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SUPERIOR COURT
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G. FARLER, DEP

2025 AUG 29 PM 3:30

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5 CHAD M. GALLACHER - STATE BAR No. 025487
Counsel for Defendant/Appellee Sunland Springs Village Homeowners Association

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

8 AZNH REVOCABLE TRUST, by and
9 through JOHN and SUSAN SULLIVAN,
10 TRUSTEES, REAL PARTIES IN
INTEREST,

11 Plaintiff/Appellant,

12 vs.

13 ARIZONA DEPARTMENT OF REAL
14 ESTATE,

15 Defendant/Appellee,

16 SUNLAND SPRINGS VILLAGE
17 HOMEOWNERS ASSOCIATION,

18 Defendant/Appellee.
19

No. LC2025-000025-001

**RESPONSE IN OPPOSITION TO
PLAINTIFF/APPELLANT'S MOTION
TO ENFORCE JUDGMENT AND FOR
ORDER TO SHOW CAUSE**

20 Defendant/Appellee, Sunland Springs Village Homeowners Association (the
21 "Association"), by and through counsel undersigned, respectfully requests that the Court
22 deny Plaintiff/Appellant AZNH Revocable Trust's (the "Plaintiff") Motion to Enforce
23 Judgment and for Order to Show Cause (the "Motion"). The Plaintiff lacks standing to bring
24 this Motion before this court and the Motion is frivolous as the Arizona Department of Real
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1 Estate (“ADRE”) has scheduled an Evidentiary hearing in this matter to take place on
2 September 26, 2025.

3 **I. FACTUAL BACKGROUND**

4 Plaintiff filed a Homeowner Association Dispute Process Petition on April 20, 2024,
5 claiming the Association failed to comply with A.R.S. § 33-1812(7) by not producing
6 election materials for the February 27, 2024, election. Plaintiff requested ballots, envelopes,
7 related documents, and sign-in sheets.
8

9 At the hearing held before the ADRE, the Association provided evidence that it
10 complied with the requirements of A.R.S. § 33-1812(7) by producing for Plaintiff’s review
11 all paper ballots cast, all envelopes and related election material, including a complete record
12 of the votes cast electronically through a third-party company, VoteHOANow.com.
13

14 The Administrative Law Judge found the Association had fully complied with the
15 statute and denied Plaintiff’s petition. Plaintiff moved for rehearing under four alleged
16 grounds: (1) there were irregularities in the proceedings or abuse of discretion that deprived
17 Plaintiff of a fair hearing; (2) there were errors in the admission or rejection of evidence; (3)
18 the decision was arbitrary and capricious, or an abuse of discretion; and (4) the decision was
19 unsupported by the evidence. *See* Dispute Rehearing Petition attached hereto as Exhibit “1”.
20 Plaintiff’s Rehearing Petition was denied by the ADRE for lack of sufficient grounds.
21

22 Plaintiff appealed to Maricopa County Superior Court. Plaintiff’s Notice of Appeal
23 reduced the four reasons for which he sought rehearing down to three reasons for his appeal:
24 (1) the ADRE’s decision was contrary to law; (2) the ADRE’s decision was unsupported by
25 substantial evidence; and (3) the ADRE’s decision was arbitrary and capricious, or an abuse
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1 of discretion. *See* Notice of Appeal attached hereto as Exhibit “2”. However, Plaintiff also
2 sought on appeal an evidentiary hearing pursuant to Rule 10, Rules of Procedure for Judicial
3 Review of Administrative Decisions (“JRAD”). Rule 10(b), JRAD, requires a party seeking
4 to introduce new evidence to “identify the evidence sought to be introduced . . .”. In
5 Plaintiff’s petition to this Court to introduce additional evidence, Plaintiff identified the
6 additional evidence he sought to introduce with specificity. On page 13 of his request, he
7 clearly identified the relief he sought as follows: “the [Plaintiff] respectfully requests that the
8 Court conduct a brief evidentiary hearing for the sole purpose of admitting the electronic
9 ballot and the Vendor video into the record, both of which are described herein-above and in
10 the accompanying Affidavit (Exhibit A).” *See* relevant portions of Plaintiff’s Memorandum
11 in support of Motion for Evidentiary Hearing attached hereto as Exhibit “3” Plaintiff did not
12 seek to have additional witnesses testify. *See id.* Plaintiff did not seek to be able to expand
13 the scope of the hearing through a fishing expedition for additional records of third-party
14 vendors. *See id.* Rather, Plaintiff identified two pieces of evidence only that he wanted to
15 admit into the record: (1) a document from VoteHOANow that he characterized as an
16 “electronic ballot”; and (2) a video from VoteHOANow. *See id.*

