

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

4 Tatum Highlands Community Association,
5 Inc.

6 **Petitioner,**

7 v.
8 Matthew P. Petrovic,

9 **Respondent.**

No. 25F-H019-REL-RHG

**ADMINISTRATIVE LAW JUDGE
DECISION**

10 **HEARING:** October 30, 2025 at 1:00pm and December 5, 2025 at 1:00pm

11 **APPEARANCES:** Attorney Danny Ford represented Petitioner Tatum Highlands
12 Community Association, Incorporated with witness Brian Lemke. Respondent Matthew
13 P. Petrovic appeared on his own behalf with witnesses Todd Pehrson, Thomas Coletto,
14 and Tracy Kennedy.

15 **ADMINISTRATIVE LAW JUDGE:** Nicole Robinson

16 **EXHIBITS ADMITTED INTO EVIDENCE:** Arizona Department of Real Estate
17 Case File. Petitioner Exhibits 1 through 13. Respondent Exhibits 1 through 5 and 7.

18 **FINDINGS OF FACT**

19 **BACKGROUND AND PROCEDURE**

20 1. The Arizona Department of Real Estate (“Department”) is authorized by
21 statute to receive and to decide petitions for hearings from members of homeowners’
22 associations and from homeowners’ associations in Arizona.

23 2. On or about October 17, 2024, Tatum Highlands Community Association,
24 Incorporated (“Petitioner” or “Association”) filed a three (3) issue petition with the
25 Department which alleged that Matthew P. Petrovic (“Respondent”) violated the
26 Association’s Covenants, Conditions, and Restrictions (“CC&Rs”) – Article IV, Section
27 4.2.1; Section 4.2.4; Section 4.2.7; and the Architectural Design Guidelines effective
28 April 1, 2024 (“Design Guidelines”).¹

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30
¹ See Department Case File – Tatum Highlands – Petrovic DRE Petition Revised.

1 3. The relief requested by Petitioner, other than ordering Respondent to pay
2 to Petitioner the filing fee required by ARIZ. REV. STAT. § 32-2199.01 if Petitioner
3 prevailed, includes the following:

- 4 a. Declare the Owner in Violation of Article IV, Section 4.2 et seq. of the
5 Declaration;
6 b. Declare the Owner in Violation of the Architectural Review Guidelines;
7 c. Order the Owner to remedy unauthorized modifications;
8 d. Order the Owner to bring the landscape into compliance;
9 e. Order the Owner to bring the exterior paint into compliance;
10 f. Order a party to abide by the section(s) of the condominium/planned
11 community document(s) specified; and
12 g. Impose a civil penalty based on the violation specified.²

13 4. On November 6, 2024, the Department sent a HOMEOWNER’S ASSOCIATION
14 (“HOA”) NOTICE OF PETITION to Respondent which informed Respondent of the petition
15 initiated against it.³ In addition, the petition informed Respondent to send a timely
16 response to the Department and to Petitioner no later than November 27, 2024.⁴

17 5. On or about November 21, 2024, Respondent returned his ANSWER⁵ to the
18 Department whereby he denied Petitioner’s claims and stated the following in pertinent
19 part:

20 In response to the paint allegations... “I purchased my house in 2021 and
21 neither me nor the seller were notified that paint could not be just 1 color.
22 For almost 2 years it was never an issue or for years prior. Over 10
23 neighbors on my block have lived here as long as 30 years also have their
24 homes painted 1 color with no prior issues.”

25 In response to the paver allegations... “[t]he Association’s governing
26 documents do not prohibit installation. Instead, the governing documents
27 simply require that homeowners obtain prior written approval before
28 installing modifications. ..Denying my ability to have a small driveway
29 extension, which has been professionally installed, such that my vehicles
30 can be parked on the driveway with sufficient room to access the vehicles,
without any justification for the denial is unreasonable...moreover, the
Association cannot selectively enforce the document... There are a
multitude of other homes with similar driveway extensions and, to our
knowledge, the Association has either approved the extensions or is not
taking enforcement action. Finally and most importantly, the Association’s

² *Id.*

³ See Department Case File – Tatum Highlands – Response Re Case #25H019.

