

CLERK OF THE  
SUPERIOR COURT  
FILED  
K. WHITSON, DEP

25 AUG 27 PM 3:31

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 - 001

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

*ORAL ARGUMENT RERQUESTED*

**(Unclassified Civil)**

**Assigned to  
Hon. Joseph Mikitish**

1 NOW COMES THE PLAINTIFF/APPELLANT (“AZNH”) in the above-entitled action and  
2 respectfully requests the Court exercise its powers to enforce the judgment rendered in this  
3 matter, and exercise its Rule 7.3 powers to issue an Order to Show Cause why the relief  
4 requested by this Motion and the supporting memorandum should not be granted.

5 On April 17, 2025, this Court rendered a Judgment (designated a “final order”) which reads,  
6 in pertinent part:

7  
8 Arizona Law provides that the Superior Court may, when a hearing has been held  
9 by an agency, remand for the purpose of taking additional evidence when from the  
10 state of the record of the administrative agency or otherwise it appears that such  
11 action is just. A.R.S. § 12-911.

12  
13 In this case, the background of the documents, the entity owning and storing the  
14 documents, and the details of the use of various technologies in the HOA election  
15 all require detailed analysis through a hearing.

16 \* \* \*

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

20 The above hearing has not been held and, on August 15, 2025, an Administrative Law Judge  
21 (“ALJ”) with full knowledge of the Court’s Order, and acting for the Arizona Department of  
22 Real Estate (“Department”) and its Commissioner (“Commissioner”), has refused to hold the  
23 Evidentiary Hearing, and also refused to issue a subpoena duces tecum for a witness to produce  
24 relevant records and give relevant testimony at such hearing. The ALJ has also failed to act on  
25 two other witness subpoenas requested by AZNH.

26 AZNH respectfully requests the Court Order exercise its inherent powers to enforce  
27 the Judgment by whatever means the Court deems proper and, in addition, consider the  
28 application of Ariz.R.Civ.P. 70 so that the evidentiary hearing shall be done -- at the  
29 disobedient party’s expense -- by another person appointed by the court. An arbitrator  
30 from the Court’s Rule 73 list could be such person.

1 AZNH further requests, pursuant to Ariz.R.Civ.P. 7.3, that the Court issue an Order  
2 directed to the Department, the Commissioner (Susan Nicolson) and ALJ Kay A.

3 Abramsohn to Show Cause:

- 4 1. Why the relief requested under herein should not be granted; and,
- 5 2. Why the Court should not hold either (or all) the Department, the Commissioner,  
6 or Kay A. Abramsohn in contempt and sanctioned pursuant to A.R.S. § 12-864.

7 The reasons for contempt are shown in the accompanying memorandum and affidavit by  
8 AZNH's counsel, and those reasons are based upon the actions of the ALJ (*with the de facto*  
9 *approval of the Department and the Commissioner*) which:

- 10 1. Hindered or obstructed the court in its administration of justice or derogated from its  
11 authority;
- 12 2. Disobeyed a Court Order; and,
- 13 3. Brought the administration of justice into disrepute.

14 AZNH requests imposition of civil contempt sanctions sufficient to coerce compliance with  
15 the Court's Orders and to protect the procedural rights of AZNH. AZNH requests its costs and  
16 attorneys' fees in prosecution of this Motion, and such other and further relief as justice requires  
17 to enforce the Court's Judgment.

18 A Proposed Order to Show Cause accompanies this Motion.

August 22, 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

//

//

## CERTIFICATE OF SERVICE

A copy hereof shall be sent this date, to:

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

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

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

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

/s/ *John F. Sullivan*

Attorney for Plaintiff/Appellant

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

**AFFIDAVIT  
OF  
ATTORNEY JOHN F. SULLIVAN**

**(Unclassified Civil)**

**Assigned to  
Hon. Joseph Mikitish**

//  
//  
//

1 THE AFFIANT STATES AS FOLLOWS:

2 The Plaintiff/Appellant (“AZNH”) filed a petition with the Department of Real Estate  
3 (“Department”) alleging that Sunland Springs Homeowners Assoc. (“Sunland Springs”) violated  
4 state law by failing 1) to retain all ballots and related materials, and 2) to make them available  
5 for inspection. A.R.S. § 33-1812.

6 After a hearing, an Administrative Law Judge (Kay A. Abramsohn) found in favor of Sunland  
7 Springs.

8 On or about November 30, 2024, AZNH filed a Dispute Rehearing Petition with the  
9 Department Commissioner (“Commissioner”) and Sunland Springs filed a Response. On  
10 January 8, 2025, the Commissioner denied AZNH’s rehearing request.

11 On January 14, 2025, AZNH timely filed a Notice of Appeal of an Administrative Decision  
12 and, on January 21, 2025, filed a Motion for Evidentiary Hearing to Introduce Additional  
13 Evidence, accompanied by a Memorandum. Sunland Springs timely filed an Opposition and  
14 AZNH timely filed a Reply.

15 Opening, Answering and Reply briefs were also filed on different dates.

16 On April 17, 2025, the Court issued a Minute Entry Dismissing the Appeal and Ordered:  
17 “remanding the matter to the Department [of Real Estate] to conduct an Evidentiary Hearing to  
18 address the additional evidence proposed by AZNH.” **Affidavit (“Aff.”) Exhibit 1** (see  
19 accompanying exhibits).

20 On June 27, 2025, the Commissioner (via her Deputy) issued a Notice of Hearing to the  
21 parties and to “ALJ Kay Abramsohn” which acknowledged receipt of the Court’s Order  
22 “remanding the matter to the Department.” **Aff. Exhibit 2**. In that Notice, the Deputy  
23 acknowledged the previously denied Dispute Rehearing Petition and Ordered:

24 The Department hereby grants the Petitioner’s Dispute Rehearing Petition for the  
25 reason(s) outlined in the Rehearing Petition [underscore added], which includes, in  
26 part:  
27



1 previously withheld electronic ballot). The same day, the ALJ issued an Order in response. **Aff.**

2 **Exhibit 5.** That Order stated, in its entirety:

3  
4 The Tribunal has received Petitioner’s Motion for Subpoena Duces Tecum.

5  
6 On April 17, 2025, Maricopa County Superior Court (Court) denied Petitioner’s  
7 motion to conduct an evidentiary hearing, dismissed Petitioner’s appeal, and  
8 remanded the matter to the Arizona Department of Real Estate to conduct an  
9 Evidentiary Hearing “to address the *additional evidence proposed by AZNH.*”

10  
11 The specificity of the Court’s Ruling gives rise to this Order. In its Ruling, the  
12 Court noted that in Petitioner’s motion to the Court:

13  
14 AZNH argues that, after the Department’s Decision, AZNH obtained an  
15 electronic ballot which Sunland Springs had in its custody but failed to  
16 produce.

17  
18 In its Ruling, the Court indicated that Sunland Springs argued:

19  
20 [T]he evidence presented by AZNH is inadmissible and belongs to  
21 VoteHOANow and is not a part of the records of the Association.”

22  
23 Based on the foregoing,

24  
25 IT IS ORDERED that Petitioner shall provide to the Tribunal the Court-referenced  
26 “additional evidence proposed by AZNH,” which had been submitted to the Court  
27 and provided to Sunland Springs, no later than August 22, 2025.

