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**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

**AZNH REVOCABLE TRUST,
by and through
JOHN and SUSAN SULLIVAN,
TRUSTEES, REAL PARTIES IN
INTEREST**

Plaintiff/Appellant

v.

**ARIZONA DEPARTMENT OF REAL
ESTATE,**

Defendant/Appellee

**SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,**

Defendant/Appellee

No. LC2025-000025 - 101

**REPLY
by
Plaintiff/Appellant's**

**to
Sunland Springs Village
Homeowners Assoc.'s
Response In Opposition to
Plaintiff/Appellant's Motion to
Enforce Judgement and for
Order to Show Cause**

(Unclassified Civil)

**Assigned to:
Hon. Joseph Mikitish**

1 Defendant/Appellee, Sunland Springs Village Homeowners Assoc. (“HOA”) filed a Response
2 in Opposition to Plaintiff/Appellant’s (“AZNH”) Motion to Enforce Judgment and for Order to
3 Show Cause.

4 As of this writing, Defendant/Appellee, Arizona Department of Real Estate (“ADRE”) has
5 not filed a Response.

6 (“AZNH”) submits this Reply to the HOA’s filing.
7

8 **The Unembellished “Factual Background”**

9 The below paragraphs appear in the Memorandum in Support of Motion for Evidentiary
10 Hearing filed by AZNH on January 21, 2025, p.2, lines 7-26 (supporting exhibits omitted
11 herein).

12 The HOA conducted an election and annual meeting in 2024 utilizing absentee (paper) ballots
13 and electronic ballots.

14 The HOA Bylaws require that Association Directors shall be elected by “electronic or paper
15 ballot.” The Bylaws also require that the HOA “shall provide a ballot by mail or electronically
16 to each Member of the Association.”

17 A.R.S. § 33-1812 requires (among other things) that the HOA retain all ballots ***and related***
18 ***materials***, and make them available for inspection.

19 The HOA did not produce the electronic ballots for inspection and AZNH complained to the
20 ADRE. The HOA defended the matter by claiming that electronic voting was done by a “user
21 interface” and no ballot was involved. The HOA did not produce the “user interface” and
22 repeatedly asserted in writing and at the ADRE hearing: ► the HOA had produced all election-
23 related materials in their possession for the 2024 election; ► there was nothing more to produce;
24 and, ► no election-related materials were withheld from AZNH.

25 Long after the ADRE hearing and rehearing request, AZNH learned that the HOA did in-fact
26 have the so-called “user interface” and AZNH subsequently obtained it. The user interface is a
27 ballot. AZNH also learned the HOA had an undisclosed, fifty (50) second video which
28 disproves the HOA attorney’s claim that no ballot was used in electronic voting.
29

1 **The Court’s Authority to Enforce Judgments**

2 The current Motion explains (with cites to authorities) the Court’s inherent power and duty to
3 enforce its own judgments with such Orders as “may be necessary to carry the judgment into
4 effect and render it binding and operative.” *Daley v. Earven*, 166 Ariz. 461, 463 (Div. 2, 1990).

5 In addition, A.R.S. § 12-1556 states that when a court judgment requires the performance of
6 an act, “Obedience thereto may be enforced by the court by the power to punish for contempt.”
7

8 **The Scope of the Court’s Judgment**

9 The Court’s Judgment (April 17, 2025) states, in substantial part:

10
11 Arizona Law provides that the Superior Court may, when a hearing has been held
12 by an agency, remand for the purpose of taking additional evidence when from the
13 state of the record of the administrative agency or otherwise it appears that such
14 action is just. A.R.S. § 12-911.

15
16 *In this case, the background of the documents, the entity owning and storing the*
17 *documents, and the details of the use of various technologies in the HOA election*
18 *all require detailed analysis through a hearing. [Italics added.]*

19
20 **THE COURT FINDS** that the Department is in the best position to conduct the
21 hearing.

22
23 Therefore,

24
25 **IT IS ORDERED** denying the Motion for the Superior Court to conduct an
26 Evidentiary Hearing.

27
28 **IT IS FURTHER ORDERED** dismissing the appeal and remanding the matter to
29 the Department to conduct an Evidentiary Hearing to address the additional
30 evidence proposed by AZNH.
31

32 Thus, the Court has Ordered an Evidentiary Hearing which includes (*inter alia*) a detailed
33 analysis of the background of the documents and the entity owning and storing the documents
34 along with the details of the various technologies used in the HOA election.

35 Therefore, AZNH’s subpoena requests are well within the scope of the ordered hearing.
36 Moreover, the requested subpoenas also fall within the scope of the rehearing Ordered by the

1 Commissioner of the ADRE. In short, there is no proper justification for the ALJ to deny the
2 subpoenas.

3
4 **The ALJ Refused to Hold an Evidentiary Hearing**

5 The recent filings of AZNH show the ALJ had full knowledge of the Court's Judgment
6 remanding the matter for an Evidentiary Hearing.

7 The ALJ initially set an evidentiary hearing, but the ALJ subsequently reset the matter for a
8 "rehearing" and specifically excluded an evidentiary hearing.

9 The ALJ wrote, in pertinent part:

10
11 Maricopa County Superior Court (Court) remanded the matter to the Arizona
12 Department of Real Estate to conduct an Evidentiary Hearing "to address the
13 additional evidence proposed by AZNH."

14
15 On June 2, 2025, the Department forwarded the matter back to the Tribunal,
16 issuing a Notice of Hearing which contained the Department's Order granting
17 "Petitioner's [AZNH] Dispute Rehearing Petition for the reason(s) outlined in the
18 Rehearing Petition."

19
20 Petitioner's Dispute Rehearing Petition did not allege, as grounds for rehearing,
21 "Newly discovered material evidence that could not with reasonable diligence had
22 been discovered and produced at the original hearing."

23
24 The Department's Notice of Hearing and Order does not address the remand
25 issue.

26
27 Based on the foregoing,

28
29 IT IS ORDERED that the administrative hearing in the instant matter is a
30 rehearing and will be limited to the allegations on which the Department ordered
31 the rehearing.

32
33 See HOA Exhibit 6 and AZNH Affidavit Exhibit 7 [identical documents].

34
35 **HOA Not Entitled to Attorneys' Fees**

36 There is no basis what-so-ever for an award of attorneys' fees from AZNH to the HOA.

37 //

1
2 September 2, 2025

Plaintiff/Appellant, AZNH Revocable Trust

3 By:

4
5 /s/ *John F. Sullivan*

6
7 John F. Sullivan, Esq. (Bar # 023018)

8 Attorney for Plaintiff/Appellant

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10 Chandler, AZ 85225

11 480-818-5070

12 Email: Info@SullivanAppeals.com

13
14
15 **CERTIFICATE OF SERVICE**

16
17 A copy hereof shall be sent this date to:

18
19 Clerk of the Superior Court, 201 W. Jefferson St., Phoenix, AZ. 85003 via U.S. Mail

20
21 Atty. Chad Gallacher and Atty. B. Austin Baillio (counsel for Sunland Springs Village
22 Homeowners Assoc.) at their email address: cgallacher@hoalaw.biz and
23 abailio@hoalaw.biz.

24
25 Asst. Atty. General Lynette Evans (counsel for Az. Dept. of Real Estate) at her email address
26 Lynette.Evans@azag.gov

27
28 Judge Mikitish's Judicial Assistant at joel.grajeda@jbazmc.maricopa.gov.

29
30
31 /s/ *John F. Sullivan*

32 Attorney for Plaintiff/Appellant