⁴ *Id.*

⁵ *Id.*

1 *denial of the driveway extension and pathway for trash cans is a violation*
2 *of the Fair Housing Act, dragging what is often a several hundred pound*
3 *bin across landscaping rock is impossible. Furthermore, the 'LShape'*
4 *pathway desired by the Association is equally unacceptable."*

5 In response to the plant allegations... "[m]y front yard was approved and I
6 have not violated anything."⁶

7 6. On or about July 8, 2025, the Department referred this matter to the Office
8 of Administrative Hearings (OAH), an independent state agency, for an evidentiary
9 rehearing⁷ to address the issues set forth as follows:

10 The Petitioner's allegation within the petition states in regards to the paint
11 that "the exterior paint of the home is in disrepair," in violation of CC&Rs
12 Article IV, Section 4.2.7 and the Design Guidelines which provides "further
13 requirements, guidance, and direction to homeowners as well as
14 procedures for maintaining compliance."

15 The Petitioner's allegation further states in regards to the pavers that "a
16 non-compliant driveway extension was installed without obtaining
17 necessary prior approval," in violation of CC&Rs Article IV, Section 4.2.1.

18 Lastly, the allegation within the petition states in regards to the plants that
19 "prohibited plants/palms must be removed from the front yard landscape,"
20 in violation of CC&Rs Article IV, Section 4.2.4.⁸

21 **THE PARTIES AND GOVERNING DOCUMENTS**

22 7. Petitioner is a community association whose members own properties in
23 the Tatum Highlands residential real estate development located in Phoenix, Maricopa
24 County, Arizona.

25 8. Respondent is a Tatum Highlands property owner and a member of the
26 Association.

27 9. Trestle Management was the community's property manager up until
28 December 2024. The current property management team is First Service Residential.

29 10. The governing documents for the community include the Tatum Highlands
30 CC&Rs and the Design Guidelines.

31 ⁶ *Id.*

32 ⁷ Original hearing was held on April 15, 2025 before OAH Administrative Law Judge Moses-Thompson.
33 Respondent was not present. Respondent requested a rehearing with the Department and the request
34 was granted.

35 ⁸ See Department Case File – Tatum Highlands – Petrovic DRE Petition Revised.

1 The **Tatum Highlands CC&Rs**⁹ provides, in pertinent part, these sections:

2 Article IV, Section 4.2.1 – Architectural Control. Except as otherwise
3 expressly provided in this Declaration, the Architectural Guidelines or any
4 applicable Tract Declaration which has been approved by the Declarant,
5 (i) no improvements (whether temporary or permanent), alterations,
6 repairs, excavation, grading, lighting, landscaping or other work which in
7 any way alters the exterior appearance of any property within Tatum
8 Highlands or improvements thereon from its natural or improved state
9 existing on the date this Declaration is recorded shall be made and (ii) no
10 building, fence, exterior wall, residence or other structure shall be
11 commenced, erected, maintained, improved, altered or made without the
12 prior written approval of the governing Architectural Committee. All
13 subsequent additions to or changes or alterations in any building, fence,
14 wall or other structure, including exterior color scheme, and all changes in
15 the grade, lighting or landscaping of any area in Tatum Highlands, shall be
16 subject to the prior written approval of the governing Architectural
17 Committee.¹⁰

18 Article IV, Section 4.2.4 – Maintenance of Landscaping and Driveways.
19 Each owner will be required to comply with Design Guidelines for
20 landscaping and approved plant palette established by the governing
21 Architectural Committee, including but not limited to specific plant
22 selections and the timing of landscape installation.¹¹

23 Article IV, Section 4.2.7 – Repair of Building. No building or structure on
24 any area in Tatum Highlands shall be permitted to fall into disrepair and
25 each such building and structure shall at all times be kept in good
26 condition and repair and adequately painted or otherwise finished. In the
27 event any building or structure is damaged or destroyed, then, subject to
28 the approvals required by Subsection 4.2.1 above, such building or
29 structure shall be promptly repaired, rebuilt or demolished. In the event an
30 Owner fails to comply with this provision, the Board may give notice to the
offending Owner, and may then proceed to repair the building or
improvement and charge the Owner therefore as permitted in Paragraph
10.3.¹²

Tatum Highlands Architectural Guidelines, April 1, 2024, in pertinent
part these sections:¹³

IV. I. DRIVEWAYS, DRIVEWAY EXTENSIONS AND SIDEWALKS

⁹ *Id.* at pdf pages 6-72.

¹⁰ *Id.* at pdf page 26.

¹¹ *Id.* at pdf pages 27-28.