28  
29 IT IS ORDERED that Petitioner explain who the requested witness is and the  
30 nature of the testimony anticipated by that witness.

31  
32 The next day, AZNH responded and complied with the ALJ Order, and AZNH also wrote:

33 The Tribunal’s August 13<sup>th</sup> Order suggests that the Tribunal is unaware that the  
34 Commissioner for the Arizona Department of Real Estate (acting through her  
35 Deputy) issued the following Order on June 27, 2025, regarding the Trust’s  
36 Dispute Rehearing Petition filed November 30, 2024:

1 The Department hereby grants the Petitioner’s Dispute Rehearing Petition for  
2 the reason(s) outlined in the Rehearing Petition, which includes, in part:

- 3 1. Irregularity in the proceedings or any order or abuse of discretion by the  
4 administrative law judge that deprived the party of a fair hearing.
- 5 2. Error in the admission or rejection of evidence or other errors of law occurring  
6 during the proceeding.
- 7 3. That the findings of fact or decision is arbitrary, capricious, or an abuse of  
8 discretion.
- 9 4. That the findings of fact or decision is not supported by the evidence or is  
10 contrary to law.

11 Thus, this matter is before the Tribunal for a rehearing which is not limited “to  
12 address the additional evidence proposed by AZNH.”

13 The Commissioner’s Order and the Trust’s Petition for Rehearing (11 pp.) is  
14 attached. The Trust’s Petition fully explains the reasons for rehearing.

15 \* \* \*

16 Ms. Ruth Ingoldsby identifies herself as the Director of Operations and Business  
17 Development of Vote HOA Now, the vendor hired by the Respondent to provide  
18 election voting services in the year 2024, election. It is anticipated that she shall  
19 provide testimony showing that the ballot she produces under the subpoena is the  
20 same ballot attached hereto, and the ballot was submitted to the Respondent’s  
21 Community Manager for approval and was subsequently used in the year 2024,  
22 election. That ballot was used by approximately 1,461 electronic voters, and  
23 Respondent neither retained those ballots nor produced those ballots for inspection  
24 as required A.R.S. 33-1812.

25 **Aff. Exhibit 6.**

26 The Trust’s Petition for Rehearing contains concise references to the record and a  
27 lengthy, critical analysis of the ALJ’s mishandling of the matter.

1 On August 15, 2025, the ALJ issued: “Order Regarding Hearing, Denying Subpoena.” **Aff.**  
2 **Exhibit 7.** That Order reads, in part:

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

6 The Department’s Notice of Hearing and Order does not address the remand  
7 issue.

8 Based on the foregoing,

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

14 IT IS ORDERED the Petitioner’s subpoena request is Denied.

15 The previous docket number was “24F-H047-REL-RMD” (“RHG” means rehearing and  
16 “RMD” means remand). The distribution list for the above-referenced ALJ Order shows it was  
17 sent to Susan Nicolson, Commissioner, Arizona Department of Real Estate, and the Deputy  
18 [Mandy Neat] who authored the Department’s rehearing Order, and to several other persons at  
19 the Department.

20 Four minutes after the ALJ transmitted the above Order via email, and before counsel for  
21 AZNH saw the Order, AZNH requested two additional witness subpoenas via email. **Aff.**

22 **Exhibit 8.** As of this writing, AZNH has not received any acknowledgment from, or action by,  
23 the ALJ with respect to the requested subpoenas.

24 As of this writing, AZNH has not received any further communications on any matter from  
25 the Department or the ALJ.

26 Undersigned counsel declares under penalty of perjury, and to the best of my knowledge and  
27 understanding, that the foregoing statements are true and correct.

August 22, 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](mailto:Info@SullivanAppeals.com)

# Aff. Exhibit 1

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.

# Aff. Exhibit 2

1 **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of:

3 **A Z N H Revocable Trust,**

4 Petitioner

5 vs.

6 **Sunland Springs Village Homeowners  
Association,**

7 Respondent

**File No.: 24F-H047**

**Docket No.: 24F-H047-REL-RMD**

**NOTICE OF HEARING**

(Assigned to ALJ Kay Abramsohn)

8  
9 **FINDING OF FACT**

10 1. On or about November 5, 2024, the Office of Administrative Hearings (OAH) issued  
11 an Administrative Law Judge (ALJ) Decision ordering the denial of the Petitioner's Petition.  
12 Pursuant to Arizona Revised Statute (A.R.S.) §32-2199.04, an aggrieved person may file a  
13 motion for rehearing or review with the Commissioner of the Arizona Department of Real  
14 Estate (Department).

15 2. On or about November 30, 2024, the aggrieved party (Petitioner) filed a Dispute  
16 Rehearing Petition with the Department.

17 3. On or about December 23, 2024, the opposing party (Respondent) provided a  
18 response to the Rehearing Petition.

19 4. On or about January 8, 2025, the Department issued an Order Denying the  
20 Petitioner's Rehearing Request (Department's Decision).

21 5. On April 17, 2025, the Honorable Judge Joseph P. Mikitish issued a Minute Entry  
22 through the Maricopa County Superior Court of Arizona (Superior Court). The Minute Entry  
23 included, in part:

24 a. An Order denying the Motion of the Superior Court to conduct an Evidentiary  
25 Hearing

26 b. An Order dismissing the appeal and remanding the matter to the Department

27 6. On or about May 24, 2025, the Department was notified of a Minute Entry.

28



1 Information regarding procedures, practice pointers, or the online filing of motions is  
2 available through the Office of Administrative Hearings' website at [www.azoah.com](http://www.azoah.com), or by  
3 calling their offices at (602) 542-9826. The Office of Administrative Hearings has designated  
4 Kay Abramsohn, at the address listed above, as the Administrative Law Judge for these  
5 proceedings. If the Respondent does not appear, the hearing will proceed in the Respondent's  
6 absence. If the Petitioner does not appear, the Petition may be dismissed.

7 You are requested to be present at the hearing and produce all association rules and  
8 regulations and any amendments thereto, correspondence, associate policy statements and other  
9 relevant evidence, including photographs. **You are requested to bring three (3) copies of any**  
10 **documentary or photographic evidence.** You may present evidence through your own  
11 testimony and through the testimony of witnesses on your behalf. It is your responsibility to  
12 secure the attendance of your witnesses.

13 Additional information regarding rules for OAH, hearing procedures, preparing for your  
14 hearing, and frequently asked questions, may be found on OAH's website at [www.azoah.com](http://www.azoah.com).

15 **If you have filed any motions prior to the receipt of this Notice of Hearing, you must**  
16 **re-file the motions with the Office of Administrative Hearings (OAH) electronically or at**  
17 **the address listed above. With this notice, all oral and written communication should be**  
18 **directed to the OAH and a copy must be provided to the opposing party.**

19 **As the hearing is now scheduled before an Administrative Law Judge, there is no**  
20 **need by either party to copy the Arizona Department of Real Estate with motions,**  
21 **responses or further correspondence on the matter.**

22 Under the Americans with Disabilities Act (ADA), the Office of Administrative Hearings  
23 endeavors to ensure the accessibility of its hearings to all persons with disabilities. Persons with  
24 disabilities may request reasonable accommodations such as interpreters, alternative formats, or  
25 assistance with physical accessibility. Requests for accommodations should be made as early as  
26 possible to allow time to arrange the accommodations. If you require accommodations, please  
27 contact the Office of Administrative Hearings at (602) 542-9826.