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21 This Court dismissed Plaintiff’s appeal. *See* April 21, 2025 Order of Dismissal
22 attached hereto as Exhibit “4”. While this Court formally denied Plaintiff’s requested relief
23 under Rule 10, JRAD, the Court ordered that an evidentiary hearing still be held. *See id.* This
24 Court was very specific in its order regarding the required evidentiary hearing. The Court
25 ordered that “the Department . . . conduct an Evidentiary Hearing *to address the additional*
26 *evidence proposed by [Plaintiff].” See id.* (Emphasis added.) Finding that the ADRE was the
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1 proper venue in which to conduct the requested evidentiary hearing, this Court remanded the
2 matter for the limited purpose of considering the two additional pieces of evidence Plaintiff
3 identified in his Rule 10, JRAD, motion. *See* Exhibit “4”.

4 The ADRE scheduled an Evidentiary Hearing as directed by this Court. Upon request
5 of the Association, the Evidentiary Hearing was continued until September 26, 2025, and it
6 is currently set to proceed on that date.

7
8 Following the remand by this Court, the Plaintiff attempted improperly to broaden the
9 scope of the scheduled Evidentiary Hearing by submitting a Motion to the ADRE to
10 subpoena new witnesses to testify and to obtain additional records from VoteHOANow. *See*
11 copy of proposed Subpoena attached hereto as Exhibit “5”. The subpoena was
12 unquestionably beyond the scope of this Court’s order as this Court’s Order did not give
13 Plaintiff leave to begin a fishing expedition to try to dig up additional testimony and
14 evidence.
15

16
17 The ADRE properly denied Plaintiff’s Motion to subpoena entirely new witnesses and
18 new documents from VoteHOANow as beyond the scope of the Evidentiary Hearing on
19 remand. *See* August 15, 2025 Order Regarding Hearing, Denying Subpoena attached hereto
20 as Exhibit “6”. The ADRE’s order also reminded Plaintiff that neither Plaintiff’s original
21 Motion for Rehearing, nor Plaintiff’s appeal to this Court asserted as grounds “newly
22 discovered material evidence that could not with reasonable diligence have been discovered
23 and produced at the original hearing.” *See* Exhibit “6”. The ADRE’s order denying
24 Plaintiff’s subpoena also confirmed that the scheduled Evidentiary Hearing would proceed as
25 ordered on September 26, 2025. *See* Exhibit “6”.
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1 Now, Plaintiff has submitted his Motion on the misleading basis that the ADRE is
2 refusing to hold an evidentiary hearing. This contention is factually inaccurate. The
3 Evidentiary Hearing is scheduled for September 26, 2025. *See* Exhibit “6”. Consequently,
4 the ADRE is perfectly poised to comply fully with this Court’s Order directing the ADRE to
5 conduct an Evidentiary Hearing whereat the ADRE can address the multiple issues related to
6 the two pieces of evidence Plaintiff was given leave by this Court to present.
7

8 **II. LEGAL ARGUMENT**

9 An Appellate Court retains jurisdiction over an appeal until the Court issues a
10 mandate. Ariz. R. Civ. App. P. Rule 24. After such mandate is issued, the case returns to the
11 originating court where the originating court maintains exclusive jurisdiction. The Superior
12 Court has the same authority regarding decisions made through administrative processes.
13 A.R.S. § 12-911. A Superior Court may remand cases to the administrative body if such
14 action is appropriate. *Id.*
15
16

17 The Arizona Supreme Court has expressly held that appeals must be pursued in their
18 entirety and may not be taken piecemeal; a party may not continue raising issues on appeal
19 after a remand or following a final determination of the matters presented. *Arizona-Parral*
20 *Mining Co. v. Forbes*, 16 Ariz. 395, 402 (Ariz. 1915).
21

