

1 **Final agency action regarding decision below:**

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3 **ALJCERT ALJ decision certified as final**

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5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 MARTIN F. SCHEINHOLTZ,

8 Petitioner,

9 vs

10 CORTE BELLA COUNTRY CLUB
11 ASSOCIATION,

12 Respondent.

No. 13F-H1313001-BFS

**ADMINISTRATIVE
LAW JUDGE DECISION**

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15 **HEARING:** June 3, 2013, at 8:00 a.m.

16 **APPEARANCES:** Martin F. Scheinholtz (hereinafter "Petitioner") appeared
17 through his attorney, Yvette D. Ansel, Esq., Hymson Goldstein & Pantilant, PLLC. Corte
18 Bella Country Club Association, Inc., (hereinafter "Corte Bella") appeared through its
19 attorney, Troy B. Stratman, Esq., Mack Watson & Stratman, P.L.C.

20 **ADMINISTRATIVE LAW JUDGE:** M. Douglas

21
22 Evidence and testimony were presented and the following Findings of Fact,
23 Conclusions of Law and Recommended Order are made:

24 **FINDINGS OF FACT**

- 25 1. The Department of Fire, Building and Life Safety (the "Department") is authorized by
26 statute to receive Petitions for Hearings from members of homeowners' associations
27 and from homeowners associations in Arizona.
28 2. Corte Bella is a homeowners' association located in Sun City, Arizona.
29 3. Petitioner owns a residence in and is a member of Corte Bella.
30 4. Petitioner filed a petition with the Department alleging that Corte Bella had violated
the provisions of A.R.S. § 33-1804. Petitioner specifically alleged as follows:

1 On or before 11/30/12 a meeting was conducted by four Board
2 members as evidenced by Kearns proxy to Petrella to vote on
3 specific issues not placed on the 12/11/12 board meeting agenda.
4 Said actions were unknown to home owners, to other board
5 members and did not allow for proper open board discussion.

5 5. Corte Bella's Response to the Petition provided, in part, as follows:

6 The Association held a Board meeting on December 11, 2012.
7 An agenda was available to the members attending the
8 meeting. . . . At the board meeting on December 11, 2012, a
9 motion was made to appoint William Blake to fill the vacancy
10 caused by the resignation of a prior director. . . . The motion
11 (which was made during the "new business" portion of the Board
12 meeting) passed by a vote of 4-2. Significantly, and in
13 accordance with A.R.S. § 33-1804(A), the members were
14 permitted to speak after the motion was made but before the
15 board took a formal vote on whether to appoint Mr. Blake as a
16 director.

13 **Testimony of Regina Shanney-Saborsky**

14 6. Regina Shanney-Saborsky (hereinafter "Ms. Shanney-Saborsky") testified that that
15 she is a member of the Board of Directors (hereinafter the "Board") for Corte Bella. Ms.
16 Shanney-Saborsky stated that she had received training regarding her fiduciary duties
17 as a member of the Board. Ms. Shanney-Saborsky testified that Board members were
18 expected to act in the highest fiduciary manner.

19 7. Ms. Shanney-Saborsky testified that the Board posted a written agenda for the
20 December 11, 2012 meeting.¹ Ms. Shanney-Saborsky stated that a nomination was
21 made and a vote taken for a person to fill the vacancy caused by the resignation of a
22 prior member of the Board. Ms. Shanney-Saborsky testified that William Blake
23 (hereinafter "Mr. Blake") was voted in by the Board to serve the remaining term for the
24 vacant Board position that runs from December 11, 2012, through March 31, 2014.

25 8. Ms. Shanney-Saborsky testified that she opposed the vote taking place and voted
26 against the appointment of Mr. Blake. Ms. Shanney-Saborsky stated that it was her
27 understanding that no vote regarding the empty director's position would take place
28 during the December 11, 2012 meeting. Ms. Shanney-Saborsky testified that she had
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¹ See Exhibit No. R-3 (Agenda for December 11, 2012 Board of Directors Meeting).

1 no personal knowledge as to whether four members of the Board met prior to the
2 December 11, 2012 meeting and agreed to appoint Mr. Blake as a member of the Board
3 during the open meeting.