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**QUESTIONS**

Any and all questions regarding the referenced case matter should be directed to OAH.  
For any and all general inquiries, please email [oah@azoah.com](mailto:oah@azoah.com). Their hours of operation are  
8:00am - 5:00pm Monday through Friday.

DATED this 27th day of June, 2025.

*Mandy Neat*

---

**MANDY NEAT**  
Deputy Commissioner  
Arizona Department of Real Estate


1 **E-FILE** of the foregoing this  
2 27 day of June, 2025, to:

3 ALJ Kay Abramsohn  
4 Office of Administrative Hearings

5 **COPY** mailed by First Class and  
6 Certified Mail on the 27 day of  
7 June, 2025, Return Receipts Requested to:

8 John F. Sullivan  
9 1909 East Ray Road, Ste 9198  
10 Chandler AZ 85225  
11 Receipt No.  
12 Email: [info@sullivanappeals.com](mailto:info@sullivanappeals.com)  
13 *Petitioner*

14 Sunland Springs Village  
15 4854 E Baseline Rd, Ste 104  
16 Mesa AZ 85206  
17 Receipt No.  
18 Email: [abaillio@hoalaw.biz](mailto:abaillio@hoalaw.biz)  
19 *Respondent*

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21 \_\_\_\_\_  
22 10290603

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# Aff. Exhibit 3

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**IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of  
AZNH Revocable Trust  
Petitioner,  
v.  
Sunland Springs Village Homeowners  
Association,  
Respondent.

**No. 24F-H047-REL-RMD**  
**ORDER GRANTING CONTINUANCE**

---

At the request of Respondent and good cause appearing, the hearing in the above-entitled matter is **continued to convene on September 26, 2025 at 9:00 A.M.**

Unless otherwise requested by a party, the hearing will convene in person at the Office of Administrative Hearings (OAH).

The parties shall file and exchange witness lists and proposed exhibits/lists no later than September 12, 2025; Petitioner to use number designations and Respondent to use letter designations.

Done this day, July 18, 2025.

*/s/ Kay 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  
mneat@azre.gov  
lrecchia@azre.gov  
gosborn@azre.gov

Chad Gallacher  
cgallacher@hoalaw.biz

John F. Sullivan  
info@sullivanappeals.com

By: OAH Staff

# Aff. Exhibit 4

Atty. John F. Sullivan  
1909 E. Ray Rd., Suite 9198  
Chandler, Arizona 85225  
(480) 818-5070  
Bar No. 023018  
Attorney for Petitioner

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF ARIZONA**

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

Petitioner

v.

**SUNLAND SPRINGS VILLAGE  
HOMEOWNERS ASSOCIATION,**

Respondent

No. 24F-H047-REL-RMD

**PETITIONER'S MOTION FOR  
SUBPOENA DUCES TECUM**

**(To: Ruth Ingoldsby  
of Vote HOA Now)**

**Hearing Date:  
September 26, 2025**

**Assigned to:  
Honorable Kay Abramsohn**

1 NOW COMES THE PETITIONER in the above-captioned matter and requests the  
2 accompanying Subpoena Duces Tecum be issued to Ruth Ingoldsby (Director of Operations and  
3 Business Development, Vote HOA Now). The subpoena seeks the electronic ballot which the  
4 Respondent has failed (and refused) to produce.

5 As reasons therefore:

6 The Petition alleges that the HOA refused or failed to produce election ballots for inspection  
7 as required by A.R.S. 33-1812, A, 7.

1 In writings prior to the original hearing, and at the original hearing, Respondent represented  
2 to the tribunal that it had produced all election-related materials for the 2024 HOA election.  
3 Furthermore, a witness for the HOA testified that she (the witness) had not seen the electronic  
4 ballot used by the HOA in their 2024, election.

5 A subsequent investigation discovered HOA documents and records which show,  
6 unequivocally, that the aforesaid witness did, in fact, see and approve the electronic ballot used  
7 by the HOA in its 2024, election. In addition, Petitioner's counsel obtained the approved,  
8 electronic ballot via an electronic link within the HOA's email communications with Vote HOA  
9 Now.

10 On June 22, 2025, Petitioner's counsel sent a letter to Respondent's counsel which contained  
11 the following requests:

12 Please provide me with a copy of the electronic ballot (or "Election Ballot  
13 Proof") which Ms. Fowers approved for use by VoteHOANow in the 2024  
14 election.

15 Alternatively, you can simply stipulate that the electronic ballot which I  
16 produced to you and to the Superior Court was approved by Ms. Fowers for use by  
17 VoteHOANow in the 2024 election.

18 On July 3<sup>rd</sup>, Atty. Gallacher (for the HOA) replied, in part:

19 The Ballots and the record of the vote from the 2024 annual meeting have all  
20 been provided to you. The Association is not required to keep VoteHOANow  
21 records and it does not do so. The act of Ms. Fowers following a link to another  
22 company's website does not make the screen she sees an Association record. . . .  
23 [T]he Association will not stipulate to your document.

24 Wherefore, Petitioner respectfully requests that the accompanying Subpoena Duces  
25 Tecum be issued pursuant to A.R.S. § 41-1092.07, C, so that Vote HOA Now may produce  
26 the 2024, electronic ballot, and so that Ms. Ingoldsby may testify on relevant matters.

1 Dated: August 13, 2025

/s/ *John F. Sullivan*

2 John F. Sullivan, Esq. (Bar # 023018)  
3 Attorney for Petitioner  
4 1909 E. Ray Rd. Suite 9198  
5 Chandler, AZ. 85225  
6 480-818-5070  
7 email: Info@SullivanAppeals.com  
8

9 **CERTIFICATE OF SERVICE**

10 A copy hereof was served this date upon Respondent's counsel via email at  
11 cgallacher@hoalaw.biz under a prior agreement between counsel to accept filings and other  
12 correspondence by email.

13 /s/ *John F. Sullivan*

14 John F. Sullivan, Esq. (Bar # 023018)  
15 Attorney for Petitioner  
16

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.)	)	<b>SUBPOENA (Duces Tecum)</b>
Petitioner	)	Under the Authority of
	)	A.R.S. § 41-1092.07C
v.	)	
	)	
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 Lobley (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

---

**Re: Ballot & Invite Email Review & Approval - Sunland Springs Village HOA**

---

From Kathy Fowers <Kathy.Fowers@fsresidential.com>  
Date Thu 1/25/2024 1:12 PM  
To Jonathan Loblely <jon@votehoanow.com>

Hi Jonathan,

Thank you for sending the proofs. I am confused why there appear to be two separate ballots. I had to select each ballot separately, and feel that will be confusing for the residents. Is there a reason the cannot be in the same ballot, or automatically follow one after the other? The minutes and IRS ruling follow the "simple majority of those participating" to pass, just like the bylaws amendment, so I do not understand separating them. Please advise.

Kindly,  
Kathy



**KATHY FOWERS, CMCA, AMS**  
General Manager  
Direct 480.354.8758



---

**From:** Jonathan Loblely <jon@votehoanow.com>  
**Sent:** Thursday, January 25, 2024 11:54 AM  
**To:** Kathy Fowers <Kathy.Fowers@fsresidential.com>  
**Subject:** Ballot & Invite Email Review & Approval - Sunland Springs Village HOA

Kathy –

I added some generic instructions to the ballot, so please let me know if you want to provide other language or if anything should be changed or removed.

