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Community Association*

BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS

KEITH A. SHADDEN,
Petitioner,

vs.

LAS BRISAS COMMUNITY
ASSOCIATION,
Respondent.

File No. 25F-H043
Docket No. 25F-H043-REL

**RESPONDENT’S PRE-HEARING
POSITION STATEMENT**

(ALJ Velve Moses-Thompson)

Respondent Las Brisas Community Association, through counsel, hereby submits its Pre-Hearing Position Statement in advance of the hearing in this matter for June 16, 2025 at 1:00 pm.

I. INTRODUCTION

Petitioner alleges the Association is “using incorrect CC&R section (5.10) to create [a] violation for garage door glass cutouts which fall under section 5.12.” The Association’s Governing Documents have clear and plain language demonstrating its intention. The Association asserts that it has properly interrupted the Governing Documents and consistently prohibited the use of reflective tint on garage door windows.

1 **II. BACKGROUND**

2 Petitioner filed his petition with the Arizona Department of Real Estate on or about
3 March 14, 2025 alleging that the Association was using an incorrect sections of the
4 Declaration of Covenants, Conditions, and Restrictions for Las Brisas (“CC&Rs”) and the Las
5 Brisas Community Association Design Guidelines (the “Guidelines,” collectively the
6 “Governing Documents”) for a violation relating to garage window cut outs. Keith Shadden
7 alleges that the Association misapplied Section 5.10 (“Windows”) of the CC&Rs when
8 issuing a violation concerning reflective tint installed on the glass cutouts of his garage door.
9 Petitioner has reflective material in the garage windows, which is a violation of the CC&Rs.
10 Petitioner takes a limited view of the CC&R provisions and contends that such features are
11 not “windows” and the reflective tint to his garage windows should instead be solely governed
12 by Section 5.12 (“Garages and Driveways”), which does not contain restrictions on materials
13 used on garage door windows.

14 The Association, through both the Architectural Committee and the Board of
15 Directors, reviewed and interrupted the Governing Documents to contain an express
16 prohibition on reflective materials in windows. Unwilling to accept the reality of the
17 restriction of reflective tint on garage window cut outs, Petitioner subsequently filed the
18 instant petition.

19 **III. ARGUMENT**

20 A. The Association Properly And Consistently Excludes Reflective Material From
21 Garage Door Glass Cutouts.

22 Petitioner claims that the Association incorrectly applied the restrictions set forth in the
23 CC&Rs and the Design Guidelines. The Association’s enforcement of Section 5.10 of the
24 CC&Rs against the reflective material placed on the Petitioner’s garage door glass cutouts is
25 proper and consistent with both the language and purpose of the governing documents.
26

1 Petitioner argues that Section 5.10 should strictly apply only to “traditional” residential
2 windows and not to glass cutouts in a garage door. This interpretation, however, is overly
3 narrow and inconsistent with the plain meaning and community-wide application of the
4 CC&Rs. Section 5.10 of the CC&Rs provides:

5 Within ninety (90) days of occupancy of a Residential Unit each Owner shall
6 install permanent suitable window treatments that are Visible from Neighboring
7 Property. No reflective materials, including, but without limitation, aluminum
8 foil, reflective screens or glass, mirrors or similar type items, shall be installed or
9 placed upon the outside or inside of any windows.

9 The operative term, “window,” is not defined in the CC&Rs, but it’s plain and commonly
10 understood meaning includes any transparent or translucent opening in a building structure
11 through which light passes. The garage door glass cutouts on Petitioner’s home are, by their
12 very nature and function, windows in that they are openings that allow visibility and light into
13 the garage and are plainly visible from the street and neighboring properties. There is also no
14 question that the material in the garage windows is reflective in direct contradiction to the
15 CC&Rs.