22 Further consistent with well-established Arizona law, an appeal must be made after
23 final judgment. A.R.S. § 12-2101. This procedure is applied to administrative decisions
24 through A.R.S. § 12-911 which provides that a decision from an administrative agency may
25 be reviewed on appeal by the Superior court after a hearing is held.
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1 Additionally, a lower court is bound by the ruling of a higher court for purposes of an
2 appeal and remand. *Standard Accident Ins. Co. v. Allen*, 38 Ariz. 173, 177 (Ariz. 1931).
3 Moreover, on remand a lower court must follow *strictly* the mandate of the higher court
4 decision. *Bogard v. Cannon & Wendt Elec. Co.*, 221 Ariz. 325, 334 (Ariz. Ct. App. 2009).
5 This includes only reviewing that which is specifically ordered in the remand. *Id.*
6

7 Here, it is evident that this Court recognizes the ADRE as the proper forum to review
8 the evidence and conduct any hearing, consistent with the remand mandate. Just as an
9 appellate court remands a matter to the Superior Court when the Superior Court is better
10 positioned to review the evidence and oversee further proceedings, the same principle must
11 apply here. Accordingly, as the Superior Court relinquished jurisdiction over the matter by
12 issuing the remand mandate, the Superior Court does not have jurisdiction to entertain
13 Plaintiff's Motion.
14

15 Further, the Plaintiff is not entitled to continue filing motions in the Superior Court
16 while the ADRE is actively resolving the matter pursuant to this Court's orders. Even if the
17 Plaintiff had standing to file such a Motion, Plaintiff's Motion lacks merit as it misstates the
18 current status of the case and casts the ADRE in a misleadingly unfavorable light. Contrary
19 to Plaintiff's assertion that the ADRE is refusing to hold an evidentiary hearing, the ADRE
20 has scheduled the hearing for September 26, 2025, in full compliance with this Court's order.
21

22 Not only has the ADRE complied with the orders of this Court by scheduling an
23 Evidentiary Hearing for September 26, 2025, but it further complied with this Court's order
24 by not issuing the subpoena requested by the Plaintiff. Plaintiff was required by Rule 10,
25 JRAD, to identify with specificity the additional evidence he sought to introduce and to
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1 provide the legal basis for such a request. Plaintiff complied with the requirements of Rule
2 10, JRAD, and identified two specific pieces of evidence he sought to introduce: (1) a
3 computer screenshot he termed an “electronic ballot”; and (2) a video from VoteHOANow.”
4 *See* Exhibit “3”. Plaintiff identified no other evidence and received no other relief. Yet he
5 sought to subpoena new witnesses and documents from VoteHOANow. *See* Exhibit “5”. The
6 order from the ADRE denying Plaintiff’s subpoena did not contradict the order from the
7 Court as Plaintiff would have this Court believe. Rather, the ADRE’s denial of Plaintiff’s
8 subpoena upheld and followed this Court’s order.

10
11 From Plaintiff’s Motion, it appears that Plaintiff assumed this Court’s order meant
12 that he had permission to engage in additional discovery and that anything he could find
13 automatically had to be admitted at the Evidentiary Hearing. However, Plaintiff reads too
14 much into this Court’s Order. This Court’s order is clear: Plaintiff is permitted to “address
15 the [two pieces of] additional evidence proposed by [Plaintiff].” *See* Exhibit “4”. The
16 Administrative Law Judge did precisely what this Court ordered by refusing to expand the
17 scope of the Evidentiary Hearing and by affirming that the Evidentiary Hearing will take
18 place on September 26, 2025.

20
21 The ADRE has complied fully with this Court’s order by scheduling an evidentiary
22 hearing for September 26, 2025. The Plaintiff’s dissatisfaction with an order denying the
23 issuance of an improper subpoena does not give the Plaintiff grounds to misrepresent the
24 procedural posture of the ongoing dispute. Nor does Plaintiff’s dissatisfaction automatically
25 grant him standing to bring a motion before this Court making frivolous claims for relief.
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1 The only relief theoretically available to the Plaintiff in connection with his Motion
2 would be for this Court to order that the ADRE conduct the hearing in accordance with its
3 previously issued order. However, the ADRE has already scheduled such a hearing and thus
4 no relief under Plaintiff's Motion is available.

