

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 In the Matter of:

**No. 25F-H066-REL**

4 Oren Snir,  
5 Petitioner,

**ADMINISTRATIVE LAW JUDGE  
DECISION**

6 v.  
7 Gila Springs Association,  
Respondent.

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8 **HEARING:** December 1, 2025

9 **APPEARANCES:** Oren Snir (“Petitioner”) appeared on his own behalf. Attorney  
10 Austin Baillio represented Gila Springs Association (“HOA”).

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

12 **EXHIBITS ADMITTED INTO EVIDENCE:** Department’s electronic file;  
13 Petitioner, four exhibits; HOA, one exhibit.

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14 **FINDINGS OF FACT**

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

19 2. On or about June 7, 2025, Petitioner filed a single issue petition (“Petition”)  
20 with the Department which alleged that, pursuant to Arizona Revised Statutes (“ARIZ. REV.  
21 STAT.”) § 33-1805(A), the Association had failed to comply with Petitioner’s April 23, 2025  
22 records request.<sup>1</sup> In his Petition, Petitioner noted that he had asked for “All candidate  
23 forms, or other expressions of interest in becoming a candidate (e.g. emails), submitted to  
24 PMG for the upcoming board elections to be held on 4/28/2025.”<sup>2</sup> In his Petition, Petitioner  
25 further noted that, on April 24, 2025, a PMG representative informed me that the only  
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28 <sup>1</sup> See Department’s electronic file; see also Petitioner’s exhibits (72-page email chain). Petitioner did not  
29 allege that the provisions of any HOA documents had been violated.

30 <sup>2</sup> In his April 23, 2025, request, Petitioner had also stated: “Feel free to exclude my form, as I have no  
need for it.” See Petitioner’s exhibits (72-page email chain).

1 candidate other than myself, "verbally expressed her intent to re-run during a telephone  
2 conversation."<sup>3</sup>

3 3. The Petition then provides the following background information:

4 On April 25th, 2025 I replied to PMG and informed them that "this is the  
5 record I am requesting. All HOA records created by an expression of a  
6 homeowner's intent to run in the upcoming election. That phone call created  
7 an HOA record in the form of a call log/call history/call record (whatever you  
8 wish to call it) maintained by PMG's phone service provider that I wish to  
9 review," I even went as far as including an example of such record from my  
10 phone service provider. Then on April 28th, 2025 at the annual meeting  
11 when I inquired about my request I was informed that Gila Springs  
12 Association will not be providing such record. On May 5th, 2025 PMG  
13 followed up by saying "we do not keep phone records and are therefore  
14 unable to provide them" without pointing out any statutory exception. Later  
15 that day, I followed up with PMG explaining that the statute does not  
16 distinguish between records kept by or for the HOA, and even included an  
17 example of emails not being kept by the HOA (but by the service provider),  
18 that are still subject to review under the statute. After not hearing back, I  
19 followed up on that email on May 21st, 2025 and received a response that  
20 PMG is in receipt of my email, and that they did notice a May 5th, 2025 email  
21 that they were "not previously in possession of," and that they will follow up  
22 ASAP. On June 5th, 2025 , after still not hearing back from PMG about this  
23 issue, I again reached out to follow up on my request and was told that "[w]e  
24 cannot produce something we don't have. There are no call records that we  
25 can provide you with." After again pushing back and asking why they  
26 distinguish between call records and email records, PMG responded that  
27 "[they] consider this matter closed...."<sup>4</sup>

28 4. On or about July 7, 2025, HOA returned its Answer to the Department  
29 wherein it denied Petitioner's allegations.<sup>5</sup>

30 5. On September 19, 2025, the Department referred this matter to the Office of  
Administrative Hearings ("OAH"), an independent state agency, for an evidentiary hearing  
on December 1, 2025 to determine whether a violation of ARIZ. REV. STAT. § 33-1805(A)  
had occurred.

6. PMG Services, Inc. ("PMG") is the HOA's management company.

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<sup>3</sup> *Id.*

<sup>4</sup> Errors in original.

<sup>5</sup> See Department's electronic file.

1           7.     At hearing, Petitioner acknowledged that his original April 23, 2025 records  
2 request anticipated the receipt of written “candidate forms” of other  
3 “expressions of interest” such as “emails;”<sup>6</sup> he had not known about any phone calls when  
4 he made the April 23, 2025 request. When he was told that there had been a phone call  
5 between an incumbent Board member and PMG, Petitioner then indicated on April 25,  
6 2025, that was “the record” he wanted.