The invitation to vote email and ballot are now available for your review using the links below. Please proofread completely (including all text) and reply to this email with your approvals or let me know if any changes are needed.

Please note, once the ballot is approved and then opened for voting, no changes can be made.

Click this link to view the Invitation to vote email: [Invitation to Vote Proof](#)  
(Do not send the invitation proof link to any others, even board members, as it has the owner registration codes and can potentially invalidate your vote).

Click this link to view the Ballot: [Election Ballot Proof](#)  
(If you are sending this proof to any board members/owners for review, please tell them to logout or delete their cookies after

viewing or they may have issues when trying to register/view the actual live vote).

Click this link to view the Ballot: [Amendment Ballot Proof](#)

(If you are sending this proof to any board members/owners for review, please tell them to logout or delete their cookies after viewing or they may have issues when trying to register/view the actual live vote).

**Ballot Copy Note:** If you need a copy of the ballot for your records, we suggest you take a screenshot from this link once you approve. Once the vote is completed and archived (90 days after the vote closes) the link will no longer work.

Thank you,  
-Jon

**VOTE·HOA·NOW**

Connect with us:



Jon Lobley, M100 Certified, EBP  
Vote Manager  
Direct Line (503) 820-6280  
[Jon@Votehoanow.com](mailto:Jon@Votehoanow.com)



# Aff. Exhibit 5

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of

No. 24F-H047-REL-RMD

3 AZNH Revocable Trust,  
4 Petitioner,

**ORDER**

5 v.  
6 Sunland Springs Village Homeowners  
7 Association,  
8 Respondent.

9 The Tribunal has received Petitioner's Motion for Subpoena Duces Tecum.

10 On April 17, 2025, Maricopa County Superior Court (Court) denied Petitioner's  
11 motion to conduct an evidentiary hearing, dismissed Petitioner's appeal, and remanded  
12 the matter to the Arizona Department of Real Estate to conduct an Evidentiary Hearing  
13 "to address the *additional evidence proposed by AZNH.*"<sup>1</sup>

14 The specificity of the Court's Ruling gives rise to this Order. In its Ruling, the  
15 Court noted that in Petitioner's motion to the Court:

16 AZNH argues that, after the Department's Decision, AZNH obtained an  
17 electronic ballot which Sunland Springs had in its custody but failed to  
18 produce.

19 In its Ruling, the Court indicated that Sunland Springs argued:

20 [T]he evidence presented by AZNH is inadmissible and belongs to  
21 VoteHOANow and is not a part of the records of the Association."

22 Based on the foregoing,

23 IT IS ORDERED that Petitioner shall provide to the Tribunal the Court-referenced  
24 "additional evidence proposed by AZNH," which had been submitted to the Court and  
25 provided to Sunland Springs, no later than August 22, 2025.

26 IT IS ORDERED that Petitioner explain who the requested witness is and the  
27 nature of the testimony anticipated by that witness.

28 Done this day, August 13, 2025.

29 /s/ Kay A. Abramsohn  
30 Administrative Law Judge

<sup>1</sup> Emphasis added here.

1 Transmitted electronically to:

2 Susan Nicolson  
3 Commissioner  
4 Arizona Department of Real Estate  
5 SNicolson@azre.gov  
6 vnunez@azre.gov  
7 djones@azre.gov  
8 labril@azre.gov  
9 mneat@azre.gov  
10 lrecchia@azre.gov  
11 gosborn@azre.gov

12 Chad Gallacher  
13 cgallacher@hoalaw.biz

14 John F. Sullivan  
15 info@sullivanappeals.com

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By: OAH Staff

# Aff. Exhibit 6

Atty. John F. Sullivan  
1909 E. Ray Rd., Suite 9198  
Chandler, Arizona 85225  
(480) 818-5070  
Bar No. 023018  
Attorney for Petitioner

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF ARIZONA**

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

Petitioner

v.

**SUNLAND SPRINGS VILLAGE  
HOMEOWNERS ASSOCIATION,**

Respondent

No. 24F-H047-REL-RMD

**PETITIONER'S RESPONSE AND  
COMPLIANCE WITH ALJ ORDER  
DATED AUGUST 13, 2025**

**Hearing Date:  
September 26, 2025**

**Assigned to:  
Honorable Kay Abramsohn**

1 Counsel for AZNH Revocable Trust ("Trust") is in receipt of the Tribunal's Order dated  
2 August 13, 2025, and responds for the Petitioner as Ordered.

3 **REMAND**

4 The Superior Court's Remand Order reads, in pertinent part:

5  
6 The applicable rules of procedure provide that any party seeking to introduce  
7 exhibits or testimony (or both) not offered during the administrative hearing  
8 must file a written motion identifying the evidence, setting forth the appropriate  
9 legal authority in support of its admission, and addressing whether a remand to  
10 the Agency is appropriate. . . . Arizona Law provides that the Superior Court  
11 may, when a hearing has been held by an agency, remand for the purpose of

1 taking additional evidence when from the state of the record of the  
2 administrative agency or otherwise it appears that such action is just.

3  
4 \* \* \*

5 **IT IS FURTHER ORDERED** dismissing the appeal and remanding the matter  
6 to the Department to conduct an Evidentiary Hearing to address the additional  
7 evidence proposed by AZNH.  
8

9 As is evident from the Court's Remand Order, the Trust identified the evidence to the  
10 Court and set-forth the appropriate legal authority for its admission.

11 **REHEARING**

12 The Tribunal's August 13<sup>th</sup> Order suggests that the Tribunal is unaware that the  
13 Commissioner for the Arizona Department of Real Estate (acting through her Deputy) issued  
14 the following Order on June 27, 2025, regarding the Trust's Dispute Rehearing Petition filed  
15 November 30, 2024:

16 The Department hereby grants the Petitioner's Dispute Rehearing Petition for  
17 the reason(s) outlined in the Rehearing Petition, which includes, in part:

- 18 1. Irregularity in the proceedings or any order or abuse of discretion by the  
19 administrative law judge that deprived the party of a fair hearing.
- 20 2. Error in the admission or rejection or evidence or other errors of law occurring  
21 during the proceeding.
- 22 3. That the findings of fact or decision is arbitrary, capricious, or an abuse of  
23 discretion.
- 24 4. That the findings of fact or decision is not supported by the evidence or is  
25 contrary to law.

26 Thus, this matter is before the Tribunal for a rehearing which is not limited "to address the  
27 additional evidence proposed by AZNH."

28 The Commissioner's Order and the Trust's Petition for Rehearing (11 pp.) is attached. The  
29 Trust's Petition fully explains the reasons for rehearing.