5
6 Accordingly, this Court should deny Plaintiff's motion, as Plaintiff lacks standing to
7 bring the Motion and no additional relief beyond what this Court has already granted is
8 available. Moreover, the ADRE's order denying Plaintiff's Motion for a Subpoena was fully
9 in accordance with this Court's Order allowing Plaintiff to introduce two specifically
10 identified pieces of evidence during an Evidentiary Hearing. *Compare* Exhibit "4" with
11 Exhibit "6" (demonstrating that the ADRE refused to expand the scope of the hearing and
12 instead limited the hearing as ordered by this Court while continuing to affirm that the
13 hearing will be held September 26, 2025). Based upon the foregoing, the Plaintiff
14 respectfully requests that this Court deny Plaintiff's Motion.
15
16

17 III. CONCLUSION

18 For the reasons stated above, the Association requests that this Court deny Plaintiff's
19 Motion. The Association questions how Plaintiff can, in good faith, make assertions such as
20 "the ALJ (Kay A. Abramsohn) has acted to obstruct the Court's Judgment and has refused to
21 conduct an Evidentiary Hearing" (*see* Motion, 2:5-6) when an evidentiary hearing is clearly
22 scheduled for September 26, 2025. *See* Exhibit "4". Such blatant misrepresentations by
23 Plaintiff are disturbing. The Association requests that Plaintiff's Motion be denied. The
24 Association also asserts that Plaintiff should be required to pay the Association's attorneys'
25 fees pursuant to A.R.S. § 12-349.
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1 RESPECTFULLY SUBMITTED this 29th day of August, 2025.

2 MAXWELL & MORGAN, P.C.

3
4 By 

5 Chad M. Gallacher, Esq.
6 4854 East Baseline Road, Suite 104
7 Mesa, Arizona 85206
8 *Counsel for Plaintiff*

9 ORIGINAL of the foregoing submitted
10 For filing this 29 day of August, 2025, to:

11 Clerk of the Superior Court
12 Maricopa County Superior Court

13 COPY of the foregoing mailed
14 this 29 day of August, 2025, to:

15 AZNH Revocable Trust
16 John F. Sullivan and Susan Sullivan
17 1909 E. Ray Rd., Suite 9198
18 Chandler, AZ 85225
19 info@sullivanappeals.com
20 *Plaintiff/Appellant(s)*

21 Asst. Atty General Lynette Evans
22 Lynette.Evans@azag.gov
23 *Attorney for Defendant/Appellee Arizona Department of Real Estate*

24 Judge Mikitish's Judicial Assistant Joel Grajeda
25 Joel.grajeda@jbazmc.maricopa.gov


26
27
28 

EXHIBIT “1”



Arizona Department of Real Estate (ADRE)

Homeowners Association Dispute Resolution

www.azre.gov

KATIE HOBBS
GOVERNOR

SUSAN NICOLSON
COMMISSIONER

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

HOMEOWNERS ASSOCIATION (HOA) DISPUTE REHEARING PETITION

The HOA Dispute Rehearing Petition is completed by a party to a hearing before the Office of Administrative Hearings who is aggrieved by a decision rendered in a case. This Petition Form must be filed within 30 days from receipt of the decision. Submit completed form and attachments to ADRE through the Department Message Center at <http://azre.gov>; or mail to the above address Attention: HOA Coordinator.


Aggrieved Party Information

AGGRIEVED PARTY FULL NAME (Please Print): AZNH Revocable Trust	PHONE NUMBER: 480-818-5070	EMAIL: info@SullivanAppeals.com
DOCKET NUMBER (See ALJ Decision) 24F-H047-REL	CASE NUMBER (See Notice of Petition) 24F-H047-REL	

Please check the box or boxes to specify the particular grounds for rehearing request. Evidence to support any claim/s will be required for rehearing.