7           8.     The impetus for the candidate form request was essentially twofold:  
8 Petitioner’s present interest in assuring that the April 28, 2025 election for the Board of  
9 Directors (“Board”) was being run correctly;<sup>7</sup> and, a historical event of an election in 2023  
10 for which Petitioner’s candidate form was at first rejected due to being filed after business  
11 hours (despite the instructions not indicating a business hours deadline) but then  
12 accepted for Petitioner’s name to be on the ballot.<sup>8</sup>

13           9.     Petitioner argued that phone records, even personal phone records of an  
14 employee of the management company, were HOA records subject to being disclosed  
15 pursuant to ARIZ. REV. STAT. § 33-1805(A). Petitioner further argued that knowing the  
16 exact date and time of the subject phone call would determine whether that incumbent  
17 Board member had met the March 24, 2025 business hours deadline to express an  
18 interest in being on the Board.

19           10.    Petitioner argued that there is always a record of phone calls through a  
20 phone service provider and that HOA could have or was obligated to obtain that particular  
21 phone record in response to his request. Petitioner argued that ARIZ. REV. STAT. § 33-  
22 1805(B) does not contain any exception for phone records.

23           11.    At hearing, HOA argued that phone records of a personal phone device  
24 belonging to an employee of the management company (a) are not records in the  
25 possession, custody, or custody of the HOA, and (b) cannot be considered to be an HOA

26 \_\_\_\_\_  
27 <sup>6</sup> See Petitioner’s exhibits (his 2025 submitted candidate form).

28 <sup>7</sup> In his April 25, 2025 (9:50 a.m.) email to PMG, Petitioner wrote that “such record will show whether that  
29 phone call took place before or after the deadline provided to all homeowners, and who initiated the call  
30 to show that perhaps PMG solicited Rhonda’s expression of intent, and once again attempting to interfere  
with the process of a fair election.” See Petitioner’s exhibits (72-page email chain).

<sup>8</sup> See Petitioner’s exhibits (his 2023 email chain regarding his submitted candidate form).

1 record. Citing ARIZ. REV. STAT. § 33-1805(B)(4), HOA argued that it is not under an  
2 obligation pursuant to ARIZ. REV. STAT. § 33-1805(A) to produce such personal records.

3 12. Mary Jo Edel, then President and CEO of PMG, testified that she had  
4 initiated the phone call to the incumbent Board member, who was in the hospital the time,  
5 because the incumbent had previously/recently expressed her interest to be a candidate.  
6 Ms. Edel testified that she had made the call during business hours. Ms. Edel testified that  
7 PMG had an “HOA” business number for members to use, and that PMG had never had  
8 any of her personal phone device phone records.

9 13. The 2025 Candidate Form instructed persons to mail or fax the form back to  
10 PMG by a March 24, 2025, 5:00 p.m. business hours deadline; the form also contained  
11 the PMG email address.<sup>9</sup>

12 14. Melissa Jordan, Managing Agent for PMG, testified that there had not been  
13 an email received by PMG from the incumbent and that there were no HOA phone records  
14 of the subject phone call. Ms. Jordan testified that she only had been able to give  
15 Petitioner what she had in response to his request.

16 15. Neither party discussed whether PMG did, in fact, provide to Petitioner any  
17 “paper” candidate forms, or emails, that had been received by PMG regarding  
18 resident/members’ interest in being on the Board for the April 28, 2025 election.<sup>10</sup>  
19 However, within Petitioner’s 72-page email chain, an April 24, 2025 email (at 8:55 a.m.)  
20 from Ms. Jordan to Petitioner appears to indicate that the incumbent Board member was  
21 the only other candidate.

### 22 CONCLUSIONS OF LAW

23 1. This matter lies within the Department’s jurisdiction pursuant to ARIZ. REV.  
24 STAT. §§ 32-2102 and 32-2199 et seq., regarding a dispute between an owner and a  
25 planned community association. An owner or an association may petition the department  
26 for a hearing concerning violations of community documents or violations of the statutes  
27 that regulate planned communities as long as the petitioner has filed a petition with the  
28 department and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

29 <sup>9</sup> See Petitioner’s exhibits (his 2025 submitted candidate form).

30 <sup>10</sup> Petitioner had advised PMG he was not requesting a copy of his own submission.

