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10 **IN THE ARIZONA SUPERIOR COURT**
11 **FOR MARICOPA COUNTY ARIZONA**

12 **AZNH REVOCABLE TRUST,**
13 by and through
14 **JOHN AND SUSAN SULLIVAN,**
15 **TRUSTEES, REAL PARTIES IN**
16 **INTEREST**

Appellant

17 vs.

18 **ARIZONA DEPARTMENT OF REAL**
19 **ESTATE,**

and

20 **SUNLAND SPRINGS VILLAGE**
21 **HOMEOWNERS ASSOCIATION**

Appellees

LC2025-000025-001 DT

**RESPONSE TO MOTION TO
ENFORCE JUDGMENT AND
ORDER TO SHOW CAUSE**

(Assigned to the Honorable
Joseph P. Mikitish)

23 The Arizona Department of Real Estate (“Department”) hereby notifies the Court
24 that it will appear, but take a passive or nominal role, in the order to show cause hearing.

25 The attached Memorandum of Points and Authorities is intended only to notify the Court of
26 why the Department is not, nor ever has been, a party to this action.

27 ///

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 AZNH Revocable Trust, by and through John and Susan Sullivan, Trustees, Real
3 Parties in Interest (“AZNH”) submits two reasons for a finding of contempt against the
4 Department following an order to show cause hearing. First, AZNH states that the Office of
5 Administrative Hearings (“OAH”) has refused to hold an evidentiary hearing pursuant to the
6 minute entry issued by the Honorable Joseph P. Mikitish (the “Order”). Second, AZNH
7 states that OAH has refused to issue subpoenas requested by AZNH.¹

8 Pursuant to the Order, which remanded the matter to the Department to conduct an
9 evidentiary hearing to address additional evidence proposed by AZNH, the Department filed
10 a request for hearing on remand (Exhibit A) and a Notice of Hearing (Exhibit B) with OAH.
11 As stated in Sunland Springs Village Homeowners Association’s Response in Opposition to
12 Plaintiff/Appellant’s Motion to Enforce Judgment and for Order to Show Cause, a hearing is
13 set at OAH in front of Administrative Law Judge (“ALJ”) Kay Abramsohn on September
14 26, 2025. As such, a hearing has been scheduled pursuant to the Order.

15 Pursuant to A.R.S. § 32-2199.01, homeowner’s association (“HOA”) disputes can be
16 handled through the HOA dispute process, overseen by the Department, as an alternative to
17 the civil court system. In 2016, the legislature passed legislation that placed the HOA
18 dispute process under the Department’s jurisdiction and provided limited statutory authority
19 governing how the Department was to administer the process. A.R.S. § 32-2199, *et seq.*
20 Pursuant to these statutes, the Department does not regulate HOAs, and acts solely as a
21 conduit for HOA disputes. *Id.* Specifically, these statutes permit the Department to review a
22 petition that is filed by a homeowner or an association to determine that it falls within its
23 jurisdiction. A.R.S. § 32-2199.01(D). If it does, then the Department must refer the matter
24 to OAH to schedule a hearing on the matter. *Id.*

25 Accordingly, all matters that go through this process are heard and decided by an
26

27

¹ Upon information and belief, OAH has since issued the subpoenas requested by AZNH.

1 administrative law judge at OAH as the Department is not statutorily authorized to hold
2 such hearings and is directed to refer them to OAH. *Id.* As such, the Department cannot
3 conduct any hearings, take any evidence, or render any substantive decisions regarding any
4 matter that is part of the HOA dispute process. While the Department is statutorily granted
5 an adjudicative function in other capacities, the legislature did not bestow any such role on
6 the Department with respect to HOA disputes. Further, OAH is an independent agency from
7 the Department and the Department does not have any authority to dictate or direct OAH's
8 actions.

9 As such, the Department made no decisions with regard to setting a date for
10 rehearing in this case or with regard to issuance of subpoenas. Once the case was turned
11 over to OAH, the Department took no action with regard to it, and takes no position on
12 whether the actions by OAH were in compliance with the Order.

