

2025 JAN 21 PM 1:02

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

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

Oral Argument Requested

**Assigned to:
Hon. Joseph Mikitish**

I. JURISDICTION

1
2 Pursuant to A.R.S. § 32-2199.01, the AZNH Revocable Trust (“Trust”) filed a Petition with
3 the Arizona Dept. of Real Estate alleging that Sunland Springs Village Homeowners Assoc.
4 (“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 **III. FAILURE TO PRODUCE THE ELECTRONIC BALLOT**

2 A.R.S. § 33-1812 provides, in pertinent part:

3 The association shall provide for votes to be cast in person and by absentee ballot
4 and, in addition, the association may provide for voting by some other form of
5 delivery, including the use of e-mail and fax delivery. **Notwithstanding**
6 **section 10-3708** or the provisions of the community documents, any action taken
7 at an annual, regular or special meeting of the members shall comply with all of
8 the following if absentee ballots or ballots provided by some other form of
9 delivery are used:

10 . . . 7. Ballots, envelopes and related materials, including sign-in sheets if used,
11 shall be retained in electronic or paper format and made available for member
12 inspection for at least one year after completion of the election.

13 A.R.S. § 33-1812(A) (bold added).

14 **A. The 2024 Election**

15 The HOA conducted an election of directors and annual meeting in February 2024, and
16 utilized the services of Strateja-XL, Inc.¹ (d/b/a *Vote HOA Now*) (“the Vendor”) to conduct the
17 HOA’s electronic voting. According to the HOA, “VoteHOANow creates an electronic ballot
18 based on the absentee ballot generated by the Association.” Petitioner’s Exhibit 1, p.3, lines 18-
19 19.

20 The election was conducted over a four (4) week time period. During that time, the HOA
21 sent all homeowners eleven (11), separate invitations to vote electronically. Each invitation
22 contained an electronic link to initiate voting and contained the following statements:

23 “Your community needs your vote on the following ballots:

24 2024 Directors Election

25 2024 Bylaws Amendment”

26 “Make your choices on the electronic ballot and submit.”

27 Petitioner’s Exhibit 3.

¹ Strateja-XL is a foreign corporation (Oregon) and, according to public records, is not authorized to transact business or conduct affairs in Arizona. Consequently, they do not have a registered agent in AZ.

1 The HOA also sent instructions for electronic voting which stated, in part:

2 “Make your choices on the ballot and Submit. . . . When you submit your
3 electronic ballot, you will receive a confirmation email from the voting vendor
4 (VoteHOANow) indicating your successful submission of a ballot.”

5 Petitioner’s Exhibit 4.

6 HOA records showed that 1,461 homeowners voted electronically. Respondent’s Exhibit 8,
7 Bates # SSV00230.

8 **B. The Inspection Request**

9 On February 28, 2024, the Trust submitted a written inspection request to the HOA which
10 read, in pertinent part:

11 “[W]ith respect to the Annual Meeting of Members & election concluding on
12 February 27, 2024, the Trust requests that you either: (1) make available for
13 inspection all ballots, envelopes, related materials and sign-in sheets related to the
14 aforesaid meeting and election; or, (2) produce the aforesaid ballots, envelopes,
15 related materials and sign-in sheets in electronic form. . . . If you have some, but
16 not all, of the above-referenced materials in electronic form, please produce your
17 electronic materials in electronic form only.” Petitioner’s Exhibit 5.

18 In response, the HOA produced over four hundred (400) pages of documents, but did not
19 produce any electronic ballots. Several, subsequent communications between the Trust and
20 HOA did not result in production of the electronic ballots.

21 **C. Complaint Petition & Response**

22 On April 20, 2024, the Trust filed a Petition with the ADRE alleging:

23 On February 28, 2024, AZNH Revocable Trust submitted a written request,
24 pursuant to A.R.S. 33-1812, A, 7, to inspect all ballots, envelopes, related
25 materials and sign-in sheets related to an HOA election concluding on February
26 27, 2024, and the HOA has repeatedly failed or refused to produce all such
27 materials (about 1500 ballots have not been produced).

1 On May 13, 2024, the HOA filed a single-sentence, Response: “All of the complaint items in
2 the Petition are denied.”

3 **D. HOA Claims It Produced All Its Records**

4 On June 19, 2024, the Administrative Law Judge (“ALJ”) issued a subpoena requiring
5 production of:

6 Authenticated copies of all absentee ballots provided to association members by
7 email or other electronic means, which were cast by association members during
8 the February, 2024, annual meeting of the members of Sunland Springs Village
9 Homeowners Association.