<ol style="list-style-type: none"> 1. <input checked="" type="checkbox"/> Irregularity in the proceedings or any order or abuse of discretion by the administrative law judge that deprived a party of a fair hearing. 2. <input type="checkbox"/> Misconduct by the Department, Administrative Law Judge or the prevailing party. 3. <input type="checkbox"/> Accident or surprise that could not have been prevented by ordinary prudence. 4. <input type="checkbox"/> Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing. 5. <input type="checkbox"/> Excessive or insufficient penalties. 6. <input checked="" type="checkbox"/> Error in the admission or rejection of evidence or other errors of law occurring during the proceeding. 7. <input checked="" type="checkbox"/> That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion. 8. <input checked="" type="checkbox"/> That the findings of fact or decision is not supported by the evidence or is contrary to law.
--

Provide statement to substantiate the above claim/s and attach supporting documentation as needed.

— See attachment. —	
X AGGRIEVED PARTY SIGNATURE 	Date Nov. 30, 2024

Rehearing Petition is subject to Arizona Department of Real Estate Commissioner's approval.

EXHIBIT “2”

John F. Sullivan, Esq.
1909 E. Ray Rd., Suite 9198
Chandler, Arizona 85225
(602) 793-9301
Bar No. 023018
Attorney for Plaintiff/Appellant

**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

LC2025-000025-001

No. _____

**NOTICE OF APPEAL OF
ADMINISTRATIVE DECISION
(Unclassified Civil)**

Evidentiary Hearing Requested

1 Per A.R.S. § 12-904, AZNH Revocable Trust hereby appeals from the final administrative
2 decision issued by Arizona Department of Real Estate (“ADRE”) on Nov. 5, 2024. Rehearing
3 denied by ADRE on Jan. 8, 2025.

4 The ADRE case number is **24F-H047-REL** (AZNH Revocable Trust v. Sunland Springs
5 Village Homeowners Association).

1 The Petition to the ADRE raised a single question of law. Plaintiff/Appellant seeks review of
2 all findings and decision related thereto.

3 The issues presented for review are whether the ADRE decision is:

- 4 1. Contrary to law;
- 5 2. Not supported by substantial evidence;
- 6 3. Arbitrary and capricious or is an abuse of discretion.

7 An evidentiary hearing shall be requested pursuant to A.R.S. § 12-910(A) and a motion shall
8 be filed pursuant to RPJRAD 10.

9 Plaintiff/Appellant hereby requests an award of attorney's fees pursuant to A.R.S. § 12-348
10 and, where applicable, pursuant to A.R.S. § 12-349. Plaintiff/Appellant requests its costs.

January 14, 2025

Plaintiff/Appellant, AZNH Revocable Trust

By:

/s/ *John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)
Attorney for Plaintiff/Appellant
1909 E. Ray Rd., Suite 9198
Chandler, AZ 85225
480-818-5070
Email: Info@SullivanAppeals.com
Facsimile: 480-210-8328

EXHIBIT “3”

COPY

JAN 21 2025



CLERK OF THE SUPERIOR COURT
B. WINSETT
DEPUTY CLERK

John F. Sullivan, Esq.
1909 E. Ray Rd., Suite 9198
Chandler, Arizona 85225
(602) 793-9301
Bar No. 023018
Attorney for Plaintiff/Appellant

**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

**MEMORANDUM IN SUPPORT OF
MOTION FOR EVIDENTIARY
HEARING TO INTRODUCE
ADDITIONAL EVIDENCE
(Unclassified Civil)**

Oral Argument Requested

**Assigned to:
Hon. Joseph Mikitish**

I. JURISDICTION

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Pursuant to A.R.S. § 32-2199.01, the AZNH Revocable Trust ("Trust") filed a Petition with the Arizona Dept. of Real Estate alleging that Sunland Springs Village Homeowners Assoc. ("HOA") violated A.R.S. § 33-1812(A)(7) of the Planned Communities Act.

1 This is an appeal from the final administrative decision by Arizona Department of Real Estate
2 (“ADRE”) dated Nov. 5, 2024. Rehearing requested Nov. 30, 2024, and denied by ADRE on
3 Jan. 8, 2025. This Court has jurisdiction per A.R.S. §§ 12-904 & 12-905.