4 9. Ms. Shanney-Saborsky acknowledged that it was the Board's responsibility to
5 appoint a person to fill the unfilled director's position for Corte Bella. Ms. Shanney-
6 Saborsky testified that the Board members bring up motions during open meetings "all
7 of the time." Ms. Shanney-Saborsky stated that she saw nothing wrong with a Board
8 member moving to appoint someone to fill the vacant director's position on the Board.

9 10. Ms. Shanney-Saborsky testified that the Bylaws of Corte Bella² specifically allow the
10 Board to appoint individuals to fill vacant positions on the Board. Ms. Shanney-
11 Saborsky stated that she would have preferred an election that provided for members of
12 Corte Bella to vote to fill the vacant director's position.

13 11. Ms. Shanney-Saborsky testified that homeowners were allowed to make comments
14 regarding the motion to fill the vacant director's position during the December 11, 2012
15 meeting. Ms. Shanney-Saborsky stated that two different homeowners made
16 comments about the motion prior to the vote by the Board. Ms. Shanney-Saborsky
17 testified that she believed that the Board complied with the provisions of the open
18 meeting law.

19 12. Ms. Shanney-Saborsky testified that after the appointment of Mr. Blake to fill the
20 empty director's position, there was a recall petition filed for the removal of Mr. Blake
21 from the Board. Ms. Shanney-Saborsky stated that the members of the association
22 were allowed to vote on the recall petition. Ms. Shanney-Saborsky stated that the recall
23 petition failed and Mr. Blake remained a member of the Board.

24 13. Ms. Shanney-Saborsky testified that she thought that the appointment to fill the
25 unexpired term of a director to the Board was very important. Ms. Shanney-Saborsky
26 stated that she had no knowledge that a vote regarding the appointment of Mr. Blake as
27 a member of the Board would take place at the December 11, 2012 meeting. Ms.
28 Shanney-Saborsky testified that she believed that notice should have been provided to
29 the members of the association that the Board would appoint anyone to fill the open

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² See Exhibit No. C-1 and R-1 (Bylaws of Corte Bella).

1 director's position.

2 **Testimony of Robert Moberly**

3 14. Robert Moberly (hereinafter "Mr. Moberly") testified that he is a member of the
4 Board. Mr. Moberly stated that he had given his proxy to Ms. Shanney-Saborsky for the
5 December 11, 2012 meeting of the Board. Mr. Moberly stated that he was unaware that
6 there would be a motion to appoint Mr. Blake to fill the vacant position on the Board
7 during the December 11, 2012 meeting. Mr. Moberly testified that the proxy from Walter
8 Kearns indicated that Mr. Kearns and Raymond Valle were both aware that the motion
9 to appoint Mr. Blake to the vacant position on the Board would be presented at the
10 December 11, 2012 meeting.³

11 15. Mr. Moberly testified that Section 3.6 of Corte Bella's Bylaws provides that the Board
12 may declare a vacancy on the Board and appoint a successor to fill the vacancy for the
13 remainder of the director's term.⁴ Mr. Moberly stated that a quorum of the Board
14 members had to vote for the motion to fill the vacancy on the Board. Mr. Moberly
15 testified that a quorum of the members of the Board voted in favor of the motion to
16 appoint Mr. Blake to fill the open director's position.

17 **Testimony of Ray Valle**

18 16. Ray Valle (hereinafter "Mr. Valle") testified that he had previously been a member of
19 the Board. Mr. Valle stated that he ran as a candidate and that he was elected as a
20 member of the Board by the association members. Mr. Valle testified that he believed
21 that the motion to appoint Mr. Blake as a member of the Board should have been on the
22 written agenda for the December 11, 2012 meeting.

23 17. Mr. Valle testified that the minutes of the Board's meeting on August 29, 2012,
24 showed that there had been a failed vote to seat Mr. Blake as a member of the Board.⁵
25 Mr. Valle stated that the minutes of the August 29, 2012 meeting provided that there
26 was a motion passed to fill the vacant director's seat with the fifth highest "vote-getter"
27 from the January 2013 election to select the members of the Board.

28 18. Mr. Valle testified that "if possible," he would notify the membership of any item that

29 ³ See Exhibit No. R-4 (Walter E. Kearns' proxy).

30 ⁴ See Exhibit No. C-1 and R-1 (Bylaws of Corte Bella).