10 See **Exhibit B** (Subpoena).

11 On July 10, 2024, the HOA responded to the subpoena by producing 414 pages of
12 documents which were nearly identical to those previously produced. No electronic
13 ballots produced and no explanation for not producing them.

14 The Trust requested another subpoena and, the HOA filed a nine (9) page “Objection.”
15 See Petitioner’s Exhibit 1 (Respondent’s Objection to Motion for Additional Subpoena
16 Duces Tecum And Notice of Compliance with Original Subpoena Duces Tecum, dated
17 July 10, 2024).

18 The HOA was repeatedly adamant in their Objection that they had produced all
19 election-related materials and nothing had been withheld from the Trust:

20 [T]he Association has already produced pursuant to the June 19th subpoena
21 everything it has related to the election. There is nothing new or additional that the
22 Association can produce beyond the records already provided.

23 Objection, p.2, lines 10-12.

24
25 The Association explained to Petitioner that the electronic votes were reflected in
26 the results documents and voting member list provided by VoteHOANow, but that
27 VoteHOANow did not provide to the Association with a separate ballot for each
28 homeowner who voted electronically.

1 Objection, p.5, lines 6-11.

2
3 As explained herein, the Association allowed Petitioner to inspect every document
4 and record it possesses related to the 2024 election.

5 Objection, p.5, lines 14-16.

6
7 The Association provided in response to the first subpoena the same documents it
8 let Petitioner inspect pursuant to A.R.S. § 33-1812(A)(7) in connection with his
9 inspection request.

10 Objection, pp.5-6, lines 27-28 and lines 1-2, respectively.

11
12 [T]he Association cannot produce something that it does not have. Regardless of
13 whether the documents are requested pursuant to A.R.S. § 33-1812 or pursuant to
14 a subpoena, the Association can only provide the documents it possesses.

15 Objection, p.6, lines 7-11.

16
17 [T]he Association produced to Petitioner all the records kept in the usual course of
18 business, including the absentee ballots cast by homeowners in the 2024 election
19 as well as the results of the votes cast electronically by homeowners in the 2024
20 election. The Association is not required to produce pursuant to a subpoena
21 records that it does not have.

22 Objection, p.7, lines 8-13.

23
24 Petitioner already subpoenaed and received all the Association's records related to
25 the 2024 election. There is nothing else the Association can provide because there
26 is nothing else the Association has.

27 Objection, pp.7-8, lines 27 and 1-2 respectively.

1 The Association already produced everything it has related to the 2024 election.
2 Objection, p.8, lines 26-27.

3
4 The Association allowed Petitioner to inspect every document in its possession
5 related to the 2024 election. The Association held nothing back.
6 Objection, p.4, lines 23-26.

7 Petitioner's Exhibit 1.

8 At the Sept. 18, 2024, ADRE hearing, the HOA did not produce any electronic ballots and the
9 HOA attorney stated:

10 The Association's position with respect to this petition is they provided every
11 document that exists. And the documents that exist are sufficient.

12 Tr. p.61, lines 21-23.

13 The Association presented everything they had; the documents are accurate;
14 everything was provided to Mr. Sullivan.

15 Tr. p.62, lines 9-11.

16 **E. The HOA Withheld Relevant & Material Evidence**

17 The Affidavit which accompanies this Memorandum shows that the HOA's custodian of
18 records, Ms. Fowers, had the electronic ballot which the Vendor created for use in the electronic
19 election; she viewed and approved it. See **Exhibit A, Attachment 2**. The HOA did not
20 disclose the electronic ballot in response to the Trust's initial inspection request nor in response
21 to the ALJ subpoena.

22 It is important to note that Kathy Fowers was the only witness for the HOA and, at no time,
23 did Ms. Fowers testify that a "user interface" was used in the electronic election. The term "user
24 interface" was an argument by the HOA attorney without supporting evidence. See, e.g., Tr.
25 p.13-14, lines 4-25 and 1-9 respectively and Tr. p.60, lines 18-21.

26 At the ADRE hearing, the ALJ was having trouble understanding that the electronic ballot
27 had not been retained and made available for inspection. There were several exchanges on this
28 between the ALJ and the Trust Attorney. See Tr. pp. 20-21, lines 12-25, and 1-10 respectively;

1 see Tr. pp. 31-32, lines 6-25 and lines 1-13 respectively; Tr. pp. 38-40, lines 20-25, 1-25 and 1-3
2 respectively; and, Tr. pp. 41-42, lines 20-25 and 1 respectively.