4 A Notice of Appeal of Administrative Decision was filed with the Clerk of the Superior Court
5 on January 14, 2025, and a Notice of Action was filed with the ADRE and with the Office of
6 Administrative Hearings the same day.

7 II. INTRODUCTION

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

10 The HOA Bylaws require that Association Directors shall be elected by “electronic or paper
11 ballot.” Petitioner’s Exhibit 2, p.6, sec. 3.2. *[In the ADRE hearing record, Plaintiff/Appellant’s*
12 *exhibits are marked as Petitioner’s Exhibit.]* The Bylaws also require that the HOA “shall
13 provide a ballot by mail or electronically to each Member of the Association.” *Id.*, sec. 3.3.3.

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

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

22 Long after the ADRE hearing and rehearing request, the Trust learned that the HOA did in-
23 fact have the so-called “user interface” and the Trust subsequently obtained it. See **Exhibit A**
24 **(Affidavit of Plaintiff/Appellant’s counsel)**. The user interface is a ballot. The Trust also
25 learned the HOA had an undisclosed, fifty (50) second video which disproves the HOA
26 attorney’s claim that no ballot was used in electronic voting. See **Exhibit A**.

27 Had the electronic ballot and/or video been produced for the ADRE hearing, no reasonable
28 fact finder would have concluded that the HOA complied with A.R.S. § 33-1812(A)(7).

1 If the previously undisclosed electronic ballot and/or the Vendor video had been introduced in
2 the administrative proceedings, no reasonable fact finder would have concluded that the HOA
3 complied with A.R.S. § 33-1812(A)(7) and, therefore, the existing decision is not supported by
4 substantial evidence.

5 **VI. REQUESTED RELIEF**

6 Per A.R.S. § 12-910, the Trust respectfully requests that the Court conduct a brief evidentiary
7 hearing for the sole purpose of admitting the electronic ballot and the Vendor video into the
8 record, both of which are described herein-above and in the accompanying Affidavit (Exhibit
9 A). Alternatively, per A.R.S. § 12-911, the Court may remand to the ADRE for purposes of
10 taking the additional evidence.

11 **VII. A.R.S. § 12-911(A)**

12 In many administrative matters, the involved agency has developed special competence
13 within specialized fields such as taxation or practice of medicine. That type of experience in
14 specialized fields allows administrative agencies to apply their expertise and correct their own
15 errors with respect to regulatory matters. But, this case is not a regulatory matter.

16 In HOA disputes, the ADRE sends the matter to the Office of Administrative Hearings
17 (“OAH”) which is unaccustomed to adjudicating matters between private litigants, and the OAH
18 has no specialized expertise in deciding whether an HOA has failed to comply with a statute in
19 the Planned Communities Act.

20 Therefore, the more important issue may be whether this request to add two pieces of
21 demonstrative evidence to the administrative record is of sufficient brevity that the Court’s time
22 is not overly burdened. The Court may actually save time in the long run by adding the
23 evidence now.

24 //

25 //

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27 //

28 //

January 21, 2025

Plaintiff/Appellant, AZNH Revocable Trust
By:

/s/ *John F. Sullivan*

John F. Sullivan, Esq. (Bar # 023018)
Attorney for Plaintiff/Appellant
1909 E. Ray Rd., Suite 9198
Chandler, AZ 85225
480-818-5070
Email: Info@SullivanAppeals.com
Facsimile: 480-210-8328

CERTIFICATE OF SERVICE

A copy hereof shall be mailed on January 21, 2025, to:

Arizona Department of Real Estate at 100 N. 15th Ave., #201, Phoenix, AZ 85007.

A copy hereof shall be hand-delivered on January 21, 2025, to:

Sunland Springs Village Homeowners Assoc. at their office located at 11214 E. Laguna Azul Circle, Mesa, AZ 85209.

A copy hereof shall be sent by email on January 21, 2025, to:

Atty. Chad Gallacher (counsel for Sunland Springs Village Homeowners Assoc.) at his email address: cgallacher@hoalaw.biz

/s/ *John F. Sullivan*
Attorney for Plaintiff/Appellant

EXHIBIT “4”

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

HONORABLE JOSEPH P. MIKITISH

CLERK OF THE COURT
N. Johnson
Deputy

A Z N H REVOCABLE TRUST
JOHN SULLIVAN
SUSAN SULLIVAN

JOHN SULLIVAN

v.