⁵ See Exhibit No. C-9 (Open Board Meeting Minutes August 29, 2012).

1 he knew would be presented as a motion during an open meeting prior to the date of
2 the open meeting. Mr. Valle stated that he was aware of the "possibility" of a motion
3 being made to fill the empty Board position seat during the December 11, 2012 meeting.
4 Mr. Valle stated that he believed that the agenda for the December 11, 2012 meeting
5 had been published prior to his becoming aware of the possibility that the Board would
6 fill the vacant seat. Mr. Valle testified that he did not believe that it was a "political
7 move" to appoint Mr. Blake to the Board.

8 19. Mr. Valle denied that he discussed making a motion to put Mr. Blake on the Board
9 during the December 11, 2012 meeting. Mr. Valle testified that he voted for Mr. Blake to
10 fill the vacancy on the Board in August and again during the December 11, 2012
11 meeting.

12 20. Mr. Valle testified that he was aware that Section 3.6 of the Bylaws allowed the
13 Board to appoint someone to fill a vacant position on the Board. Mr. Valle stated that
14 the Board voted to rescind the prior motion made during the August 29, 2012 meeting
15 that that the Board would fill the vacant director's seat with fifth highest "vote-getter"
16 from the January 2013 election. Mr. Valle testified that the Board had "every right" to
17 rescind the motion made during the August 29, 2012 meeting and to then appoint Mr.
18 Blake to fill the vacant position.

19 21. Mr. Valle testified that he discussed the appointment of Mr. Blake to fill the vacant
20 position on the Board with Walt Kearns and Vin Petrella prior to the December 11, 2012
21 meeting. Mr. Valle stated that he never discussed the matter with Robert Moberly,
22 Robert Rosenberg, or Regina Shanney-Saborsky. Mr. Valle testified that only three
23 members of the Board were aware that the issue might come up during the December
24 11, 2012 meeting.

25 22. Mr. Valle testified that he and Walt Kearns and Vin Petrella did not constitute a
26 quorum for the Board and that one more member of the Board had to vote in favor of
27 appointing Mr. Blake to the vacant position on the Board for the motion to pass. Mr.
28 Valle stated that he was aware of the law that prevented a quorum of the Board from
29 meeting and deciding a motion before an open meeting. Mr. Valle testified that there
30 was no intent to prevent the members of the association from taking part in the

1 discussion regarding the appointment of Mr. Blake to the Board. Mr. Valle denied that
2 the vote to appoint William Blake was predetermined.

3 **Testimony of Vincent James Petrella.**

4 23. Vincent James Petrella (hereinafter "Mr. Petrella") testified that he had previously
5 served as a member of the Board for two years. Mr. Petrella stated that he received
6 training as a member of the Board. Mr. Petrella testified that he was aware of the
7 requirements of the open meeting law.

8 24. Mr. Petrella testified that he and two other Board members were aware that a motion
9 to appoint Mr. Blake as member of the Board would probably be made during the
10 December 11, 2012 meeting. Mr. Petrella stated that the remaining three members of
11 the Board were not aware that a motion to appoint Mr. Blake to fill the vacant position
12 on the Board would be made during the December 11, 2012 meeting.

13 25. Mr. Petrella testified that he had made a motion during the August 29, 2012 meeting
14 to fill the vacant seat on the Board with the fifth highest "vote-getter" from the January
15 2013 Board election. Mr. Petrella that a written community update had been mailed to
16 members of the association.⁶ Mr. Petrella testified that the community update indicated
17 that the vacant seat on the Board would be filled in the January 2013 election.

18 26. Mr. Petrella acknowledged that he did not include filling the vacant Board position in
19 the written agenda for the December 11, 2012 meeting, despite the fact that he knew
20 the motion would probably be made. Mr. Petrella testified that he believed a Board
21 member has the right to make a motion as "new business" during an open meeting. Mr.
22 Petrella stated that he did not feel that it was necessary to include the possibility of a
23 motion be presented to fill the vacant position on Board on the written agenda for the
24 December 11, 2012 meeting.

25 27. Mr. Petrella testified that he authored a reply in the association blog wherein he
26 stated that he "orchestrated" the appointment of Mr. Blake as member of the Board.⁷
27 Mr. Petrella acknowledged that he referred to his actions as "politics at its best."