¹² *Id.* at pdf page 29.

¹³ *Id.* at pdf pages 73-91.

1 Driveways must be maintained in good condition and free from stains,
2 chips, or other defects. Replacement or repaired driveway materials must
3 be of the same type as the original driveway. No additional driveways to
4 double gates are allowed. Painting of paved surfaces is prohibited.

5 As an alternative to traditional concrete slab construction, driveway pavers
6 may also be professionally installed. Pavers must be of high-quality
7 materials, e.g., concrete or permeable stone. Permitted colors are tan,
8 beige, light brown, or similar earth-tones.

9 Any and all repairs, updates, replacement, or improvement to driveways
10 must be submitted in advance for Architectural Committee approval. All
11 project applications must include a photo of the proposed pavers, as well
12 as a full description of the product (i.e., color, size, material, make and
13 model) on the vendor/installer contract, estimate, or work order.

14 CCR 4.2.4 Maintenance of Landscaping and Driveway

15 Driveway extensions will be reviewed for approval providing the following
16 conditions are met:

- 17 • Extensions not to exceed two (2) feet (or to the edge of the garage
18 structure) in width shall be permitted on the interior and exterior sides
19 of the existing driveway.
- 20 • Submittals must include a plot plan with the following noted thereon:
21 (a) the location and dimensions of the proposed extension; (b) the
22 existing driveway dimensions; (c) the total linear feet of lot frontage; (d)
23 the material proposed for the driveway extension and (e) photographs
24 of the entire area to be enhanced.
- 25 • The total parking area may not exceed thirty (30) feet of contiguous
26 frontage, the width of the garage, or fifty percent (50%) of the lot width
27 (existing plus extension) as measured at its widest point, whichever is
28 less.
- 29 • Driveway extension must be at least one (1) foot off the side lot line.

30 Sidewalks installed to utilize the side gates will be reviewed for approval
and must meet the following conditions:

1. The additional sidewalk is four (4) feet or less in width and is setback
one (1) foot or more from the property line and one (1) foot or more from
the house and/or driveway.
2. Such setback areas between the property line and the sidewalk and the
house and the sidewalk must have groundcover installed to match the
existing front yard ground cover (e.g., decomposed granite, turf).
3. All sidewalks from the gate must attach to the top of the driveway and
be no wider than 4 feet.

1 4. Sidewalks running from the gate to the street are prohibited.

2 Additional sidewalks in any other location must be submitted for approval.

3 IV. P. PAINT COLORS

4 All houses shall be painted with at least two colors and not be
5 monochromatic in color. When repainting your house, you must choose
6 from the approved paint schemes for the Tatum Highlands Community. No
7 custom color schemes will be allowed.

8 Dunn-Edwards Corporation has hosted a website which has posted all the
9 approved paint schemes. Their website (<http://www.dunnedwards.com>)
10 allows homeowners to view the approved paint schemes. The approved
11 paint schemes are also available from The Tatum Highlands Community's
12 Management Company web portal.

- 12 • Body of house must be flat or matte paint.
- 13 • Pop-outs can either be painted the designated pop-out color or the
14 designated body color of the house. Flat or matte paint must be used
15 for the pop-outs.
- 16 • All front doors may be painted the designated paint scheme entry door
17 color, the body color, or the trim color that is painted on the home. Flat,
18 eggshell, or satin may be used for the front door. Stained front doors
19 may be considered but must be submitted for approval when
20 submitting for approval to paint your house.
- 21 • Trim (facia boards/area) shall be painted the trim color. If the house
22 does not have a true soffit and facia board but a stucco trim pop-out at
23 the facia location, this stucco trim shall be painted the approved trim
24 color or the approved pop-out color, Flat or matte paint must be used
25 on the trim.
- 26 • Garage doors must be painted a color on the house, either the body
27 color, the trim color or the pop-out color. Flat, eggshell, or satin may be
28 used on the garage door.
- 29 • Complete and submit a Paint Submittal Form to the Committee for
30 review. The paint submittal form is available from The Tatum
Highlands Community's Management Company web portal. Please
allow up to 45 days for review by the Committee.
- Upon receipt of written approval from the Committee, painting may
commence.
- All work must be started within 90 days of the date of the approval
letter.
- Upon completing your painting project, the Architectural Review
Committee (ARC) may inspect to assure compliance to the requested
paint scheme.

