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IN THE OFFICE OF ADMINISTRATIVE HEARINGS

Michele Beauchamp,
Petitioner,
v.
The Villages at Rio Paseo Condominium
Association,
Respondent.

No. 24F-H051-REL

**ADMINISTRATIVE LAW JUDGE
DECISION**

HEARING: May 14, 2025. Record closed June 30, 2025.

APPEARANCES:

For Petitioners: Michele Beauchamp.

For Respondents: Madeline Gegg.

ADMINISTRATIVE LAW JUDGE: Samuel Fox

EXHIBITS ADMITTED INTO EVIDENCE: Files provided by the Department of Real Estate. Petitioners' Exhibits 2a, 3a, 3b, 12, 16, 17, 42a, 43g, 46c. Respondent's Exhibits 1.

FINDINGS OF FACT

1. The Villages at Rio Paseo Condominium Association (Respondent) is a condominium association in Goodyear, Arizona.

2. Michele Beauchamp (Petitioner) owns a home located at 14870 W. Encanto Blvd., Unit 2123, and is a member of Respondent.

3. On or about May 3, 2024, Petitioner filed a **one-issue Petition** with the Arizona Department of Real Estate (Department), alleging that Respondent had violated the following:

A. Planned Community Statutes, ARS 33-1213, ARS 33-1242(A)(1)(6) (13),(C)(3)(4),(D), ARS 33-1248(A)(E)(4)(F), ARS 33-1258;

B. Bylaws Article 1, Section 1.8, Article 3, Section 3.5, 3.10, 3.10.7, 3.10.12, 3.10.17, 3.10.19, Article 4, Section 4.8, 4.8.1; and

1 C. CC&Rs Article IV, Statute 4.1, Article VI, Statutes 6.3, 6.5, Article XV,
2 Statutes 15.3, 15.4.¹

3 4. The alleged violation was described as follows:

4 The Villages at Rio Paseo Condominiums, Association (through its Board
5 and any committees) is in breach of contract by violating its own rules and
6 procedures in the (condominium documents) set for board members,
7 owners and residents; to use unauthorized Association funds to illegally
8 modify the declaration to established a "Board, Committee Member, and
9 Meeting Conduct Code of Conduct" document with a incomplete
10 (DocuSign) "Unanimous Consent to Action" document to issue a illegal
11 violation and fine on a board Director.²

12 5. On July 11, 2024, the Tribunal issued an Order clarifying that only one issue
13 could be addressed at the hearing. The Tribunal allowed Petitioner until July 23, 2024, to
14 identify which issue she wanted to proceed with; otherwise, the issue for hearing would be
15 whether the violation and associated fine placed upon Petitioner were proper.³

16 6. At the hearing on May 14, 2025, the parties were notified that only one issue
17 would be addressed at the hearing unless Petitioner wanted to file petitions for additional
18 issues with the Arizona Department of Real Estate. The parties declined a continuance
19 and the hearing proceeded.

20 7. The issue was agreed to be Petitioner's alleged violation of the
21 Respondent's code of conducted based on Petitioner's conduct at a board meeting on
22 December 14, 2020.

23 8. The parties agreed that Respondent's code of conduct was not properly
24 enacted prior to January 2025; accordingly, it was not properly effective in December
25 2020.

26

¹ Homeowners Association (HOA) Dispute Process Petition.

² See *id.*

³ Both parties stated that they did not receive the Order.

1 standard.⁶ “A preponderance of the evidence is such proof as convinces the trier of fact that
2 the contention is more probably true than not.”⁷

3 5. A preponderance of the evidence is “[t]he greater weight of the evidence, not
4 necessarily established by the greater number of witnesses testifying to a fact but by
5 evidence that has the most convincing force; superior evidentiary weight that, though not
6 sufficient to free the mind wholly from all reasonable doubt, is still sufficient to incline a fair
7 and impartial mind to one side of the issue rather than the other.”⁸

8 10. The preponderance of the evidence established that Respondent’s code of
9 conduct was not properly enacted in December 2020. Accordingly, the Petitioner met her
10 burden to demonstrate that notice of violation was not appropriately issued to Petitioner.

11 11. A violation is not nullified by the removal of a fine. Respondent’s argument
12 that the violation was moot because the fine was removed was not compelling.

13 **ORDER**

14 **IT IS ORDERED** that Petitioner be deemed the prevailing party in this matter
15 regarding Petition Issue 1.

16 **IT IS ORDERED** that Respondent pay Petitioner the filing fee of \$500.00, to be
17 paid directly to Petitioners within thirty (30) days of this Order.

18 **IT IS ORDERED** Respondent is directed to comply with the requirements of its
19 Community Documents going forward.

20 No Civil Penalty is found to be appropriate in this matter.

21 **NOTICE**

22 **Pursuant to A.R.S. §32-2199.02(B), this Order is binding on the parties**
23 **unless a rehearing is granted pursuant to A.R.S. § 32-2199.04.**
24 **Pursuant to A.R.S. § 41-1092.09, a request for rehearing in this matter**

25 ⁶ See A.A.C. R2-19-119(B)(2).

26 ⁷ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

27 ⁸ BLACK’S LAW DICTIONARY 1220 (8th ed. 1999).