3 Two excerpts from the above exchanges are illustrative:

4 The Court: [W]hat is it specifically that you believe they did not give you that
5 you're asking for?

6 Mr. Sullivan: The electronic ballots of 1,461 homeowners.

7 The Court: So you are, let me just make sure I understand, you are requesting
8 a screenshot of every one of the 1,461 ballots. Is that what you're
9 asking for?

10 Mr. Sullivan: Well, not necessarily a screenshot, Judge. But the ballots that
11 appeared to the voter as prepared by Vote HOA Now and each
12 voter used [as] a ballot. And so each ballot that was used by a
13 voter should have been retained and delivered for inspection.

14 Tr. p.39, lines 9-21.

15 The Court: My issue is whether or not they provided you with what you
16 requested and what's required to be provided under the statute.

17 Mr. Sullivan: That's correct, Judge.

18 The Court: Okay.

19 Mr. Sullivan: And I just want to show you that there was in fact a ballot used. I
20 think that's a priority because they have an obligation to produce
21 the ballot. So I'm trying to show you that in fact there was a
22 ballot that was used electronically.

23 The Court: Okay. Your position is they were required to do that, but you just
24 testified that you gave them a choice and you indicated it could be
25 electronic.

26 Mr. Sullivan: Right. They can produce a ballot either electronically or on paper.

27 Tr. p.20-21, lines 20-25 and 1-9.

28 The ALJ's Decision shows the misunderstanding continued and affected the decision:

1 Petitioner’s argument that the Association must provide an image of each
2 ‘electronic ballot’, as was voted by each member, is not well supported by ARIZ.
3 REV. STAT. § 10-3708(F). ARIZ. REV. STAT. § 10-3708(F)(4) requires an
4 online voting system to perform certain actions, one of which is that the online
5 voting system ‘stores electronic votes for recount, inspection and review
6 purposes.’ There is no evidence that *Vote HOA Now* either retains or ‘stores
7 electronic votes’ in any form other than the data list format that was received by
8 the Association, specifically as was documented in Association Exhibits 3, 14 and
9 15. Those *Vote HOA Now* data lists, taken as a whole, document each vote for
10 each member for each election item, in identifiable ways. ARIZ. REV. STAT. §
11 10-3708(F)(4) requires storage of ‘electronic votes’ not electronic ballots.

12 ALJ Decision, pp. 8-9 (¶ 13).

13 **At no time during the hearing, did the Trust, the HOA or the ALJ discuss, argue or**
14 **otherwise consider A.R.S. § 10-3708.** The hearing audio and transcript confirm so. The ALJ
15 has incorrectly stated that the Trust argued “that *Vote HOA Now* is required to retain images of
16 those actual online ballots for ‘recount, inspection and review purposes’ pursuant to ARIZ.
17 REV. STAT. § 10-3708(F).” ALJ Decision, p.5, ¶ 22. **The hearing transcript shows that**
18 **Trust never made that argument or anything like it.**

19 The Homeowner has consistently argued that:

- 20 • the HOA held an election using paper and electronic ballots;
- 21 • A.R.S. § 33-1812(A)(7) requires the HOA to retain all electronic ballots and
22 make them available for the Trust’s inspection; and,
- 23 • the HOA did not retain the electronic ballots nor make them available for
24 inspection.

25 See, generally, the hearing transcript, including, but not limited to, the Homeowner
26 Opening Statement (Tr. pp.9-10, lines 19-25 & 1-16, respectively). See HOA Opening
27 Statement, Tr. p. 12, lines 1-2 (“As is established, this is a single-issue complaint

1 regarding whether or not the Association complied with 33-1812.”) See also, ALJ Decision p.1,
2 ¶2 (ALJ finds Homeowner filed single issue petition claiming HOA failed to comply with
3 A.R.S. § 33-1812(A)(7)).

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

10 The undisclosed electronic ballot supports the Trust’s claims that: ► an electronic ballot was
11 used in the election; ► the HOA failed to retain those ballots; and, ► the HOA failed to produce
12 those ballots for inspection.

13 **F. Related Materials**

14 If the Court believes there was a “user interface” rather than a ballot, the “user interface” is
15 still required to be retained and made available for inspection pursuant to A.R.S. § 33-
16 1812(A)(7). The statute applies the same retention and inspection requirements to ballots and
17 related materials. The HOA did not produce any “user interface” for inspection.

