

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of

No. 25F-H047-REL

3 Scott D Haferkamp,
4 Petitioner,

**ADMINISTRATIVE LAW JUDGE
DECISION**

5 v.

6 Artisan Parkview Condominium
7 Association, Inc.,
8 Respondent.

9 **HEARING:** October 21, 2025

10 **APPEARANCES:** Scott D. Haferkamp represented himself. Attorney Daniel S.
11 Francom represented Artisan Parkview Condominium Association, Inc.

12 **ADMINISTRATIVE LAW JUDGE:** Kay A. Abramsohn

13 **EXHIBITS ADMITTED INTO EVIDENCE:** Notice of Hearing File (File), provided
14 by the Department of Real Estate.¹ Petitioner Exhibits A through F.² Respondent
15 Exhibits A through F.

16 **FINDINGS OF FACT**

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

20 2. On or about March 20, 2025, Scott D. Haferkamp (“Petitioner”) filed a petition
21 (“Petition”) with the Department against the Artisan Parkview Condominium Association,
22 Inc. (“HOA”). The Petition indicates that it is a one-issue Petition; Petitioner paid a
23 \$500.00 filing fee for the Petition. The Petition, with attachments, contained 147 pages
24 with each page labeled with numbers and letters.

25 3. In the Petition, Petitioner alleged that HOA is in violation of the following
26 provisions: (a) CC&Rs Article 2, Section 2.3; (b) Bylaws Article 2.2; and (c) Ariz. Rev.
27 Stat. § 33-439. The attached explanation letter recited multiple concerns over a lengthy
28 period of time and contained multiple issues.

29 ¹ The File contains background documents, including Petitioner’s Petition and attachments and
30 Respondent’s Response. Collectively, Petitioner’s attachments are labeled beginning with 1A and ending
with 19B.

² For the hearing, Petitioner filed exhibits labeled A, B, and C, and supplemented with three other filings
(now labeled as D, E, and F).

1 4. The Department referred the matter to the Office of Administrative Hearings
2 (“OAH”), an independent state agency, for an evidentiary administrative hearing.

3 5. At an August 26, 2025 pre-hearing conference, the parties discussed the matter
4 and their respective positions, including whether this was the appropriate jurisdiction for
5 Petitioner to pursue each of his arguments regarding alleged statutory application or
6 violations. Petitioner was advised by the Tribunal that he needed to clarify his issues as
7 he was limited to one issue, having filed and paid for a one-issue Petition.

8 6. By Order dated September 3, 2025, the hearing was continued to be conducted
9 on October 21, 2025.

10 7. On October 3, 2025, Petitioner filed a clarification, indicating that his complaint
11 would be limited to “lack of action on signed homeowner petition and the HOA/board not
12 providing guidelines/rules for solar.”

13 **BACKGROUND**

14 8. HOA is a residential development located in the City of Phoenix in Maricopa
15 County, Arizona. The development consists of 35 condominiums in separate buildings.³

16 9. Tim Pawlak has been President of the HOA Board for 21 years.⁴

17 10. In September of 2014, Petitioner submitted an Application for Design Review
18 (“Application”) for the addition of solar panels to his condominium; he included panel
19 information, drawings, and the name of his anticipated licensed contractor for the solar
20 installation.⁵

21 11. By letter dated September 26, 2014, HOA denied the Application.⁶

22 12. Thereafter, Petitioner sought out like-minded owner-residents and collected 12
23 signatures regarding the issue of solar installations.⁷ Petitioner submitted the petition to
24 the HOA through the property management company, Vision Community Management
25 (“Vision”). The undated petition stated as follows:

26 ³ Mr. Pawlak Testimony.

27 ⁴ Mr. Pawlak testified that there is one other Board member and that there can be three Board members.
28 See HOA Exhibit B [Bylaws, Article III, Section 3.1].

29 ⁵ See Petitioner Attachment 3B-3C.

30 ⁶ See Petitioner Attachment 3A.

⁷ The 12 signatures included Petitioner. See Petitioner Attachment 4A, 4E-4K.

1 I have collected the necessary 25% of homeowner signatures for
2 meeting/vote on the issue of solar panels on roof.⁸

3 With the petition, Petitioner provided an example of a solar panel guideline from a
4 community located in California.⁹

5 13. In September of 2015, Petitioner again filed a “petition” with Vision regarding the
6 issue of solar panel installation on community roofs.¹⁰

7 14. By email dated September 2, 2015, the Community Manager indicated to
8 Petitioner that the issue of solar panel installation would be placed on the Agenda for
9 discussion at the September 24, 2015 Board meeting.¹¹

10 15. The Minutes from the September 24, 2015, Board meeting indicate that the
11 legalities of solar installation on common areas was discussed but no action was taken
12 and the issue was tabled to the next Board meeting.¹²

13 16. On or about August 15, 2024, Petitioner filed an Application for installation of
14 Tesla batteries inside his garage; he included drawings, and the name of his anticipated
15 licensed contractor for the battery installation.¹³

16 17. By letter dated October 4, 2024, HOA denied the Application.¹⁴

17 18. On February 2, 2025, Petitioner submitted an Application for the addition of solar
18 panels and the requisite battery backup to his home; he included equipment
19 information, drawings, and the name of his anticipated licensed contractor for the solar
20 installation.¹⁵

21 19. By letter dated March 4, 2025, HOA denied the Application indicating that such
22 an installation would involve significant physical attachments and penetration of the
23 common roof as well as conduits and boxes mounted on the exterior walls.¹⁶ HOA

24 ⁸ The Bylaws gives the President discretion to call for a special meeting of the homeowners, i.e., the
25 “Members” of HOA, on receipt of a written request signed by at least 25% of the total eligible members.

