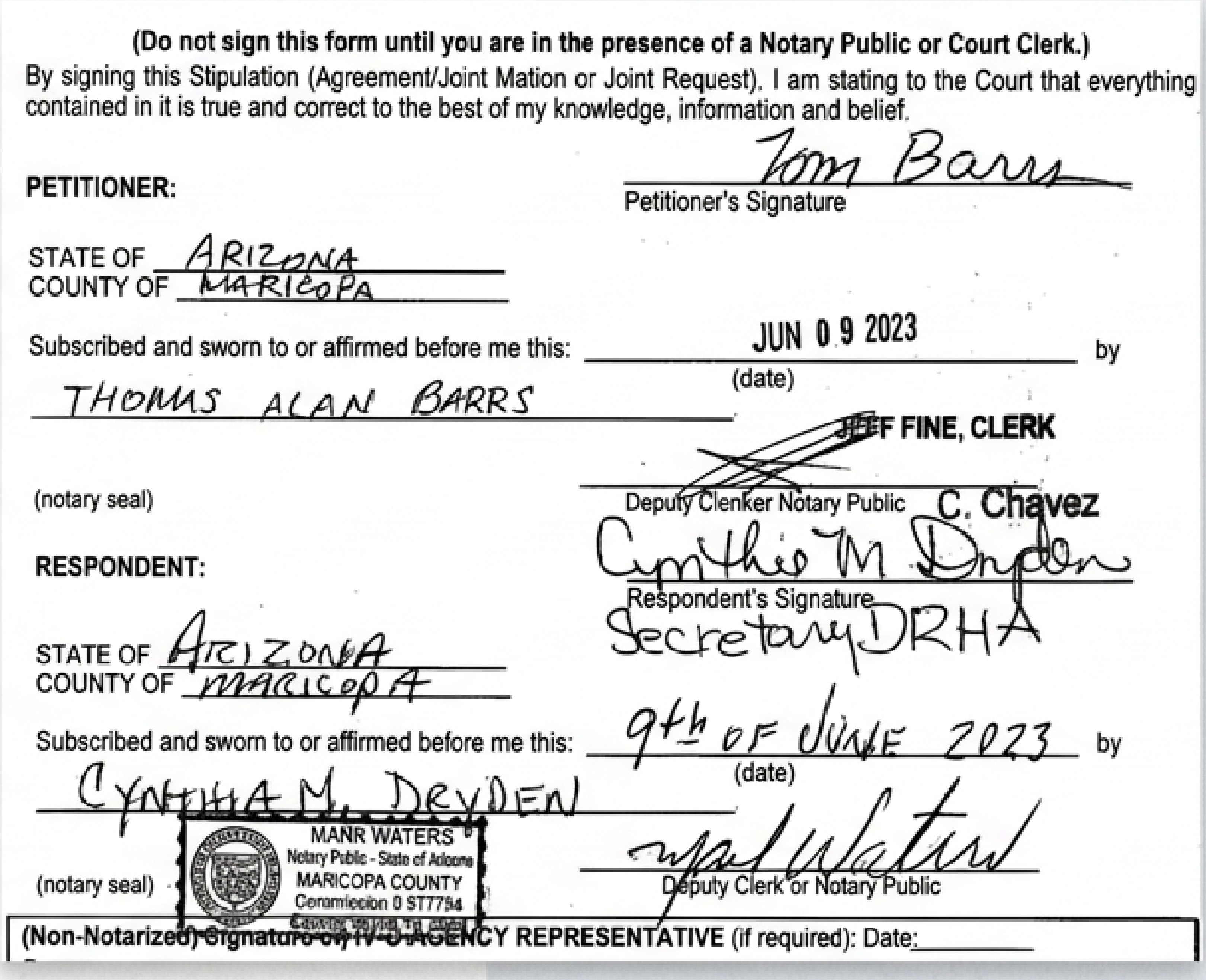
On June 9, 2023, both parties signed a Joint Request to Stay the proceedings for 90 days.

The Goal

To provide sufficient time for both parties to work through settlement terms without the pressure of impending court deadlines.

The Stakes

This was the crucial off-ramp. If an agreement could be reached here, the HOA would avoid thousands of dollars in impending appellate legal fees.



(Do not sign this form until you are in the presence of a Notary Public or Court Clerk.)

By signing this Stipulation (Agreement/Joint Mation or Joint Request). I am stating to the Court that everything contained in it is true and correct to the best of my knowledge, information and belief.

