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required to submit a written response to the Department within 20 days. Respondent failed to respond to the Amended Notice of Petition.

7. On May 15, 2008, the Department issued a Notice of Default in Case No. HO 08-8/016.

8. By his default in answering the Petition, Respondent is deemed to have admitted the violations contained in the Petition, as amended, except for the following violations which occurred prior to the enactment of A.R.S. § 41-2198 *et seq.*:

- a. That on or about March 5, 2006, Respondent had an annual meeting of the members but did not provide absentee ballots or some other form of delivery to vote votes; votes were cast by proxy, in violation of A.R.S. § 33-1812.
- b. That on March 4, 2006 Respondent took away peoples' right to vote when dues are accepted up until the annual meeting is called to order, in violation of Bylaws Articles 6.1.12 and 9, and CC &R Article 4.8.
- c. That on or about March 7, 2004, Respondent made amendments to the Declaration by increasing the annual assessment from \$200.00 to \$300.00 but never recorded the fact at the recorder's office, in violation of CC & R Article 9.3.
- d. That on or about January 24, 1996, Respondent refused to reimburse Clayton Jacobson, III \$125.00 for expenses he incurred in carrying on the business of the association, in violation of Bylaws Article 6.2.3.
- e. That on or about November 1, 1980, Respondent made amendments to the Declaration by adding the Bylaws but never had them recorded at the County Recorder's Office, in violation of CC & R Article 9.3.

9. The contents of Petitioner's Petition, as amended, are incorporated herein by reference.

CONCLUSIONS OF LAW

1. Pursuant to A.R.S. § 41-2198.01, the Department is authorized to receive and process petitions in disputes between an owner, such as Petitioner, and a planned community, such as Respondent, for violations of planned community documents and/or statutes that regulate planned communities.

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2. Pursuant to A.R.S. § 41-2198, the Office of Administrative Hearings is authorized to adjudicate such petitions.
3. Petitioner filed his Petition in this matter and paid a multiple violation filing fee of \$2,000.00 as required by A.R.S. § 41-2198.01(C).
4. Upon receipt of Petitioner’s Petition and filing fee, the Department sent Respondent a copy of the Petition with notice that a response was required from Respondent within 20 days, as required by A.R.S. § 41-2198.01(D).
5. Since Respondent did not timely file a response to the Petition, Respondent is deemed to have admitted the violations alleged in the Petition. A.R.S. § 41-2198.01(F). However, since the allegations described in Finding No. 8(a) through (e) occurred prior to the enactment of A.R.S. § 41-2198 *et seq.*, those allegations shall be dismissed as untimely.
6. Pursuant to A.R.S. § 41.2198.02(A), Respondent shall pay Petitioner his multiple violation filing fee of \$2,000.00.
7. Pursuant to A.R.S. § 41.2198.02(A), Respondent may be assessed a civil penalty for each violation. By its failure to answer, Respondent admitted to 15 validly filed violations and is therefore assessed a civil penalty of \$50.00 for each violation, for a total amount of \$750.00.

ORDER

IT IS ORDERED that Respondent abide by the statutes and community documents at issue in the violations in this matter.

IT IS FURTHER ORDERED that Respondent pay Petitioner his multiple violation filing fee of \$2,000.00 within 30 days of the effective date of the Order in this matter.

IT IS FURTHER ORDERED that Respondent pay a civil penalty in the amount of \$50.00 for each of the 15 validly filed violations in this matter. The total amount of the civil penalties, being \$750.00, shall be paid to the Department within 30 days of the effective date of the Order in this matter.

1 Pursuant to A.R.S. § 41-2198.04(A), this Order is the final administrative decision
2 and it is not subject to a request for rehearing. This Order is enforceable through
3 contempt of court proceedings, pursuant to A.R.S. § 41-2198.02(B).
4

5 Done this day, June 12, 2008.
6

7
8 _____
9 Brian Brendan Tully
10 Administrative Law Judge

11 Copy transmitted by mail this
12 _____ day of _____, 2008 to:

13 Robert Barger, Director
14 Department of Fire Building and Life Safety - H/C
15 ATTN: Debra Blake
16 1110 W. Washington, Suite 100
17 Phoenix, AZ 85007

18 Clayton Jacobson III
19 PO Box 1170
20 Parker, AZ 85344

21 Rio Lindo Shores Homeowners Association, Inc.
22 6252 Rio Lindo Shores Dr.
23 Parker, AZ 85344

24 By _____
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