30 //



1 Dated: August 14, 2025

/s/ *John F. Sullivan*

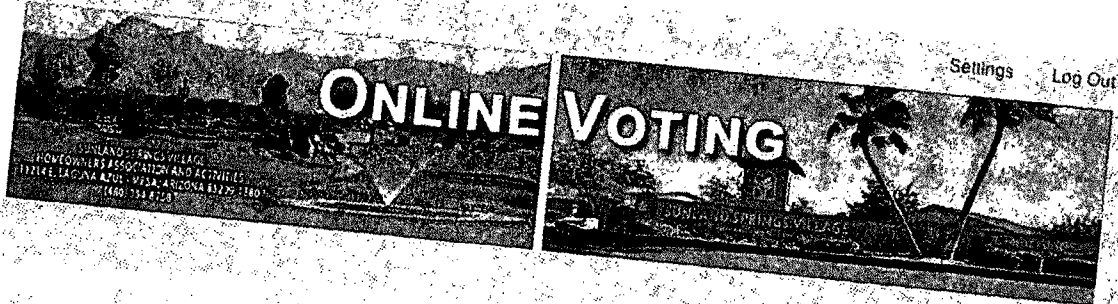
2 John F. Sullivan, Esq. (Bar # 023018)  
3 Attorney for Petitioner  
4 1909 E. Ray Rd. Suite 9198  
5 Chandler, AZ. 85225  
6 480-818-5070  
7 email: Info@SullivanAppeals.com  
8

9 **CERTIFICATE OF SERVICE**

10 A copy hereof was served this date upon Respondent's counsel via email at  
11 cgallacher@hoalaw.biz under a prior agreement between counsel to accept filings and other  
12 correspondence by email.

13 /s/ *John F. Sullivan*

14 John F. Sullivan, Esq. (Bar # 023018)  
15 Attorney for Petitioner  
16



Settings Log Out

ACCOUNT:  
PROPERTY:  
VOTE WEIGHT:

## 2024 Directors Election

### Sunland Springs Village HOA 2024 Annual Meeting

Please cast your vote by checking the box next to your selection(s). This ballot is valid for this vote, establishing quorum, and is irrevocable once submitted. If your association documents so provide, this ballot may be used at a subsequent meeting should quorum requirements not be met.

Quorum needed: 10%  
Online voting ends: February 26, 2024 at 5pm AZ

[READ LESS](#) ^

Vote on 2 items and for up to 2 candidates (choices will be on the next screens)

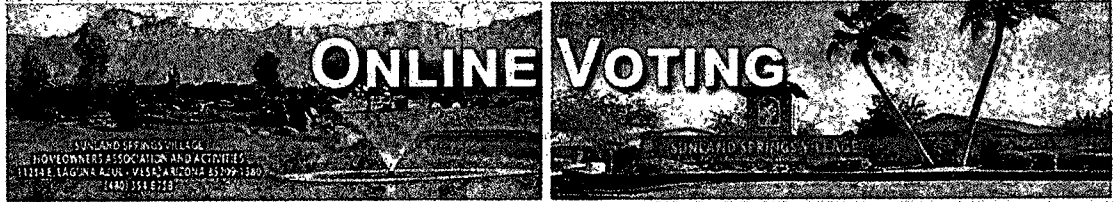
Vote to make quorum only (not voting on items and candidates)

[← Exit Ballot](#)

#### 2024 DIRECTORS ELECTION

1. Make a Choice
2. Items
3. Candidates
4. Review and Confirm

[Next Step](#) →



ACCOUNT:  
PROPERTY:  
VOTE WEIGHT:

## 2024 Directors Election

### Sunland Springs Village HOA 2024 Annual Meeting

Please cast your vote by checking the box next to your selection(s). This ballot is valid for this vote, establishing quorum, and is irrevocable once submitted. If your association documents so provide, this ballot may be used at a subsequent meeting should quorum requirements not be met.

Quorum needed: 10%  
Online voting ends: February 26, 2024 at 5pm AZ

[READ LESS](#) ^

### 2023 Annual Meeting Minutes

[Click here to view the 2023 annual meeting minutes](#)

SUMMARY  
No items selected.

Approve - 2023 Annual Meeting Minutes as Presented

Disapprove - 2023 Annual Meeting Minutes as Presented

### IRS Revenue Ruling 70-604

IRS Revenue Ruling 70-604 allows the Association to carry-over excess operating income, if any, to the following year.

Approve - IRS Revenue Ruling 70-604

Disapprove - IRS Revenue Ruling 70-604

[← Back](#)

[Next Step](#)

#### 2024 DIRECTORS ELECTION

1. Make a Choice

2. Items

3. Candidates

4. Review and Confirm



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**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

In the Matter of:  
**A Z N H Revocable Trust,**  
  
Petitioner  
vs.  
**Sunland Springs Village Homeowners Association,**  
  
Respondent

**File No.: 24F-H047**  
**Docket No.: 24F-H047-REL-RMD**  
**NOTICE OF HEARING**  
(Assigned to ALJ Kay Abramsohn)

**FINDING OF FACT**

1. On or about November 5, 2024, the Office of Administrative Hearings (OAH) issued an Administrative Law Judge (ALJ) Decision ordering the denial of the Petitioner’s Petition. Pursuant to Arizona Revised Statute (A.R.S.) §32-2199.04, an aggrieved person may file a motion for rehearing or review with the Commissioner of the Arizona Department of Real Estate (Department).

2. On or about November 30, 2024, the aggrieved party (Petitioner) filed a Dispute Rehearing Petition with the Department.

3. On or about December 23, 2024, the opposing party (Respondent) provided a response to the Rehearing Petition.

4. On or about January 8, 2025, the Department issued an Order Denying the Petitioner’s Rehearing Request (Department’s Decision).

5. On April 17, 2025, the Honorable Judge Joseph P. Mikitish issued a Minute Entry through the Maricopa County Superior Court of Arizona (Superior Court). The Minute Entry included, in part:

a. An Order denying the Motion of the Superior Court to conduct an Evidentiary Hearing

b. An Order dismissing the appeal and remanding the matter to the Department

6. On or about May 24, 2025, the Department was notified of a Minute Entry.

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**ORDER**

The Department hereby grants the Petitioner's Dispute Rehearing Petition for the reason(s) outlined in the Rehearing Petition, which includes, in part:

1. 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. Error in the admission or rejection of evidence or other errors of law occurring during the proceeding.
3. That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion.
4. That the findings of fact or decision is not supported by the evidence or is contrary to law.

**NOTICE OF HEARING**

YOU ARE HEREBY NOTIFIED that under Arizona Revised Statutes ("A.R.S.") § 41-1092.01, a hearing on the above-captioned matter will be conducted through the Office of Administrative Hearings, an independent agency.

**Date of Hearing:  
July 24, 2025 at 9:00 a.m.  
Location:  
Office of Administrative Hearings  
1740 W. Adams St.  
Lower Level  
Phoenix, Arizona 85007**

Any person affected by this action must appear in person and can be represented by counsel. Parties or witnesses wishing to appear by video conference or telephone may, not later than 7 calendar days prior to the hearing date, request that the assigned Administrative Law Judge permit them to appear by video conference or by telephone. This must be done by contacting the Office of Administrative Hearings directly. Parties must be present during the giving all evidence to have a reasonable opportunity to inspect all documentary evidence and examine witnesses. Parties must also be present to evidence and argument on all relevant issues. Parties must be present to have subpoenas issued by the Administrative Law Judge to compel attendance of witnesses and production of evidence.