18
19 **IV. 50 Second Video Eviscerates HOA’s “User Interface” Claim**

20 At the September, 18, 2024, ADRE hearing, the HOA attorney told the ALJ:

21 The process for casting a vote electronically occurs in a similar form as -- sorry, in
22 a similar manner as using a Google form. The voting homeowner follows a link to
23 a secure website where the homeowner must use a unique identifier to confirm
24 that they are, in fact, a homeowner and they had not voted already. But once
25 logged into the secure website, the voting homeowner engages with an electronic
26 user interface on the computer screen to select their choices of candidates. And

² 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.” A.R.S. § 32-2199. The ALJ lacks authority to decide any controversies arising under the Nonprofit Corporation Act (such as A.R.S. § 10-3708).

1 then they press submit. Once the homeowner submits their votes, the information
2 entered on the interface screen is recorded on a spreadsheet.

3 Tr. p.13, lines 4-14. [Tr. is Hearing Transcript.]

4 The Trust has voted several times in the HOA annual elections. Counsel for the Trust,
5 as a Trustee of the Trust, can avow to this Court that the process of voting by absentee,
6 paper ballot differs in only one significant way from electronic voting – it’s by hand-
7 written, paper ballot.

8 In paper voting: ► the Trust receives a paper ballot from the HOA; ► the Trust selects
9 its choices by marking the paper; and, ► submits the ballot to the HOA. Once submitted
10 to the HOA, the HOA Election Committee reads the ballot and records the vote(s).

11 In electronic voting, the electronic voter marks their choices on the electronic ballot
12 and, when the voter presses “submit,” the electronic ballot is delivered to the Vendor’s
13 computer which reads the ballot and records the vote(s).

14 The only difference between paper and electronic voting is that a computer, *and not a*
15 *person*, receives and reads the ballot, and records the vote(s). Compare the paper ballot
16 (Petitioner’s Exhibit 12) with the electronic ballot (Exhibit A, Attachment 1); they both
17 solicit the same choices by the voter.

18 A short video produced by the Vendor, and described in Exhibit A, ¶¶ 11-12, fully
19 supports the Trust’s claim that an electronic ballot was used in the 2024 HOA election, and
20 fully eviscerates the HOA’s attorney’s claim that there was no electronic ballot. The video
21 explains that the electronic voting process uses a ballot. As stated in the Affidavit, the
22 video is available from the Vendor at two locations:

- 23 1. <https://www.votehoanow.com/how-it-works/voting-online-website.php>
- 24 2. <https://youtu.be/fp4gjm7ajMA>

25 //
26 //
27 //
28 //

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

V. A.R.S. § 12-910(E)

The opening Brief shall show that the existing administrative decision lacks support by substantial evidence, is contrary to law, and is arbitrary and capricious or is an abuse of discretion.

The existing administrative record contains, among other things:

- HOA Bylaws which require election of directors by “electronic or paper ballot” (Petitioner’s Exhibit 2);
- HOA Bylaws which require that the HOA “shall provide a ballot by mail or electronically to each Member of the Association” (Petitioner’s Exhibit 2);
- The eleven (11) invitations to vote by electronic ballot sent to all homeowners (Petitioner’s Exhibit 3);
- The HOA instructions for electronic voting (“Make your choices on the ballot and Submit”) (Petitioner’s Exhibit 4);
- The HOA record showing 1,461 homeowners (Association Members) voted electronically (Respondent’s Exhibit 8, Bates # SSV00230); and,
- Petitioner’s Exhibit 1 (Respondent’s Objection, *infra*).

In Petitioner’s Exhibit 1, the HOA admits the following:

- ▶ The HOA hired a vendor (VoteHOANow) to assist in the 2024 annual election;
- ▶ Prior to the election, the HOA provided a paper ballot to VoteHOANow;
- ▶ VoteHOANow used the paper ballot to create an electronic ballot which was distributed to HOA voters;
- ▶ 1,461 voters submitted the electronic ballot;
- ▶ The HOA did not retain any of the electronic ballots;
- ▶ After the election, the Homeowner requested inspection of all election materials, including all ballots; and,
- ▶ The HOA did not produce any of the 1,461 electronic ballots for Homeowner inspection.