13 The Department has no interest in the underlying dispute in this case, and took (and
14 still takes) no active part in the proceedings. As aforementioned, the Department is not in a
15 position to decide the dispute and has no role in the dispute other than acting as the gateway
16 to initiate the dispute process. For this reason, the Department is not capable of having any
17 pecuniary or proprietary stake in the outcome of the case. *See MVC Const., Inc. v.*
18 *Treadway*, 182 Ariz. 615, 620 (App. 1995); *Cortaro Water Users' Ass'n v. Steiner*, 148
19 Ariz. 314, 318 (1986) (holding that if an agency takes no role as advocate, it is a nominal
20 party, not subject to award of attorney's fees); and *Bromley Group, Ltd. v. Arizona Dept. of*
21 *Revenue*, 170 Ariz. 532, 539 (App. 1991) (holding that a nominal party must have no
22 pecuniary or proprietary stake in the outcome of the action). *See also Duwamish Valley*
23 *Neighborhood Pres. Coal. v. Cent. Puget Sound Growth Mgmt. Hearings Bd.*, 97 Wash.
24 App. 98, 100 (1999) (holding that "when a litigant seeks judicial review of [an adjudicative]
25 agency's decision, the agency is only a nominal party, not charged with defending the
26 correctness of the decision, and is without policymaking authority").

27 In conclusion, if the Court wishes more documentation of the Department's nominal

1 position, the Department will oblige the Court in whatever way is possible.

2 **RESPECTFULLY SUBMITTED** this 15th day of September, 2025

3 KRIS MAYES
4 Attorney General

5 */s/ Raya Gardner* _____
6 Raya Gardner
7 Assistant Attorney General
8 *Attorney for AZ Dept. of Real Estate*

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1 **ORIGINAL** of the foregoing filed
2 this 15th day of September, 2025, with:

3 Clerk of the Court
4 Maricopa County Superior Court
5 201 W. Jefferson St.
6 Phoenix, AZ 85003

7 **Courtesy copy hand-delivered**
8 **this same date to:**

9 Hon. Joseph P. Mikitish
10 Old Court House
11 Lower Level/ Div. 001
12 Phoenix, AZ 85003

13 **COPY** of the foregoing e-mailed
14 this same date to:

15 AZNH Revocable Trust,
16 John Sullivan
17 info@sullivanappeals.com

18 Mandy Neat, Deputy Commissioner
19 Liz Recchia, Assistant Commissioner for Regulatory Affairs
20 Vivian Nunez, Legal Assistant
21 Arizona Department of Real Estate
22 mneat@azre.gov
23 lrecchia@azre.gov
24 vnunez@azre.gov

25 /s/ S. Hack
26 Asst. to Raya Gardner
27

Exhibit A



OFFICE OF ADMINISTRATIVE HEARINGS REQUEST FOR HEARING

DATE: 5/27/2025
 TO: Casemanagement@azoah.com
 FROM: Vivian Nunez
 EMAIL (REQUIRED): vnunez@azre.gov
 DOCKET NO.: 24F-H047-REL-RMD

CAPTION (REQUIRED)
In the Matter of A Z N H Revocable Trust vs Sunland Springs Village Homeowners Association

Hearing Type (Appealable/Contested) _____ *
Date of Request (if appealable) _____ *Proposed Date/Time _____
* The date MUST be within 60 days of an appealable agency action hearing request, or within 60 days of this contested case hearing request UNLESS at least one of the following factors are true: <input type="checkbox"/> All parties agree to a date beyond 60 days <input type="checkbox"/> OAH to set case for intervening prehearing within 60 days BY CHECKING A BOX, THE AGENCY IS CERTIFYING TO THE OAH THAT THE FACTORS ARE TRUE.

Party Contact Information

Petitioner
John F. Sullivan 1909 East Ray Road, Ste 9198 Chandler AZ 85225
Phone: (480) 210-5070
Email: info@sullivanappeals.com

Respondent
Sunland Springs Village 4854 E Baseline Rd, Ste 104 Mesa AZ 85206
Phone: (480) 833-1001
Email: abaillio@hoalaw.biz

*
Phone: _____
Email: _____

OAH USE ONLY:

Assigned ALJ: _____ *

ASSIGNED AS	
HEARING	PREHEARING (if applicable)
DATE: _____	DATE: _____
TIME: _____	TIME: _____
LOCATION: _____	LOCATION: _____

SPECIAL ADVISEMENT	
FROM OAH	FROM AGENCY

Exhibit B

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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.

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, 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.

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. 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
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
19 *Respondent*

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21 _____
22 10290603

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