ARIZONA DEPARTMENT OF REAL ESTATE
(001)
SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION (001)

LYNETTE EVANS
B AUSTIN BAILLIO

JUDGE MIKITISH
REMAND DESK-LCA-CCC

**MINUTE ENTRY
ORDER OF DISMISSAL**

The Court has received and reviewed the Motion for Evidentiary Hearing to Introduce Additional Evidence filed by the appellant AZNH Revocable Trust on January 21, 2025, the response thereto filed by the Appellee Sunland Springs Village Homeowners Association on February 18, 2025, and AZNH reply filed on February 19, 2025.

In the Motion, AZNH argues that it filed a petition with the Department of Real Estate (the Department) alleging that Sunland Springs violated state law by failing 1) to retain all ballots and related materials, and 2) to make them available for inspection. A.R.S. § 33-1812. It argues that the Department held hearing through the Office of Administrative Hearings and concluded that Sunland Springs did not violate the law because voting was done through an electronic user interface without ballots. AZNH argues that, after the Department's Decision, AZNH obtained an electronic ballot which Sunland Springs had in its custody but failed to produce. AZNH requests an Evidentiary Hearing to present the additional evidence. It argues that a remand to the Agency is unnecessary because the Office of Administrative Hearings conducts Department hearings

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

without experts in the Department's regulatory arena. Therefore, it argues that this Court is in as good a position to conduct the hearing as the Department.

Sunland Springs argues that an Evidentiary Hearing simply to present additional evidence is not contemplated by the rules. It argues that the evidence presented by AZNH is inadmissible and belongs to VoteHOANow and is not a part of the records of the Association. It argues that the Department and Office of Administrative Hearings has extensive experience in HOA disputes and should be the proper venue for resolving AZNH's request.

The applicable rules of procedure provide that any party seeking to introduce exhibits or testimony (or both) not offered during the administrative hearing must file a written motion identifying the evidence, setting forth the appropriate legal authority in support of its admission, and addressing whether a remand to the Agency is appropriate. Rule 10, Rules of Procedure for Judicial Review of Administrative Decisions. Arizona Law provides that the Superior Court may, when a hearing has been held by an agency, remand for the purpose of taking additional evidence when from the state of the record of the administrative agency or otherwise it appears that such action is just. A.R.S. § 12-911.

In this case, the background of the documents, the entity owning and storing the documents, and the details of the use of various technologies in the HOA election all require detailed analysis through a hearing.

THE COURT FINDS that the Department is in the best position to conduct the hearing.

Therefore,

IT IS ORDERED denying the Motion for the Superior Court to conduct an Evidentiary Hearing.

IT IS FURTHER ORDERED dismissing the appeal and remanding the matter to the Department to conduct an Evidentiary Hearing to address the additional evidence proposed by AZNH.

No matters remain pending in connection with this appeal. This is a final order. *See* Rules 12(c), 12(d), 14(b), Sup. Ct. R. App. P. – Civil and Rule 54(c), Ariz. R. Civ. P.

/s/ Joseph P. Mikitish
THE HON. JOSEPH P. MIKITISH
Judge of the Superior Court

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

LC2025-000025-001 DT

04/17/2025

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.

EXHIBIT “5”

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

AZNH Revocable Trust,) Matter No. 24F -H047 -REL-RMD
by and through)
John and Susan Sullivan, Trustees (R.P.I.)) **SUBPOENA (Duces Tecum)**
Petitioner) Under the Authority of
v.) A.R.S. § 41-1092.07C
)
)
Sunland Springs Village Homeowners Association,)
Respondent)

TO: Name: Ruth Ingoldsby

Address: 715 S. Cholla St., Gilbert, AZ. 85233

You are commanded to ATTEND a hearing in this matter at the date, time and location listed below and to remain until excused.

Date: Sept. 26, 2025

Time: 9:00 a.m.