26 ⁹ See Petitioner Attachment 4B-4D.

27 ¹⁰ The hearing record does not contain a copy of the specific document.

28 ¹¹ See HOA Exhibit D.

29 ¹² See HOA Exhibit F.

30 ¹³ See Petitioner Attachment 6B-6C.

¹⁴ See Petitioner Attachment 6A.

¹⁵ See Petitioner Attachment 11A-11V.

¹⁶ See Petitioner Attachment 12A-12B.

1 been discussed before, and that the Board rejected the Application(s) determining that
2 such installation could not be done. Mr. Pawlak presumed that the attorney had been
3 invited to the September 2015 meeting, likely because he would have received an email
4 from Visions that Petitioner wanted to discuss the solar issue.

5 24. Petitioner did not recall any discussion of the solar installation issue taking place
6 at the September 2015 meeting.

7 25. Mr. Pawlak did not recall having seen the [2014 and 2015] homeowner petitions.

8 Conclusions of Law

9 1. This matter lies within the Department's jurisdiction. Pursuant to Ariz. Rev. Stat.
10 §§ 32-2102 and 32-2199 et al., regarding a dispute between an owner and a planned
11 community association, the owner or association may petition the department for a
12 hearing concerning violations of community documents or violations of the statutes that
13 regulate planned communities as long as the petitioner has filed a petition with the
14 department and paid a filing fee as outlined in Ariz. Rev. Stat. § 32-2199.05.

15 2. Pursuant to Ariz. Rev. Stat. §§ 32-2199(2), 32-2199.01(D), 32-2199.02, and 41-
16 1092, OAH has the authority to hear and decide the contested case at bar and to order
17 a Respondent to follow the alleged operative governing documents. OAH does not
18 have authority to award damages.

19 3. In this proceeding, Petitioner bears the burden of proving by a preponderance of
20 the evidence that Respondent HOA violated the alleged CC&R or Bylaws provisions.¹⁸

21 4. "A preponderance of the evidence is such proof as convinces the trier of fact that
22 the contention is more probably true than not."¹⁹ A preponderance of the evidence is
23 "[t]he greater weight of the evidence, not necessarily established by the greater number
24 of witnesses testifying to a fact but by evidence that has the most convincing force;
25 superior evidentiary weight that, though not sufficient to free the mind wholly from all
26 reasonable doubt, is still sufficient to incline a fair and impartial mind to one side of the
27 issue rather than the other."²⁰

28 ¹⁸ See ARIZ. ADMIN. CODE R2-19-119.

29 ¹⁹ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

30 ²⁰ BLACK'S LAW DICTIONARY 1220 (8th ed. 1999).

1 5. The Bylaws, Article II, Section 2.2 provides as follows:

2 Special meetings of the Members may be called at any time by the
3 President or by a majority of the Board of Directors or by a written request
4 signed by Members having at least twenty-five percent (25%) of the total
number of eligible votes of each class of Members in the Association.

5 6. The hearing evidence clearly demonstrates the HOA has discretion whether or
6 not to call a special members meeting. The hearing record does not contain a specific
7 written denial by the Board to call a special meeting; however, by placing the issue of
8 solar installation on the September 24, 2015 Board meeting agenda, HOA had implicitly
9 declined to call a special meeting at that time.²¹

10 7. The hearing record clearly demonstrates Petitioner's interest in being able to
11 utilize solar equipment at his home. However, Petitioner has not demonstrated,
12 pursuant to the controlling CC&Rs or Bylaw, the Board's inaction to have adopted solar
13 rules or guidelines to be a violation of those controlling documents.

14 8. The Tribunal concludes that Petitioner has not met his burden to demonstrate by
15 a preponderance of the evidence that HOA was in violation of the CC&Rs or Bylaws.

16 **ORDER**

17 **IT IS ORDERED** that Petitioner's Petition in 25F-H047-REL be denied and HOA
18 be determined to be the prevailing party.

19 **IT IS FURTHER ORDERED** that Petitioner shall bear his filing fees.

20 **IT IS FURTHER ORDERED** that no civil penalty is awarded.

21 **NOTICE**

22 **Pursuant to Ariz. Rev. Stat. § 32-2199.02(B), this Order is binding on the parties**
23 **unless a rehearing is granted pursuant to Ariz. Rev. Stat. § 32-2199.04. Pursuant**
24 **to Ariz. Rev. Stat. § 41-1092.09, a request for rehearing in this matter must be filed**
25 **with the Commissioner of the Department of Real Estate within 30 days of the**
26 **service of this Order upon the parties.**

27
28 _____
29 ²¹ Neither party referenced any time at which the Board had exercised its discretion to call a special
30 meeting.

1 DONE this day, December 6, 2025.

/s/ Kay Abramsohn
Administrative Law Judge

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4 Transmitted electronically to:

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30 By: OAH Staff