1 ***No gloss or semi-gloss paint shall be used on the exterior of the
2 house.***

3 V. A. FRONT YARD LANDSCAPING

4 Each owner shall install landscaping Improvements, together with any
5 sprinkler system or drip irrigation system sufficient to adequately water the
6 landscaping improvements in the front yard of their lot, any portion of a
7 right-of-way for a dedicated street which is between the boundary of the
8 owner's lot and the back of the curb of such street. All landscaping
9 Improvements installed in such areas must be approved by the Committee
10 prior to installation.

11 Every front yard must contain the following (addition guidelines are
12 included in the Approved Landscape Plant List):

- 13 • A minimum of two trees from the Approved Landscape Plant List or,
- 14 • One tree and one cactus from the Approved Landscape Plant List or,
- 15 • Two cacti from the Approved Landscape Plant List or,
- 16 • One tree and one shrub from the Approved Landscape Plant List or,
- 17 • One cactus and one shrub from the Approved Landscape Plant List.

18 Shrubs should be used in all front yards to soften and screen. Organic or
19 inorganic ground cover is required on all areas (no bare earth is allowed),
20 and underground irrigation to plant material is required in the front yard.

21 **HEARING EVIDENCE**

22 11. Brian Lemke, Association Vice President, testified on behalf of Petitioner.
23 Mr. Lemke has lived in the community since 2002, has been the vice president for the
24 last three years, and prior to that a Board Member-At-Large. Respondent presented
25 testimony on his own behalf. In 2021, Respondent purchased his residential home in
26 the community.¹⁴ Respondent presented witnesses Todd Pehrson, Thomas Coletto,
27 and Tracy Kennedy, on his behalf and whom all live in the community.¹⁵ Administrative
28 notice was taken of the Department's electronic file and NOTICE OF HEARING. The
29 substantive evidence of record is as follows:

- 30 a. The Association's CC&Rs were established on December 17, 1993,
with no amendments.

¹⁴ See Petitioner's Exhibit 1.

¹⁵ This Administrative Law Judge has read and considered each page of each admitted exhibit, even if not mentioned in this Decision. This Administrative Law Judge has also considered the testimony of every witness, even if the witness is not specifically mentioned in this Decision.

- 1 b. The Association had Design Guidelines that went into effect on July
2 19, 2018 (“2018 DG”).¹⁶ The current Design Guidelines went into effect
3 on April 1, 2024.¹⁷ The Association’s Design Guidelines provide further
4 requirements, guidance, and direction to homeowners as well as
5 procedures for maintaining compliance.
- 6 c. The introduction of the Design Guidelines state, “*The Board of*
7 *Directors, through the Tatum Highlands Community’s Management*
8 *Company, administers and enforces all terms and conditions after the*
9 *completion of projects as outlined herein. Owners shall be responsible*
10 *for the maintenance and repair of such items. The Association retains*
11 *the right to determine when items must be cleaned, repaired, or*
12 *replaced due to weathering, fading, tearing, etc.*”¹⁸
- 13 d. The Design Guidelines state the architectural review process as (1)
14 submit the application, (2) the review will be approved or disapproved
15 within 45 days, (3) if approved the homeowner must start the
16 construction/painting within 90 days or plans must be resubmitted for
17 review, (4) construction shall be completed within six months after
18 approval.¹⁹
- 19 e. **PAVERS**
- 20 i. Respondent installed a paver driveway extension some time prior
21 to September 2023.
- 22 ii. Respondent did not submit an architectural design request prior to
23 completing the extension.
- 24 iii. On August 21, 2023, the Association sent to Respondent a
25 COURTESY NOTICE that stated the driveway extension was in
26 violation of CC&Rs Section 4.2.1.²⁰
- 27 iv. On June 6, 2024, Respondent sent in an ARC request for the
28 paver driveway extension which was denied and provided “If it is
29 a walkway then the width exceeds guidelines. However, from the
30 sketch, it appears to be a driveway extension. This then fails for
the width of the driveway area. It also may fail for the total paved
and parking area as a percentage of the total front lot size.”²¹
- v. On November 8, 2024, the Association sent to Respondent a
VIOLATION NOTICE/MONETARY PENALTY because the driveway

¹⁶ See Respondent's Exhibit 5.

¹⁷ See Petitioner's Exhibit 7.

¹⁸ *Id.* at page 3.

¹⁹ *Id.* at pages 3-4.