Location: Office of Administrative Hearings
1740 W. Adams St. (lower level), Phoenix, AZ. 85007

You are commanded to PRODUCE documents or other tangible items for the above entitled matter, specifically:

A paper and electronic copy of the 2024, electronic ballots which are identified in the attached email from Jonathan Lobleby (dated January 25, 2024, 11:54 AM) as follows:

Click this link to view the Ballot: Election Ballot Proof; and,
Click this link to view the Ballot: Amendment Ballot Proof,

to Atty. John F. Sullivan, as soon as possible, but **not later than Sept. 10, 2025**, by email to info@SullivanAppeals or, by U.S. Mail to 1909 E. Ray Rd., Suite 9198, Chandler, AZ. 85225.

The Office Of Administrative Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities. Should you need special accommodations, please contact the Office of Administrative Hearings at (602)-542-9826 at least three working days prior to the hearing.

DATED this _____ day of _____, 2025.

Administrative Law Judge

AT THE REQUEST OF: Counsel for the Petitioner, Atty. John F. Sullivan, 1909 E. Ray Rd., Suite 9198, Chandler, AZ. 85225. Tel. # 480-818-5070. Fax 480-210-8328. Email: info@SullivanAppeals.com

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

AZNH Revocable Trust,) Matter No. 24F -H047 -REL-RMD
by and through)
John and Susan Sullivan, Trustees (R.P.I.)) **SUBPOENA**
Petitioner) Under the Authority of
v.) A.R.S. § 41-1092.07C
)
Sunland Springs Village Homeowners Association,)
Respondent)

TO: Name: Terry Garrett (Director, Sunland Springs Village HOA)
Address: 2834 S. Alderwood Cir., Mesa, AZ. 85212

You are commanded to ATTEND a hearing in this matter at the date, time and location listed below and to remain until excused.

Date: Sept. 26, 2025 Time: 9:00 a.m.
Location: 1740 W. Adams St. (lower level), Phoenix, AZ. 85007

The Office Of Administrative Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities. Should you need special accommodations, please contact the Office of Administrative Hearings at (602)-542-9826 at least three working days prior to the hearing.

DATED this _____ day of _____, 20_____ .

Administrative Law Judge

AT THE REQUEST OF: Counsel for the Petitioner, Atty. John F. Sullivan, 1909 E. Ray Rd., Suite 9198,
Chandler, AZ. 85225. Tel. # 480-818-5070. Fax 480-210-8328. Email: info@SullivanAppeals.com

EXHIBIT “6”

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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of

No. 24F-H047-REL-RHG

AZNH Revocable Trust,
Petitioner,

**ORDER REGARDING HEARING,
DENYING SUBPOENA**

v.

Sunland Springs Village Homeowners
Association,
Respondent.

The undersigned has reviewed Petitioner's Motion for Subpoena Duces Tecum and Petitioner's response to the Tribunal Order dated August 13, 2025 in light of the instant case.

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

On June 2, 2025, the Department forwarded the matter back to the Tribunal, issuing a Notice of Hearing which contained the Department's Order granting "Petitioner's Dispute Rehearing Petition for the reason(s) outlined in the Rehearing Petition."¹

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

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

Based on the foregoing,

IT IS ORDERED that the administrative hearing in the instant matter is a rehearing and will be limited to the allegations on which the Department ordered the rehearing. **The parties are directed to utilize, in all future filings in the instant matter, the Tribunal's captioned Docket Number No. 24F-H047-REL-RHG.**

IT IS ORDERED the Petitioner's subpoena request is Denied.

¹ Petitioner's Rehearing Petition was originally denied by the Department on January 8, 2025, which denial led to Petitioner filing an appeal to Court.

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IT IS ORDERED the hearing remains scheduled for September 26, 2025.

Done this day, August 15, 2025.

/s/ Kay A. Abramsohn
Administrative Law Judge

Transmitted electronically to:

Susan Nicolson
Commissioner
Arizona Department of Real Estate
SNicolson@azre.gov
vnunez@azre.gov
djones@azre.gov
labril@azre.gov
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gosborn@azre.gov

Chad Gallacher
cgallacher@hoalaw.biz

John F. Sullivan
info@sullivanappeals.com

By: OAH Staff