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 //

26 //

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 A

**AZNH Revocable Trust v. Sunland Springs Village Homeowners Assoc.
LC2025-000025**

AFFIDAVIT OF ATTORNEY JOHN F. SULLIVAN

1. I am a Trustee and attorney for AZNH Revocable Trust (“Trust”).
2. The Trust owns a home within Sunland Springs Village, a planned community in Mesa, AZ.
3. Sunland Springs Village Homeowners Association (“HOA”) is the nonprofit corporation created by declaration to own and operate the planned community and to assess members for operating expenses..
4. The HOA has hired FirstService Residential to manage the HOA and FirstService does so through their employee, Ms. Kathy Fowers.
5. Ms. Fowers has stated that she is the custodian of records for the HOA.
6. Strateja-XL, Inc. is a foreign corporation doing business in Arizona as *Vote HOA Now* (“the Vendor”) and they provided electronic voting services to the HOA for the February, 2024 HOA annual election.
7. On Dec. 3, 2025, the Trust sent an email to Ms. Fowers requesting all communications between the HOA and the Vendor during a specified time period.
8. On December 11, 2024, in response to the above request, Ms. Fowers sent 490 pages of documents to the Trust in electronic form.
9. While examining the documents, I found an email from the Vendor to Ms. Fowers which contained an electronic link to the Vendor’s proposed electronic ballot for the 2024 election. See the electronic ballot, **Attachment 1**, accompanying this affidavit.
10. I also found an email from Ms. Fowers to the Vendor approving use of this electronic ballot in the 2024 annual election. See email exchange, **Attachment 2**.
11. In addition to a link for the electronic ballot, I also found four, identical electronic links in the Vendor’s communications to Ms. Fower which lead to a fifty (50) second video produced by the Vendor demonstrating that an electronic voter makes selections on an electronic ballot and taps a “submit” button to submit the ballot to the Vendor. That link is: <https://www.votehoanow.com/how-it-works/voting-online-website.php>
12. The Vendor also invites viewing the same video (on a larger screen) at: <https://youtu.be/fp4gjm7ajMA>

I solemnly affirm, under penalty of perjury, that the foregoing statements are true and correct to the best of my understanding and belief.

January 21, 2025


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

ATTACHMENT 1



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 the 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 screen)

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

Exit Ballot

Next Step

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



ONLINE VOTING

ACCOUNT:
PROPERTY:
VOTE WEIGHT:

2024 Directors Election

Sunland Springs Village HOA
2024 Annual Meeting

Please cast your vote by choosing the box next to your selection(s). This ballot is valid for the 2024 establishing election, 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 6pm AZ

READ LESS ^

Candidates: Select up to 2

David Cross

Year served or Seasonal
Year-round

Know Association Documents
Somewhat familiar with

Know AZ HOA Laws
Not familiar with

Attend SVV Board Mtg.
Somewhat

Most important thing about the community
Safety

Reasons strongest to bring to the Board
Leadership

Budgeting & Financials
Strategic planning

Motivation for serving on the board
I am passionate about Sunland Springs Village and come to the Board as a voice for our whole community. I will make good decisions to benefit the future of our community with meeting the needs and wants of homeowners. I plan to commit the time required to be a solid contributor to the board. I am a creative problem solver and bring successful project management skills to the community. Transparency in management.

Top 3 Concerns
I have priorities as opposed to concerns. Keeping our community looking vibrant with updated and well-maintained amenities is a high priority. Setting short- and long-term objectives after understanding what homeowners want is always important. I don't think we should be afraid to invest in our great community and that sometimes may require us to think "outside the box". We must continue to address the maintenance of our amenities as a community.

Change
Meeting the financial demand of a community is a constant juggling act. THA can only be achieved with continued strong financial management, budgeting and forecasting. I think most financial information presented to the general public is a complete bore and well beyond what people want. I believe that financial information needs to be presented in a concise and understandable fashion. Homeowners must be able to understand the long-term financial decisions with the pros and cons so to why they were made.

Change
This is one of the most challenging issues with large communities. Often the majority of homeowners feel abandoned because they do not attend meetings but still want to understand change. It is important to elect a board that is not driven by small interest groups but more importantly fairly that will address the priorities of the whole community. Our homeowners need to be engaged so they always feel concerned to our great community. The challenge is meaningful communication. There is never too much good information!

SUSPENSE:
No candidates selected
2 CANDIDATES CHOICES LEFT

McPaul Dahlen

Year served or Seasonal
Seasonal

Know Association Documents
Somewhat familiar

Know AZ HOA Laws
Not familiar with

Attend SVV Board Mtg.
Rarely

Most important thing about the community
Community

Reasons strongest to bring to the Board
Leadership

Budgeting & Financials
Community spirit

Motivation for serving on the board
I am looking at my job's demands, and one of a tight corner transitioning out and a new group of SVV's soon coming in. What are good, sensible and amenities do we need to keep SVV strong, viable and attractive to new potential homeowners?