1 Information regarding procedures, practice pointers, or the online filing of motions is  
2 available through the Office of Administrative Hearings' website at [www.azoah.com](http://www.azoah.com), or by  
3 calling their offices at (602) 542-9826. The Office of Administrative Hearings has designated  
4 Kay Abramsohn, at the address listed above, as the Administrative Law Judge for these  
5 proceedings. If the Respondent does not appear, the hearing will proceed in the Respondent's  
6 absence. If the Petitioner does not appear, the Petition may be dismissed.

7 You are requested to be present at the hearing and produce all association rules and  
8 regulations and any amendments thereto, correspondence, associate policy statements and other  
9 relevant evidence, including photographs. **You are requested to bring three (3) copies of any**  
10 **documentary or photographic evidence.** You may present evidence through your own  
11 testimony and through the testimony of witnesses on your behalf. It is your responsibility to  
12 secure the attendance of your witnesses.

13 Additional information regarding rules for OAH, hearing procedures, preparing for your  
14 hearing, and frequently asked questions, may be found on OAH's website at [www.azoah.com](http://www.azoah.com).

15 **If you have filed any motions prior to the receipt of this Notice of Hearing, you must**  
16 **re-file the motions with the Office of Administrative Hearings (OAH) electronically or at**  
17 **the address listed above. With this notice, all oral and written communication should be**  
18 **directed to the OAH and a copy must be provided to the opposing party.**

19 **As the hearing is now scheduled before an Administrative Law Judge, there is no**  
20 **need by either party to copy the Arizona Department of Real Estate with motions,**  
21 **responses or further correspondence on the matter.**

22 Under the Americans with Disabilities Act (ADA), the Office of Administrative Hearings  
23 endeavors to ensure the accessibility of its hearings to all persons with disabilities. Persons with  
24 disabilities may request reasonable accommodations such as interpreters, alternative formats, or  
25 assistance with physical accessibility. Requests for accommodations should be made as early as  
26 possible to allow time to arrange the accommodations. If you require accommodations, please  
27 contact the Office of Administrative Hearings at (602) 542-9826.

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**QUESTIONS**

Any and all questions regarding the referenced case matter should be directed to OAH.  
For any and all general inquiries, please email [oah@azoah.com](mailto:oah@azoah.com). Their hours of operation are  
8:00am - 5:00pm Monday through Friday.

DATED this 27th day of June, 2025.

*Mandy Neat*

---

MANDY NEAT  
Deputy Commissioner  
Arizona Department of Real Estate

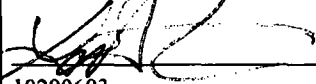
1 **E-FILE** of the foregoing this  
2 27 day of June, 2025, to:

3 ALJ Kay Abramsohn  
4 Office of Administrative Hearings

5 **COPY** mailed by First Class and  
6 Certified Mail on the 27 day of  
7 June, 2025, Return Receipts Requested to:

8 John F. Sullivan  
9 1909 East Ray Road, Ste 9198  
10 Chandler AZ 85225  
11 Receipt No.  
12 Email: [info@sullivanappeals.com](mailto:info@sullivanappeals.com)  
13 *Petitioner*

14 Sunland Springs Village  
15 4854 E Baseline Rd, Ste 104  
16 Mesa AZ 85206  
17 Receipt No.  
18 Email: [abailio@hoalaw.biz](mailto:abailio@hoalaw.biz)  
19 *Respondent*

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# Arizona Department of Real Estate (ADRE)

Homeowners Association Dispute Resolution

[www.azre.gov](http://www.azre.gov)

KATIE HOBBS  
GOVERNOR

SUSAN NICOLSON  
COMMISSIONER

100 North 15<sup>th</sup> 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"> <li>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.</li> <li>2. <input type="checkbox"/> Misconduct by the Department, Administrative Law Judge or the prevailing party.</li> <li>3. <input type="checkbox"/> Accident or surprise that could not have been prevented by ordinary prudence.</li> <li>4. <input type="checkbox"/> Newly discovered material evidence that could not with reasonable diligence have been discovered and produced at the original hearing.</li> <li>5. <input type="checkbox"/> Excessive or insufficient penalties.</li> <li>6. <input checked="" type="checkbox"/> Error in the admission or rejection of evidence or other errors of law occurring during the proceeding.</li> <li>7. <input checked="" type="checkbox"/> That the findings of fact or decision is arbitrary, capricious, or an abuse of discretion.</li> <li>8. <input checked="" type="checkbox"/> That the findings of fact or decision is not supported by the evidence or is contrary to law.</li> </ol>
--

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.



1 purposes' pursuant to ARIZ. REV. STAT. § 10-3708(F)." FAD p.5, ¶ 22. **The hearing**  
2 **transcript shows that Homeowner never made that argument or anything like it.**

3 The Homeowner has consistently argued that:

- 4 ➤ the HOA held an election using paper and electronic ballots;
- 5 ➤ A.R.S. § 33-1812(A)(7) requires the HOA to retain all electronic ballots and make  
6 them available for Homeowner's inspection; and,
- 7 ➤ the HOA did not retain the electronic ballots nor make them available for  
8 inspection.

9 See, generally, ALJ Hearing Transcript, including, but not limited to, the Homeowner  
10 Opening Statement (Tr. pp.9-10, lines 19-25 & 1-16, respectively). See HOA Opening  
11 Statement, Tr. p. 12, lines 1-2 ("As is established, this is a single-issue complaint  
12 regarding whether or not the Association complied with 33-1812.") See also, FAD p.1, ¶  
13 2 (ALJ finds Homeowner filed single issue petition claiming HOA failed to comply with  
14 A.R.S. § 33-1812(A)(7)).

15 The ALJ concluded that the HOA had complied with A.R.S. § 10-3708 and therefore  
16 prevailed at the hearing. The ALJ wrote, in part, that the election results produced by the  
17 HOA to the Homeowner "taken as a whole, document each vote for each member for  
18 each election item, in identifiable ways. ARIZ. REV. STAT. § 10-3708(F)(4) requires  
19 storage of 'electronic votes' not electronic ballots." FAD pp.8-9, ¶ 13.

20 There is nothing in the hearing transcript which illuminates how the ALJ landed upon  
21 A.R.S. § 10-3708(F)(4) to decide this controversy.<sup>2</sup> A.R.S. § 33-1812 imposes a  
22 requirement (independent from A.R.S. § 10-3708) that the HOA retain all ballots and  
23 make them available for homeowner inspection. The evidence (supported by the  
24 Petitioner's Exhibits and the hearing transcript) shows that the HOA failed to comply  
25 with the retention and inspection requirements of A.R.S. § 33-1812(A)(7).

---

<sup>2</sup> It should be noted that the ALJ's subject matter jurisdiction is limited as follows: "an administrative law judge shall adjudicate complaints regarding and ensure compliance with [the Planned Communities Act] and Planned Community Documents." Ariz. Rev. Stat. § 32-2199. The ALJ lacks authority to decide any controversies arising under the Nonprofit Corporation Act.

1       **II.     The HOA Did Not Produce the Electronic Ballots for Inspection**

2       At the hearing, the HOA presented over four hundred pages of documents which the  
3 HOA manager testified were created by VoteHOANow for the HOA (Tr. p.56, lines 4-5)  
4 and were “the results of the election” (Tr. p.57, lines 14-17). See also, Tr. p.38, lines 1-4  
5 & 22-25. The HOA attorney described the aforesaid documents as “the record of the  
6 electronic vote.” Tr. p.58, lines 8-12. The HOA Attorney also asserted that the HOA had  
7 provided every document in the HOA’s possession and that is sufficient to comply with  
8 the statute. Tr. p.61, lines 21-23.