PETITIONER: Tom Barrs
Petitioner's Signature

STATE OF ARIZONA
COUNTY OF MARICOPA

Subscribed and sworn to or affirmed before me this: JUN 0 9 2023 (date) by THOMAS ALAN BARRS

JEFF FINE, CLERK

(notary seal)

Deputy Clenker Notary Public C. Chavez

RESPONDENT: Cynthia M Dryden
Respondent's Signature
Secretary DRHA

STATE OF ARIZONA
COUNTY OF MARICOPA

Subscribed and sworn to or affirmed before me this: 9th OF JUNE 2023 (date) by CYNTHIA M. DRYDEN

MANR WATERS
Notary Public - State of Arizona
MARICOPA COUNTY
Ceramiecion 0 ST7754

(notary seal)

Deputy Clerk or Notary Public

(Non-Notarized) Signature of IV-D AGENCY REPRESENTATIVE (if required): Date:________

NotebookLM

The Anatomy of a Failed Compromise

Barrs's Proposed Terms (Sept 2023)

1. No admission of guilt by either party.
2. Joint stipulation to remand the case to OAH.
3. No monetary penalties requested.
4. HOA reimburses only the $245 Superior Court appearance fee.
5. Provide the current membership list.

The HOA's Response (Oct 2023)

- "We have no idea how or if that is possible."
- "The HOA does not have funds to engage a lawyer."
- Internal board friction regarding potential impacts on real estate licenses and a refusal to formally correct the record.

Dissent in the Ranks

The Context

Despite Barrs offering a highly favorable off-ramp, “special interests of some board members” derailed the process.

The Reveal

An email from board member Susan Klinefeller to Tom Barrs on October 11, 2023, stating explicitly:

“I did not vote to reject your offer. Specifically I voiced my option that your offer was fair and should be accepted. For the record.”

The Consequence

Because the board could not achieve consensus to accept the $245 settlement, the 90-day window closed.

From: SUSAN KLINEFELTER <suezek@me.com>
Sent: Wednesday, October 11, 2023 5:18 PM
To: Tom Barrs
Cc: Nan Wickman; Cynthia Dryden; David Hughes; Michael Olley
Subject: Re: Additional settiement ideas

I did not vote to reject your offer. Specifically I voiced my option that your offer was fair and should be acsepted. For the record.
Sasan

On Oct 11, 2023, at 4:49 PM, Tom Barrs <tbarrs360@gmail.com> wrote:

Unfortunately I think any option we choose at this point will involve the court. If we choose to withdraw the case, it will involve the court; if we ckoose to correct the errors, it will involve the court; if we ask to have the case remanded to the OAH for a second review, it will involve the court. The time for removing the court ended when certain past board members decided to hire an attorney to mislead the ALJ instead of simply providing the Association records that I requested. They hired the attorney even when the membership said no. As we all now koow, all the records that the previous board and management company said did not exist turned out to exist. But they spent $30,000 to hide records that should have been provided.

To me, in my non-lawyer opinion, we are at that same point right now. We could either go through the costly appeals process (which I would ralber avoid), or take the simplest most cost effective solution for everyone that I can think of which would be to work together in getting the errors corrected, agree to provide the current membership lists as we heve for decades, be done with everything, and move forward. So far that I am aware, that would cost the Association minimal if not zero.

When this new board was elected, the majority of the new board members said they were interested in getting the errors in the tuling corrected. That seemed like a simple goel thst would have benefited everyone. Unfortunately, one of the board members who has a conflict of interest seems to have convinced the rest to avoid that simple path?

There would be no reason to set aside the ruling if it was correct. If it is in error, why wouldn't we want to correct it? As far as I am aware, there is not a way to set aside the ruling without giving a reason for the errors to be corrected. In other words, agree to correct such and cuch on the ruling, provide it to the appeals Judge, and be done wilh it. If you think there is better wording than what I proposed, I would love to hear it.

Best Regards,
Tom

PS. Regarding funds to engage a lawyer, as you know, the HOA could have recovered $12,000 worth of funds that appear to have been improperly withdrawn by the former board days before their exit earlier this year. That would certainly have offered sufficient funding. Nevertheless, I would guess there is also the option of using insurance to cover necessary advice. I cannot force you to seek counsel if you don't want it, bot thers are options.

The Inevitable Return to Court

STAY LIFTED

Upon review of the case file, this matter was scheduled to be removed from stay status on September 12, 2023. The Court not having received a further request for stay from either party, IT IS ORDERED lifting the stay of this matter.

The Deadline: Barrs is ordered to file his **Opening Brief** by **November 6,** 2023. The battle over the statutory interpretation of “personal information” resumes.

SUPERIOR COURT OF ARIZONA

The Judicial Reversal

The Ruling:

On April 4, 2024, Superior Court Judge Joseph P. Mikitish officially reversed the Department of Real Estate’s decision and remanded the case.