28 28. Mr. Petrella testified that the December 11, 2012 meeting was an open meeting and
29 that members of the association were present. Mr. Petrella stated that it is common

30 ⁶ See Exhibit No. C-10 (September 2012 Community Update).

⁷ See Exhibit No. C-15. (Mr. Petrella's reply in community blog).

1 practice for motions to be made regarding items that are not on the written agenda for
2 the meeting. Mr. Petrella testified that under the association's Bylaws, the Board had
3 the power to fill the vacant position on the Board. Mr. Petrella stated that there was no
4 intent to violate the open meeting law.⁸

5 29. Mr. Petrella testified that members of the association were allowed to voice their
6 opinions regarding filling the vacant director's position on the Board. Mr. Petrella stated
7 that it was possible that the motion to appoint Mr. Blake to fill the vacant position on the
8 Board would not have been made.

9 **Testimony of Petitioner**

10 30. Petitioner testified that he objected to the fact that Corte Bella did not inform him that
11 a "huge" issue would be discussed during the December 11, 2012 meeting. Petitioner
12 stated that the motion to appoint Mr. Blake to fill the vacant position on the Board was a
13 significant issue that should have been in the written agenda for the December 11, 2012
14 meeting. Petitioner testified that large issues generally are placed on the written
15 agenda so that people can decide whether to attend the scheduled meeting.

16 31. Petitioner testified that he did not attend the December 11, 2012 meeting because
17 he saw nothing of significance in the written agenda for the meeting. Petitioner stated
18 that if he had been aware that a motion would be made to fill the vacant seat of the
19 Board, he would have certainly attended the meeting. Petitioner testified that he felt
20 that he was excluded from taking part in the December 11, 2012 meeting.

21 32. Petitioner testified that he had attended the August 29, 2012 meeting and believed
22 that the vacant seat on the Board would be filled in the election that would be held in
23 January 2013. Petitioner stated that he would have liked to have participated in the
24 discussion regarding the appointment of Mr. Blake to fill the open seat on the Board.
25 Petitioner testified that he believed that the appointment of Mr. Blake to fill the open
26 director's position on the Board violated the open meeting law.

27 33. Petitioner testified that not every issue needs to be on the written agenda for a
28 scheduled meeting. Petitioner stated that major issues, such as the composition of the
29 Board, should be on the written agenda. Petitioner testified that the Board voted on a
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⁸ See Exhibit No. R-6 (A.R.S. § 33-1804).

1 major matter that was not listed on the written agenda.

2 34. Petitioner testified that the Bylaws for Corte Bella give the Board the power to fill a
3 vacant seat on the Board. Petitioner stated that his petition was based on the fact that
4 the filling of the vacant position on the Board was not on the agenda for the meeting.
5 Petitioner testified that in previous meetings the Board had refused to discuss issues
6 that were not listed on the agenda for the meeting.

7 35. Petitioner testified that he signed a recall petition for Mr. Blake. Petitioner
8 acknowledged that there was a vote regarding the recall petition. Petitioner stated that
9 Mr. Blake was not successfully recalled.

10 **Testimony of James R. Williams**

11 36. James R. Williams (hereinafter "Mr. Williams") testified that he is currently the
12 president of the Board. Mr. Williams stated that he had previously served on the Board
13 from 2008 through 2009. Mr. Williams stated that he was present during the December
14 11, 2012 meeting. Mr. Williams stated that homeowners were allowed to speak before
15 the vote was taken to fill the vacant seat on the Board. Mr. Williams testified that he
16 was happy with the appointment of Mr. Blake.

17 37. Mr. Williams stated that the basis for the recall election was the alleged improper
18 appointment of Mr. Blake to the vacant seat on the Board. Mr. Williams stated that the
19 majority of homeowners voted to retain Mr. Blake as a member of the Board. Mr.
20 Williams testified that members of the Board make motions that are not on the written
21 agenda for the meeting "all of the time." Mr. Williams acknowledged that subject of
22 filling the unexpired term of a position on the Board was not on the written agenda for
23 the December 11, 2012 meeting.