9       The ALJ asserted at the hearing that the HOA did not produce any of the electronic  
10 ballots. Tr. p. 55, lines 14-22. Moreover, in the FAD, the ALJ found that HOA  
11 documents were “the electronic voting results” (FAD p.4, line 16) and the ALJ listed  
12 those documents received by the Homeowner in the FAD (pp.4-5, lines 17-20). No  
13 electronic ballots appear on the ALJ’s list of HOA-produced documents.

14  
15       **III.   The HOA Admits to Violating A.R.S. § 33-1812**

16       In a document filed with the ALJ, the HOA admits the following:

- 17       ➤ the HOA hired a vendor (VoteHOANow) to assist in the 2024 annual election;
- 18       ➤ prior to the election, the HOA provided a paper ballot to VoteHOANow;
- 19       ➤ VoteHOANow used the paper ballot to create an electronic ballot which was  
20       distributed to HOA voters;
- 21       ➤ 1,461 voters submitted the electronic ballot;
- 22       ➤ the HOA did not retain any of the electronic ballots;
- 23       ➤ after the election, the Homeowner requested inspection of all election  
24       materials, including all ballots; and,
- 25       ➤ the HOA did not produce any of the 1,461 electronic ballots for Homeowner  
26       inspection.

27       See Petitioner’s Hearing Exhibit 1 (the HOA filed document).

28       //



1 The ALJ further found:

2 Kathy Fowers, the General Manager of Association and the Custodian of  
3 Records, approved the ‘proof’ of the electronic ballot created by *Vote HOA*  
4 *Now* after she determined that the *Vote HOA Now*-created electronic ballot  
5 matched the paper ballot.

6 FAD p.3, ¶ 12.

7 If no ballot was required, and if no electronic ballot was used in the election,  
8 there would be:

- 9 ➤ No need for the HOA to provide a paper ballot to VoteHOANow;
- 10 ➤ No need for VoteHOANow to produce a proposed electronic ballot which  
11 matches a paper ballot; and
- 12 ➤ No need for the HOA manager to approve a proposed electronic ballot (a  
13 “proof”) by confirming the electronic ballot matches the paper ballot.

14  
15 ***c. HOA Manager Testifies that Electronic Voters See and Submit a***  
16 ***Ballot***

17 The HOA attorney elicited additional HOA manager testimony:

18 Q. Okay. So when a homeowner goes onto Vote HOA Now, what would  
19 they see?

20 A. I see the proof, so I see what they see. They see the -- a picture of the  
21 community and the community logo, so they know they’re on the right  
22 page. And it tells them the information they need to know, and it  
23 identifies which properties they’re sending in a vote for. And then it has  
24 the questions, and they have stack options and submit options to move  
25 forward and back. And at the end when they've -- and they have all the  
26 link to see all of the attachments and supporting documents. And then at  
27 the end, it shows the summary of everything they've voted for, and a  
28 final submit button, or they can go back and change any piece of that.

1 Q. And what happens when they click submit?

2 A. It submits for them, and they get tallied on their -- their end.

3  
4 Tr. pp.36-37, lines 4-25 & 1-4, respectively.

5 As previously stated, the ALJ found that the “proof” matches the paper ballot. FAD  
6 p.3, ¶ 12 (*supra*). Thus, when the manager testified, “I see the proof, so I see what they  
7 [the voters] see,” the manager is testifying that the electronic voter sees a ballot. *Supra*.  
8 The manager further testified that the electronic voter clicks a “submit button” which  
9 submits each voter’s selections on the electronic ballot. *Supra*.

10  
11 ***d. HOA Manager Testifies - Election Results Came From Ballots***

12 The HOA manager also testified about the source of electronic election results, and  
13 testified three (3) times that the results came from a **ballot**. Tr. p.43, lines 16-21; Tr.  
14 p.46, lines 15-25 cont. to p.47, lines 1-4.

15 By Order of the ALJ, The HOA submitted a list of hearing exhibits. HOA listed their  
16 Hearing Exhibit 14 as “**Electronic Votes cast** regarding the 2023 Annual Meeting  
17 Minutes and the IRS Revenue Ruling 70-604.” (Bold added.) [*HOA Exhibit 14 relates to*  
18 *two ballot questions: approval of the prior year minutes and adoption of an IRS policy.*]

19 During direct examination, the HOA attorney directed the HOA manager’s attention to  
20 HOA Exhibit 14 and asked, “Can you explain what this is?” Tr. p.50, lines 19-20. The  
21 manager testified, “These are the issues associated with the board of directors election  
22 **ballots.**” Tr. p. 51, lines 4-5 (bold added). And, after waiting for the ALJ to find the  
23 exhibit, the HOA attorney stated, “On these **ballots** there was more the homeowners were  
24 supposed to vote for besides just the directors who were left.” Tr. p.51, lines 16-17 (bold  
25 added). And, in further testimony about HOA Exhibit 14, the manager testified that  
26 election results were derived from a **ballot**. Tr. p. 52, lines 4-13.

1 So, herein-above, we have the manager acknowledging five (5) times that votes were  
2 cast by electronic ballot, and there is also a *Freudian slip* where the HOA attorney  
3 reveals his true thoughts – a ballot was used for electronic voting.  
4

5 ***e. ALJ Finds HOA Issued Reminders and Instructions***  
6 ***for Electronic Ballots***

7 The ALJ found that Petitioner’s Hearing Exhibits 3 & 4 are reminders and instructions  
8 about electronic ballots sent to HOA voters by the HOA. FAD p.3, ¶¶ 10-11.

- 9 ➤ **Petitioner’s Hearing Exhibit 3** consists of eleven (11) identical invitations to vote  
10 by electronic ballot (sent on different dates to HOA voters) which contain the  
11 following wording (bold added):

12  
13 “Your community needs your vote on the following **ballots**:  
14 2024 Directors Election  
15 2024 Bylaws Amendment”

16 \* \* \*

17 “Make your choices on the electronic **ballot** and submit”  
18

19 See Petitioner’s Hearing Exhibit 3.<sup>3</sup>

- 20 ➤ **Petitioner’s Hearing Exhibit 4** are the instructions on electronic voting sent by  
21 the HOA to HOA voters and it contains the following wording (bold added):

22 Voting online has three steps: . . . 3. **Make your choices on the ballot**  
23 **and submit.**

24 \* \* \*

25 When your (sic) submit your electronic **ballot**, you will receive a  
26 confirmation email from the voting vendor (VoteHOANow) indicating  
27 your successful submission of a **ballot**

28 See Petitioner’s Hearing Exhibit 4.

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<sup>3</sup> The ALJ specifically noted that the HOA instructions included, “Make your choices on the electronic ballot and submit.” FAD p.3, ¶ 10.

1 The above evidence is indisputably conclusive that the HOA used electronic ballots in  
2 the 2024 election.

3  
4 **V. The Collective Errors of the ALJ**

5 The ALJ's findings and conclusions are clearly erroneous, not supported by substantial  
6 evidence and are contrary to law. "An abuse of discretion exists when the record, viewed  
7 in the light most favorable to upholding the [FAD], is devoid of competent evidence to  
8 support the decision. An abuse of discretion also occurs where there has been an error of  
9 law committed in the process of reaching a discretionary conclusion." *Hurd v. Hurd*, 223  
10 Ariz. 48, 52 (Ariz. Ct. App. 2009) (cleaned up).