²⁰ See Petitioner's Exhibit 5.

²¹ *Id.*

1 extension was still out of compliance. A \$200.00 fine was
2 assessed.²²

- 3 vi. Respondent filed ARC requests for the pavers in April 2025 and
4 June 2025; Petitioner denied both requests due to not meeting
5 the parameters of the CC&Rs and Design Guidelines.²³

6 **f. PAIN T COLORS**

- 7 i. Respondent purchased his home and at the time of purchase, the
8 home was painted one color. In 2016, the Design Guidelines
9 were revised to require homes to be painted in two different
10 colors.
11 ii. The Association noticed the Owner of Violation and the imposition
12 of Monetary Penalty related to exterior paint on: January 23,
13 2024; February 26, 2024; March 11, 2024; March 25, 2024; April
14 8, 2024; April 22, 2024; May 6, 2024; June 17, 2024; July 1, 2024;
15 July 15, 2024; July 29, 2024; August 12, 2024; August 26, 2024;
16 and on May 8, 2025.²⁴
17 iii. On October 3, 2024, a Notice of Violation, referred to the paint
18 violation as the exterior paint was in “disrepair.”²⁵
19 iv. On June 6, 2025, Respondent filed an ARC request for paint, the
20 #10 color scheme. On June 10, 2025, Petitioner approved the
21 request.²⁶

22 **g. PALM TREE/LANDSCAPING**

- 23 i. In the 2018 DG, pigmy date palms are approved for rear yards
24 only.²⁷
25 ii. On December 12, 2023, Respondent requested through ARC to
26 “add turf to upper level and plant two pigmy palms,” to the front
27 yard.²⁸
28 iii. On December 20, 2023, Respondent’s application was denied
29 and stated “palms are not allowed in front yard per the
30 guidelines.”²⁹
31 iv. After the December 20, 2023 denial, Respondent planted a pigmy
32 palm in his front yard.³⁰
33 v. The Design Guidelines effective April 1, 2024 states, “*****Important
34 Note**** Previous TH Landscape Plant lists contain trees, shrubs,

35 ²² *Id.*

36 ²³ See Petitioner’s Exhibits 10 and 11.

37 ²⁴ See Petitioner’s Exhibit 12.

38 ²⁵ See Petitioner’s Exhibit 3.

39 ²⁶ *Id.*

40 ²⁷ See Respondent’s Exhibit 5.

41 ²⁸ See Petitioner’s Exhibit 13 at pdf page 11.

42 ²⁹ *Id.*

43 ³⁰ See Petitioner’s Exhibit 9 at pdf page 1.

1 and other plant matter or materials that are no longer listed as
2 “approved.” If a homeowner has one or more of these plants the
3 Association will allow the owner to keep them. **That is, the**
4 **Association will not force any homeowner to remove**
5 **existing, well-maintained plants or materials that were**
6 **community compliant at time of planting.** However, future
7 planting or replacement of those plants of the same common
8 name or botanical name is prohibited, effective immediately.³¹

- 9
10 vi. The Association noticed the Owner of Violation and the imposition
11 of Monetary Penalty related to non-compliant plants/palms on July
12 2, 2024, and August 2, 2024.³²

13 ARGUMENTS

14 Petitioner’s argument

15 12. Petitioner argued that Respondent was in violation of the following
16 provisions in the CC&Rs and Design Guidelines: Article IV Sections 4.2.1 (paver
17 driveway extension), 4.2.4 (palm/plant), and 4.2.7 (paint); and needed to come into
18 compliance.

19 Respondent’s argument

20 13. Respondent asserted that the paint on his home was one color but never
21 in disrepair. Respondent testified that he planned to get his home painted after his ARC
22 request was approved on June 10, 2025, but needed to deal with this OAH petition filing
23 first. Mr. Pehrson and Thomas Coletto, Respondent witness and neighbor, both
24 testified that Respondent’s paint was not in disrepair. In regards to the paver driveway
25 extension, Respondent argued that he should be allowed to keep the driveway
26 extension, as is, because if the extension was any smaller, he would not be able to get
27 his trash cans down to the curb without dragging cans over landscape. In addition,
28 Respondent asserted that other neighbors have hardscape driveway extensions that
29 touch their neighbors lot line. Respondent argued that Petitioner requiring him to
30 remove the extension would be a violation of the Fair Housing Act. Lastly, in regards to
the installation of the pigmy palm tree, Respondent argued that many homeowners
have a pigmy palm tree planted in their front yard. Mr. Coletto testified that he planted

³¹ See Petitioner’s Exhibit 7 at pdf page 16.