16 Petitioner’s argument that the garage door is governed exclusively by Section 5.12
17 ignores the complementary nature of the CC&R provisions. Arizona courts have held that
18 homeowners’ associations have a duty to treat members fairly and act reasonably in exercising
19 discretionary powers, including enforcement of covenants. *Tierra Ranchos Homeowners*
20 *Ass’n v. Kitchukov*, 216 Ariz. 195 (App. 2007). While strict construction of covenants may
21 apply in limited contexts, Arizona courts also recognize that when interpreting CC&Rs is
22 critical to assess the intent of the parties, as expressed in the CC&Rs as a whole. *Riley v.*
23 *Stoves*, 22 Ariz. App. 223 (1974). Here, the Declaration’s intent is made clear by Section 2.1
24 of the CC&Rs, which state in relevant part, “This Declaration is being recorded to establish a
25 general plan for the development and use of the Project in order to protect and enhance the
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1 value and desirability of the Project.” Section 2.1 of the CC&Rs reinforces the Association’s
2 interpretation because preventing reflective material maintains aesthetic uniformity and
3 prevent this violation of the restrictions from detracting from the appearance of the
4 neighborhood.

5 Furthermore, the Association has cited members for failures to adhere to the Governing
6 Documents. The notices to members regarding violations include reflective material in
7 windows, garage and otherwise. This consistent and reasonable interpretation aligns with the
8 community’s standards. The Association properly and consistently excludes reflective
9 material from garage door glass cutouts.

10 **IV. WITNESS LIST**

11 Jaime Cryblskey
12 c/o CHDB Law LLP

13 Jaime Cryblskey is a representative of City Property, the Association’s community
14 management company, Jaime may testify regarding her knowledge of the facts surrounding
15 the Petitioner’s violation of the Governing Documents, including but not limited to, the
16 Association’s Declaration, the Association’s Design Guidelines, the Association’s compliance
17 enforcement procedure, her observations of Mr. Shadden’s property and other properties in
18 the community, and the Board of Director’s decision regarding the Governing Documents.
19 Jaime may testify regarding the community standards and aesthetics. Additionally, Jaime may
20 testify regarding City Property’s procedures and processes related to the Association.

21 Keith Shadden

22 Keith Shadden is the Petitioner in this matter. Keith may testify regarding the events
23 related to the Petition. Additionally, Keith may testify regarding his observations regarding
24 the community.
25
26

1 **V. EXHIBIT LIST**

2 The Association hereby submits the following exhibits:

- 3 Exhibit A. Las Brisas CCRS
4 Exhibit B. Las Brisas Design Guidelines
5 Exhibit C. Violation Letters regarding Reflective Materials in Las Brisas
6 Exhibit D. Letter to Shadden dated August 19, 2024
7 Exhibit E. Letter to the Association undated
8 Exhibit F. Letter to Shadden dated September 16, 2024
9 Exhibit G. Letter to Shadden dated September 26, 2024
10 Exhibit H. Redacted October 15, 2024 Executive Minutes for Las Brisas
11 Exhibit I. October 15, 2024 Executive Material regarding Shadden's dispute
12 Exhibit J. Letter to Shadden dated October 23, 2024
13 Exhibit K. Shadden's Architectural Application dated October 24, 2024
14 Exhibit L. Letter to Shadden dated October 25, 2024
15 Exhibit M. Shadden's Architectural Application dated October 29, 2024
16 Exhibit N. Letter to Shadden dated December 2, 2024
17 Exhibit O. Letter to Shadden dated December 11, 2024
18 Exhibit P. Redacted December 17, 2024 Executive Minutes for Las Brisas
19 Exhibit Q. December 17, 2024 Executive Material regarding Shadden's appeal
20 Exhibit R. Letter to Shadden dated December 18, 2024
21 Exhibit S. Letter to Shadden dated February 13, 2024
22 Exhibit T. Letter to Shadden dated March 21, 2024
23 Exhibit U. Photo dated June 12, 2025

24 **VI. CONCLUSION**

25 The Association respectfully requests the Tribunal to find in favor of the Respondent
26 Association and dismiss the same at the hearing.

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RESPECTFULLY SUBMITTED this 16th day of June, 2025.

CHDB LAW LLP

By: /s/ Kyle Banfield, Esq.
Kyle Banfield, Esq.
Emily E. Cooper, Esq.
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*Attorneys for Las Brisas
Community Association*

ORIGINAL of the foregoing e-filed
this 16th day of June, 2025 with:

ALJ Velva Moses-Thompson
Office of Administrative Hearings

COPY of the foregoing mailed and emailed
this 16th day of June, 2025 to:

Keith A. Shadden
18600 West Pioneer Street
Goodyear, Arizona 85338
keith.shadden@park.edu
Petitioner Pro Per

By: /s/ Suzanne Hilborn