11 In the instant case, the record does not contain competent evidence to support the  
12 FAD, and the ALJ committed an error of law by incorrectly concluding that compliance  
13 with A.R.S. § 10-3708 (requiring retention of voting results) sufficed to comply with  
14 A.R.S. § 33-1812 (requiring retention and production of *ballots* for inspection).

15 "In Arizona, 'arbitrary action' has been characterized as unreasoning action, without  
16 consideration and in disregard of the facts and circumstances. An 'arbitrary' action is  
17 one taken 'capriciously or at pleasure,' or an action taken 'without adequate determining  
18 principle.' *Maricopa County Sheriff's Office v. Maricopa County Employee Merit System*  
19 *Commission*, 211 Ariz. 219, 222 (Ariz. 2005)(cleaned up). See *Motor Vehicle*  
20 *Manufacturers Assoc. of the United States, Inc. v. State Farm Mutual Auto. Ins. Co.*, 463  
21 U.S. 29, 43 (1983) (An ALJ acts arbitrarily by failing to "examine the relevant data and  
22 articulate a satisfactory explanation for its action including a rational connection between  
23 the facts found and the choice made.")

24 The applicable statute, A.R.S. § 33-1812(A)(7), requires retention and production of  
25 *ballots* for inspection. The FAD is an unreasoned decision which did not consider (and  
26 disregarded) the relevant facts and circumstances. The most significant and ignored facts  
27 are those in Petitioner's Hearing Exhibit 1, where the HOA admits all the facts which  
28 show the HOA violated A.R.S. § 33-1812(A)(7). The FAD is also arbitrary because the

1 ALJ's impermissible application of A.R.S. § 10-3708 renders an unsatisfactory  
2 explanation for its decision and, therefore, lacks a rational connection to the facts.

3 In short, the FAD is not supported by the evidence and is contrary to law. And, the  
4 FAD is arbitrary, capricious and an abuse of discretion.

5  
6 **VI. Ballot, User Interface or Google-like Form – It Doesn't Matter**

7 It should be noted that ballots are not the only thing to be retained for inspection. The  
8 statute requires that "ballots, envelopes and **related materials** . . . shall be retained in  
9 electronic or paper format and made available for member inspection" Ariz. Rev. Stat. §  
10 33-1812 (bold added).

11 The HOA admits they sent a ballot to electronic voters, but also assert it wasn't a  
12 ballot. Tr. p.13, lines 4-15 (in an apparent attempt to avoid culpability, the HOA attorney  
13 states electronic voters received "an electronic user interface," and also says it was  
14 similar to a "Google form"). Thus, if not a ballot, but a "user interface" or "Google  
15 form," that user interface or Google-like form is still "related materials" required to be  
16 retained and produced for inspection. The HOA did not retain the Google-like forms nor  
17 the user interfaces, nor produce them for inspection.

18  
19 **VII. Conclusion**

20 It must be emphasized that, per A.R.S. § 33-1812(A)(7), HOA members are  
21 entitled to inspect all ballots used in the election. A member need not show any  
22 cause or reason to inspect the ballots, and the statute is unambiguous – "ballots shall  
23 be retained in electronic or paper format and made available for member  
24 inspection." A.R.S. § 33-1812(A)(7).

25 The ALJ's impermissible application of A.R.S. § 10-3708 to decide this  
26 controversy is a clear error of law. A.R.S. § 33-1812 specifically states that the  
27 requirement to retain ballots and make them available for inspection prevails over  
28 any provision in A.R.S. § 10-3708. The evidence is indisputable that the HOA

1 violated A.R.S. § 33-1812 and, for unexplained reasons, the ALJ improperly  
2 applied A.R.S. § 10-3708 (without any prior notice to the Homeowner) to decide  
3 the controversy in the HOA’s favor.

4 The spreadsheets of election results (the “data lists”) presented at the hearing by  
5 the HOA are not relevant to inspecting the ballots. The statute does not allow the  
6 HOA to propose alternatives or provide substitutions to inspecting the electronic  
7 ballots used by voters. The HOA manager’s testimony about those ‘data lists’ was  
8 improperly allowed (*over the objection of the Homeowner*) by the ALJ – the data  
9 lists are not relevant.

10 Pursuant to A.R.S. § 32-2199, “an administrative law judge shall adjudicate  
11 complaints regarding and ensure compliance with” the Planned Communities Act  
12 and community documents. In this case, the ALJ failed to do so.

November 30, 2024

Petitioner, AZNH Revocable Trust  
By:

/s/ *John F. Sullivan*

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Attorney for Petitioner  
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# Aff. Exhibit 7

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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."<sup>1</sup>

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.

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<sup>1</sup> 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  
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By: OAH Staff

**Aff. Exhibit 8**

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Attorney for Petitioner

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF ARIZONA**

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

Petitioner

v.

**SUNLAND SPRINGS VILLAGE  
HOMEOWNERS ASSOCIATION,**

Respondent

No. 24F-H047-REL-RMD

**PETITIONER'S REQUEST FOR  
SUBPOENAS**

**(To: *Brian Crowe* and  
*Terry Garrett*, Directors,  
Sunland Springs Village HOA)**

**Hearing Date:  
September 26, 2025**

**Assigned to:  
Honorable Kay Abramsohn**

1 NOW COMES THE PETITIONER in the above-captioned matter and requests the  
2 accompanying Subpoenas be issued to **Brian Crowe** and **Terry Garrett** (Directors of Sunland  
3 Springs Village HOA).

4 It is anticipated that both of these witnesses shall testify that all voters in the year 2024,  
5 annual election held by the Respondent HOA used a ballot when voting. It is also anticipated  
6 that these witnesses shall also testify that they each provided content which appears in the

1 electronic ballot which the Petitioner provided to this Tribunal on August 14, 2025. Such  
2 testimony shall contradict the arguments and testimony previously presented by Respondent that  
3 no ballot was used in the Respondent's year 2024, electronic voting, and tend to support a  
4 conclusion that the electronic ballot which Petitioner provided to the Tribunal is the electronic  
5 ballot used by voters in the HOA's year 2024, election.

6 The referenced ballot was used by approximately 1,461 electronic voters, and Respondent  
7 neither retained those ballots nor produced those ballots for inspection as required A.R.S. 33-  
8 1812.

9 Wherefore, Petitioner respectfully requests that the accompanying Subpoenas be issued  
10 pursuant to A.R.S. § 41-1092.07, C so that the witnesses may testify on relevant matters.

11  
12 Dated: August 15, 2025

*/s/ John F. Sullivan*

13 John F. Sullivan, Esq. (Bar # 023018)  
14 Attorney for Petitioner  
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18 email: Info@SullivanAppeals.com  
19

20 **CERTIFICATE OF SERVICE**

21 A copy hereof was served this date upon Respondent's counsel via email at  
22 cgallacher@hoalaw.biz under a prior agreement between counsel to accept filings and other  
23 correspondence by email.

24 */s/ John F. Sullivan*

25 John F. Sullivan, Esq. (Bar # 023018)  
26 Attorney for Petitioner  
27