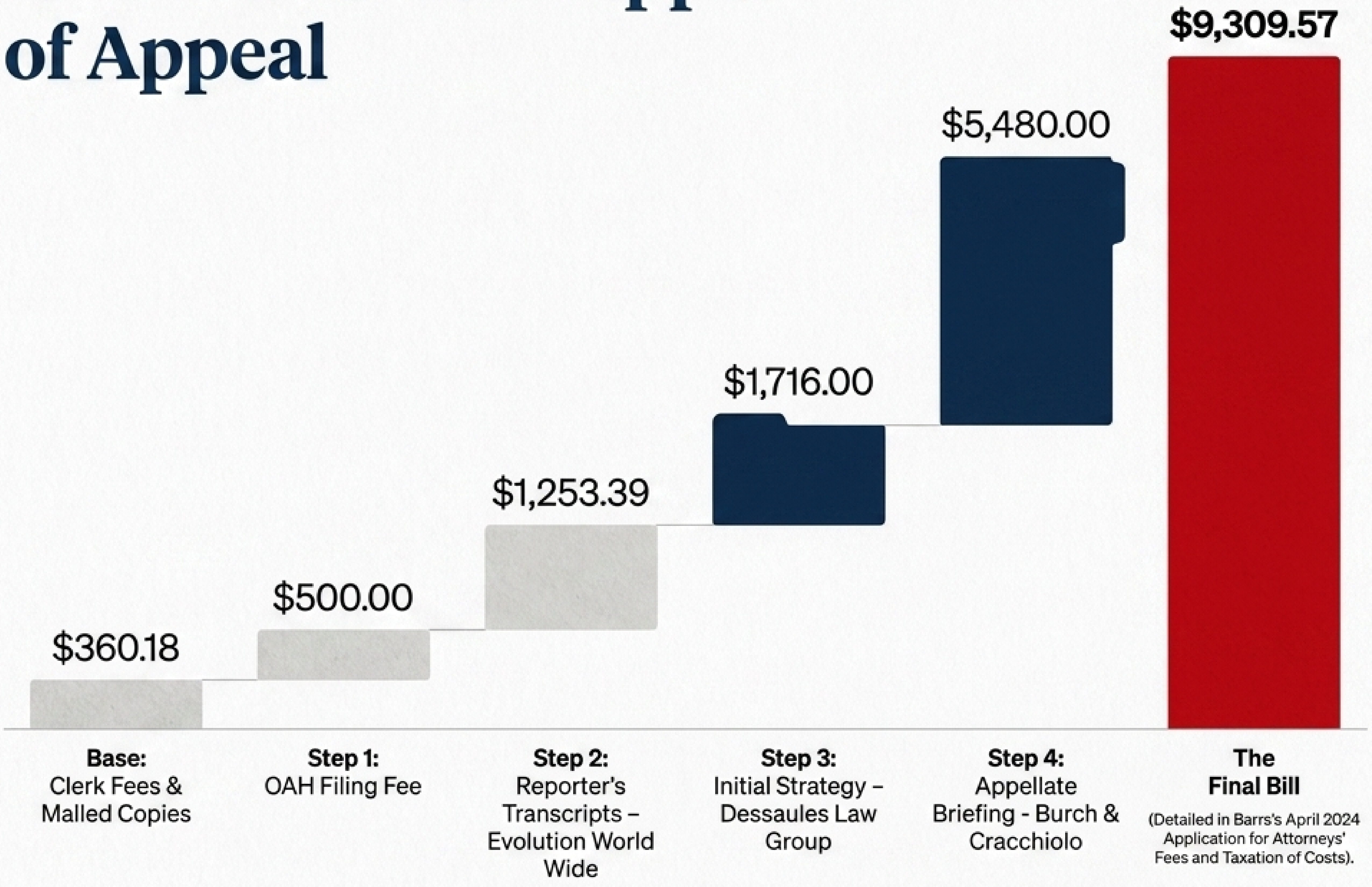
The Precedent:

The court dismantled the HOA’s defense, establishing that a basic membership roster containing names and addresses is a standard corporate record required by A.R.S. § 10-11601(C).

The Conclusion:

It does not fall under the highly protected “personal, health or financial records” exemption. Transparency prevails over a misapplied expectation of privacy.

The True Cost of Appeal
of Appeal



The HOA rejected a settlement that would have cost them $245, resulting in over **$9,300** in appellant costs.

Anatomy of an Appellate Brief

Detailing the $5,480 Spend

The invoice reveals the meticulous work required to overturn an ALJ decision:

Oct 20: "Read and analyze Decision from the Office of Administrative Hearings.... read and analyze Tom Barrs's rough draft" (.50 /.60 hours)

Oct 25: "Work on research for overcoming personal information exception in statute" (2.50 hours)

Oct 26: "Draft portions of arguments and make substantial revisions to Tom Barr's appeal brief" (1.90 hours)

Context: *The limited-scope model allowed Barrs to write the rough draft, paying elite attorneys strictly for statutory research and argument refinement.*

NotebookLM

Post-Mortem: Lessons from the Docket

The Legal Precedent

Basic contact information (addresses) required for corporate governance cannot be shielded behind statutory "personal privacy" exemptions. Transparency is the default.

The Financial Risk

Institutional stubbornness is expensive. Ignoring a fair,
$245 settlement off-ramp transformed a minor administrative dispute into a $9,300+ liability.

The Strategic Playbook

Homeowners facing well-funded HOAs can level the playing field using Rule 80(c) "Limited Scope Representation"—maintaining control as pro per while deploying specialized counsel only for complex appellate briefing.