³² See Petitioner’s Exhibit 4.

1 two pigmy palm trees in his front yard without filing an ARC application first. Mr. Coletto
2 further testified that he was fined and had to remove the palms around 2019/2020.

3 CONCLUSIONS OF LAW

4 1. The Department's jurisdiction pursuant to ARIZ. REV. STAT. §§ 32-2102 and
5 32-2199 *et seq.*, regarding a dispute between an owner and a community association.
6 The owner or association may petition the department for a hearing concerning
7 violations of community documents or violations of the statutes that regulate planned
8 communities as long as the petitioner has filed a petition with the department and paid a
9 filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

10 2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(A), 32-
11 2199.01(D), 32-2199.02, and 41-1092 *et seq.*, OAH has the authority to hear and
12 decide the contested case at bar. OAH has the authority to interpret the contract
13 between the parties.³³

14 3. In this proceeding, Petitioner bears the burden of proving by a
15 preponderance of the evidence that Respondent violated the aforementioned CC&Rs
16 and Design Guidelines.³⁴

17 4. A preponderance of the evidence means "proof which leads the [trier of
18 fact] to find that the existence of the contested fact is more probable than its
19 nonexistence."³⁵

20 5. In this case, Respondent constructed his paver driveway extension prior to
21 receiving approval from ARC. In fact, Todd Pehrson, Respondent's neighbor for the last
22 four years, testified that he was aware of neighbors who had their driveway extensions
23 approved and then moved on to construction. The evidence established that was not
24 Respondent's process for his driveway extension. Respondent provided multiple
25 photos³⁶ of neighbors' homes and the record established the following: out of the eight
26 photos – two houses had side gate pavers that touched their neighbor's lot lines, two
27 houses did not show pavers from the side gate, and four photos showed side gate

28 ³³ See *Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

29 ³⁴ See ARIZ. ADMIN. CODE R2-19-119.

30 ³⁵ *In re William L.*, 211 Ariz. 236, 238 (App. 2005) (quoting *Matter of Appeal in Maricopa Juv. Action No. J-84984*. 138 Ariz. 282, 283 (1983)).

³⁶ See Respondent's Exhibit 1.

1 pavers that did not touch their neighbor's lot lines.³⁷ Regardless, the record has
2 established that Respondent did not seek ARC approval prior to installing the paver
3 driveway extension. In addition, Respondent's claims regarding the Association
4 violating the Fair Housing Act cannot be addressed in this venue. As such, Petitioner
5 has established that Respondent violated CC&R, Section 4.2.1.

6 6. In regard to the pigmy palm tree matter, the evidence clearly established
7 that Respondent requested to plant two pigmy palm trees in his front yard, was denied
8 by ARC, and planted them anyway. The 2018 DG explicitly forbade planting pigmy
9 palm trees in front yards. In addition, the 2024 Design Guidelines plainly detail some
10 neighbors were able to keep plantings that were allowable under prior design
11 guidelines. Hence, Petitioner has established that Respondent violated CC&R Section
12 4.2.7.

13 7. Lastly, the record clearly established that Respondent's home was only
14 painted one color when he purchased his home. In order to come into compliance with
15 the two paint color scheme, Respondent planned to paint his house which was evident
16 per the ARC June 10, 2025 approval. Also, the evidence established from firsthand
17 witnesses that Respondent's paint was not in disrepair. Therefore, Respondent should
18 be given the opportunity to move forward with the ARC approval for painting his home
19 and any fines he received in regards to the paint be waived.

20 8. As such, the undersigned Administrative Law Judge concludes that,
21 because Petitioner sustained its burden of proof that Respondent committed the alleged
22 violations to the paver driveway extension and to the plant/palm tree, its petition must
23 be partially granted.

24 ORDER

25 Based on the foregoing,

26 **IT IS ORDERED** that Petitioner's petition be partially Granted in regards to the
27 paver driveway extension and to the plant/palm tree.

28 **IT IS FURTHER ORDERED** that Respondent reimburse Petitioner's filing fee of
29 \$1,000.00 in certified funds for the two issues.

30 _____
³⁷ *Id.*

Mesa, Arizona 85215
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By: OAH Staff

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