1           2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(A), 32-2199.01(D),  
2 32-2199.02, and 41-1092 et seq. OAH has the authority to hear and decide the contested  
3 case at bar. OAH has the authority to interpret the contract between the parties.<sup>11</sup>

4           3. In this proceeding, Petitioner bears the burden of proving by a  
5 preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-  
6 1805(A).<sup>12</sup> Respondent bears the burden of establishing any affirmative defenses by the  
7 same evidentiary burden.<sup>13</sup>

8           4. "A preponderance of the evidence is such proof as convinces the trier of fact  
9 that the contention is more probably true than not."<sup>14</sup> A preponderance of the evidence is  
10 "[t]he greater weight of the evidence, not necessarily established by the greater number of  
11 witnesses testifying to a fact but by evidence that has the most convincing force; superior  
12 evidentiary weight that, though not sufficient to free the mind wholly from all reasonable  
13 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than  
14 the other."<sup>15</sup>

15           5. In Arizona, when construing statutes, we look first to a statute's language as  
16 the best and most reliable index of its meaning. If the statute's language is clear and  
17 unambiguous, we give effect to that language and apply it without using other means of  
18 statutory construction, unless applying the literal language would lead to an absurd result.  
19 Words should be given "their natural, obvious, and ordinary meaning."<sup>16</sup>

20           6. Statutes should be interpreted to provide a fair and sensible result.  
21 *Gutierrez v. Industrial Commission of Arizona*; see also *State v. McFall*, 103 Ariz. 234,  
22 238, 439 P.2d 805, 809 (1968) ("Courts will not place an absurd and unreasonable  
23 construction on statutes.").

24           7. When the legislature uses a word or words in one section of a statute, but  
25 not another, the tribunal may not read those words into the section where the legislature

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27 <sup>11</sup> See *Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

28 <sup>12</sup> See Arizona Administrative Code (ARIZ. ADMIN. CODE) R2-19-119.

29 <sup>13</sup> *Id.*

30 <sup>14</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>15</sup> BLACK'S LAW DICTIONARY 1220 (8<sup>th</sup> ed. 1999).

<sup>16</sup> *Arpaio v. Steinle*, 201 Ariz. 353, 355 ¶ 5, 35 P.3d 114, 116 (App. 2001) (footnotes and citations omitted).

1 did not include them.<sup>17</sup> Unless defined by the legislature, words in statutes are given their  
2 ordinary meanings.<sup>18</sup>

3 8. Each word, phrase, clause, and sentence of a statute or rule must be given  
4 meaning so that no part will be void, inert, redundant, or trivial.<sup>19</sup>

5 9. ARIZ. REV. STAT. § 33-1805(A) states, in pertinent part:

6 Except as provided in subsection B of this section, all financial and other  
7 records of the association shall be made reasonably available for  
8 examination by any member or any person designated by the member in  
9 writing as the member's representative. The association shall not  
10 charge a member or any person designated by the member in writing for  
11 making material available for review. The association shall have ten  
12 business days to fulfill a request for examination.

13 10. Based on the hearing record, the Administrative Law Judge  
14 concludes that Petitioner has not met his burden to demonstrate that PMG failed to  
15 timely respond to Petitioner's April 23, 2025 request for documentary evidence of  
16 the candidate forms or emails from persons who had expressed an interest in  
17 serving on the Board. Petitioner had stated PMG need not provide a copy of his  
18 own form. On April 24, 2025, only one day after his request, PMG essentially  
19 responded to Petitioner that there were no other documentary candidate forms to  
20 provide to Petitioner.

21 11. Based on the hearing record, the Administrative Law Judge  
22 concludes that Petitioner has not met his burden to demonstrate that a telephone  
23 call initiated on a personal phone device of an employee of the management  
24 company becomes an HOA record by virtue of the employee's employment status.  
25 Based on the foregoing, the Administrative Law Judge concludes that Petitioner  
26 did not sustain the burden of proof that the Association committed a violation of  
27 ARIZ. REV. STAT. § 33-1805(A) and, therefore, the Petition must be denied.

28 **FINAL ORDER**

29 <sup>17</sup> See *U.S. Parking v. City of Phoenix*, 160 Ariz. 210, 772 P.2d 33 (App. 1989).

30 <sup>18</sup> *Id.*

<sup>19</sup> See *Deer Valley, v. Houser*, 214 Ariz. 293, 296, 152 P.3d 490, 493 (2007).

1 Based on the foregoing,

2 **IT IS ORDERED** that Petitioner's Petition is denied.

3 **NOTICE**

4 **Pursuant to A.R.S. §32-2199.02(B), this Order is binding on the parties**  
5 **unless a rehearing is granted pursuant to A.R.S. § 32-2199.04.**  
6 **Pursuant to A.R.S. § 41-1092.09, a request for rehearing in this matter**  
7 **must be filed with the Commissioner of the Department of Real Estate**  
8 **within 30 days of the service of this Order upon the parties.**

9 Done this day, January 6, 2026.

10 /s/ Kay A. Abramsohn  
11 Administrative Law Judge

12 Transmitted electronically to:

13 Susan Nicolson, Commissioner  
14 Arizona Department of Real Estate

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