

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of

No. 24F-H047-REL-RHG

4 AZNH Revocable Trust,
5 Petitioner,
6 v.
7 Sunland Springs Village Homeowners
8 Association,
9 Respondent.

ORDER VACATING HEARING

10 By Order dated July 18, 2025, this matter was scheduled for rehearing to
11 convene on September 26, 2025 at 9:00 a.m.

12 On August 15, 2025, the undersigned issued a substantive Order addressing the
13 limited issues for rehearing which necessitated consideration of evidence necessary to
14 the ultimate decision.¹

15 On September 26, 2025 at 12:13 a.m., Petitioner filed its motion for Peremptory
16 Change of Administrative Law Judge ("Motion") which included a contemporaneous
17 request to change the hearing date. As the reason for the change in a hearing date,
18 Petitioner wrote:

19 For any future proceedings in the above-captioned matter, undersigned
20 counsel respectfully requests any such proceedings be set on or after
21 December 15, 2025. As reasons therefore, the Trustees are traveling on a
22 pre-planned, pre-paid, non-refundable trip out of Arizona and out of the
23 U.S.A. beginning Sept. 27, 2025, and returning to Arizona November 3,
24 2025.

25 At the time set for continued hearing on September 26, 2025 at 9:00 a.m., both
26 parties' representatives arrived at the Tribunal. The parties informally discussed with
27 the undersigned (a) Petitioner's Motion and (b) Respondent's written objection to the
28 Motion and request.² The discussion took place off the record.

29 ¹ See *Marsin v. Udall*, 78 Ariz. 309, 279 P.2d 721 (1955) (modifying the previously adopted-Barry rule,
30 finding "if a judge is allowed to receive evidence which of necessity is to be used and weighed in deciding
the ultimate issues, it is too late to disqualify him on the ground of bias and prejudice.")(citing *Allan v.*
Allan, 21 Ariz. 70, 185 P.2d 539 (1919). See also *Arizona Conference Corp of Seventh Day Adventists v.*
Barry, 72 Ariz. 74, 231 P.2d 426 (1951).

² Respondent's objection was filed to the Tribunal at 8:53 a.m. on September 26, 2025.

1 While the parties engaged in informal discussion, the Tribunal's Interim Director
2 reviewed the Motion and determined the Motion to be untimely.³

3 After receiving the Interim Director's decision, the undersigned informed the
4 parties that the matter would proceed to go on the record. However, before the
5 undersigned had the opportunity to actually begin an audio administrative recording for
6 the matter, Petitioner's representative left the hearing room and did not return. As a
7 result, Petitioner presented no evidence or argument on the record as to the issue for
8 rehearing, or as to its Motion and request.

9 At the time of the hearing, the undersigned denied the Motion and request as
10 being untimely filed. Respondent presented its written and oral objections to the Motion
11 and request on the record and moved to dismiss the matter due to Petitioner's failure to
12 proceed with the matter. Based on the foregoing,

13 IT IS ORDERED Respondent's motion to dismiss is granted,

14 IT IS FURTHER ORDERED Petitioner's case is dismissed based on the failure to
15 proceed with the matter.

16 ORDERED this day, October 9, 2025.

17 /s/ Kay A. Abramsohn
18 Administrative Law Judge
19

20 Copy mailed/e-mailed/faxed to:

21
22 Susan Nicolson
23 Commissioner
24 Arizona Department of Real Estate
25 SNicolson@azre.gov
26 vnunez@azre.gov
27 djones@azre.gov
28 labril@azre.gov
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³ See ARIZ. ADMIN. CODE R2-19-106. See *State v. Neil*, 102 Ariz. 110, 113, 425 P.2d 842 (1967), discussing *Arizona Conference Corp of Seventh Day Adventists v. Barry*, 72 Ariz. 74, 231 P.2d 426 (1951) (adopting a rule for timeliness of peremptory affidavit of bias and prejudice).

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By OAH Staff