Top 3 Concerns
Fiscal responsibility: to use the resources we have in a judicious and productive way. On our farm, capital purchases were heavily scrutinized and only purchased if they added productivity to our operation.

Change
Advocate for community: Ability to see and discern what our community needs to sustain and maintain it. On our farm, it was imperative that we cost-effectively looked at new technology to sustain our farm's development.

Change
Good listener: The ability to listen to residents' needs and desires and bring to board level. This is the residents' facilities and will do my best to listen and implement their ideas.

Gary Canale

Year served or Seasonal
Seasonal

Know Association Documents
Not familiar with

Know AZ HOA Laws
Not familiar with

Attend SVV Board Mtg.
Rarely

Most important thing about the community
Adaptivity

Reasons strongest to bring to the Board
Leadership

Budgeting & Financials
Community spirit

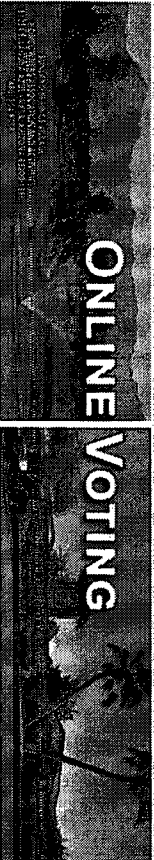
Motivation for serving on the board
I believe I can add value to the HOA Board by using my 20 years of experience working together with people with different ideas, thoughts and concerns. I am a good listener and want ideas brought forward to the group.

Top 3 Concerns
Preserving the value of our homes and properties, while being financially accountable.

Change
I want to continue the growth of our club and groups by using my experience and soliciting feedback from members and incorporating that information in decisions.

Change
With landscaping as one of our larger expenses, we need to be financially and environmentally responsible. We need sound judgement and research to make informed decisions.

You will have a chance to review your choices before submitting them



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 ▾

2023 Annual Meeting Minutes

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

Approve - 2023 Annual Meeting Minutes as Presented

Disapprove - 2023 Annual Meeting Minutes as Presented

SUMMARY
No items selected

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

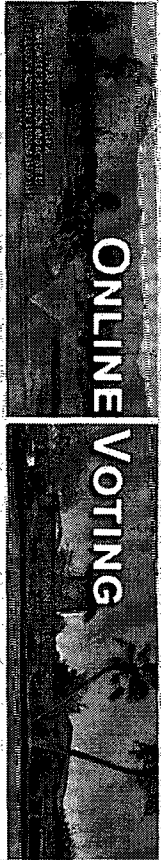
2. Items

3. Candidates

4. Review and Confirm



ONLINE VOTING



2024 Directors Election

Review and confirm your final choices below.

Items

- ✓ Selected: Approve 2023 Annual Meeting Minutes as Presented on 2023 Annual Meeting Minutes Change
- ✓ Selected: Approve "IRS Revenue Ruling 79-604" on IRS Revenue Ruling 79-604 Change

Candidates

- ✓ Selected: Brian Crowe Change
- ✓ Selected: Michael Dahlen Change

← Back

2024 DIRECTORS ELECTION

4 Review and Confirm

Submit →

ATTACHMENT 2

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

From Kathy Fowers <Kathy.Fowers@fsresidential.com>

Date Thu 1/25/2024 1:58 PM

To Jonathan Loblely <jon@votehoanow.com>

Hi Jonathan,

Thank you for the clarification. The invitation to vote, election ballot, and amendment ballot proofs are approved.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager
Direct 480.354.8758



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



EXHIBIT B

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

AZNH Revocable Trust,
by and through
John and Susan Sullivan, Trustees (R.P.I.)
Petitioner

v.

Sunland Springs Village Homeowners Association
Respondent

) Matter No. 24F-H047-REL

) **SUBPOENA (Duces Tecum)**

) Under the Authority of

) A.R.S. § 41-1092.07C



TO: Sunland Springs Village Homeowners Association

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

Authenticated copies of all absentee ballots provided to association members by email or other electronic means, which were cast by association members during the February, 2024, annual meeting of the members of Sunland Springs Village Homeowners Association.

to counsel for the Petitioner, Atty. John F. Sullivan, as soon as possible, but not later than July 2, 2024, at: 71 Route 104, Unit 4-62, Meredith, N.H. 03253.

DATED this 19th day of June, 2024.


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