24 **PROVISIONS OF LAW REFERENCED AT HEARING**

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- 28 1. A.R.S. § 33-1801(A) provides that "[t]his chapter applies to all planned
29 communities.
 - 30 2. A.R.S. § 33-1804 provides as follows:

1 A. Notwithstanding any provision in the declaration, bylaws or
2 other documents to the contrary, all meetings of the members'
3 association and the board of directors, and any regularly
4 scheduled committee meetings, are open to all members of the
5 association or any person designated by a member in writing as
6 the member's representative and all members or designated
7 representatives so desiring shall be permitted to attend and speak
8 at an appropriate time during the deliberations and proceedings.
9 The board may place reasonable time restrictions on those
10 persons speaking during the meeting but shall permit a member
11 or member's designated representative to speak once after the
12 board has discussed a specific agenda item but before the board
13 takes formal action on that item in addition to any other
14 opportunities to speak. The board shall provide for a reasonable
15 number of persons to speak on each side of an issue. Persons
16 attending may tape record or videotape those portions of the
17 meetings of the board of directors and meetings of the members
18 that are open. The board of directors of the association may adopt
19 reasonable rules governing the taping of open portions of the
20 meetings of the board and the membership, but such rules shall
21 not preclude such tape recording or videotaping by those
22 attending. Any portion of a meeting may be closed only if that
23 closed portion of the meeting is limited to consideration of one or
24 more of the following:

- 25 1. Legal advice from an attorney for the board or the association.
26 On final resolution of any matter for which the board received
27 legal advice or that concerned pending or contemplated litigation,
28 the board may disclose information about that matter in an open
29 meeting except for matters that are required to remain confidential
30 by the terms of a settlement agreement or judgment.
- 31 2. Pending or contemplated litigation.
- 32 3. Personal, health or financial information about an individual
33 member of the association, an individual employee of the
34 association or an individual employee of a contractor for the
35 association, including records of the association directly related to
36 the personal, health or financial information about an individual
37 member of the association, an individual employee of the
38 association or an individual employee of a contractor for the
39 association.
- 40 4. Matters relating to the job performance of, compensation of,
41 health records of or specific complaints against an individual
42 employee of the association or an individual employee of a

1 contractor of the association who works under the direction of the
2 association.

3 5. Discussion of a member's appeal of any violation cited or
4 penalty imposed by the association except on request of the
5 affected member that the meeting be held in an open session.

6 B. Notwithstanding any provision in the community documents, all
7 meetings of the members' association and the board shall be held
8 in this state. A meeting of the members' association shall be held
9 at least once each year. Special meetings of the members'
10 association may be called by the president, by a majority of the
11 board of directors or by members having at least twenty-five per
12 cent, or any lower percentage specified in the bylaws, of the votes
13 in the association. Not fewer than ten nor more than fifty days in
14 advance of any meeting of the members the secretary shall cause
15 notice to be hand-delivered or sent prepaid by United States mail
16 to the mailing address for each lot, parcel or unit owner or to any
17 other mailing address designated in writing by a member. The
18 notice shall state the time and place of the meeting. A notice of
19 any special meeting of the members shall also state the purpose
20 for which the meeting is called, including the general nature of any
21 proposed amendment to the declaration or bylaws, changes in
22 assessments that require approval of the members and any
23 proposal to remove a director or an officer. The failure of any
24 member to receive actual notice of a meeting of the members
25 does not affect the validity of any action taken at that meeting.

26 C. Notwithstanding any provision in the declaration, bylaws or
27 other community documents, for meetings of the board of
28 directors that are held after the termination of declarant control of
29 the association, notice to members of meetings of the board of
30 directors shall be given at least forty-eight hours in advance of the
meeting by newsletter, conspicuous posting or any other
reasonable means as determined by the board of directors. An
affidavit of notice by an officer of the corporation is prima facie
evidence that notice was given as prescribed by this section.
Notice to members of meetings of the board of directors is not
required if emergency circumstances require action by the board
before notice can be given. Any notice of a board meeting shall
state the time and place of the meeting. The failure of any
member to receive actual notice of a meeting of the board of
directors does not affect the validity of any action taken at that
meeting.

1 D. Notwithstanding any provision in the declaration, bylaws or
2 other community documents, for meetings of the board of
3 directors that are held after the termination of declarant control of
4 the association, all of the following apply:

5 1. The agenda shall be available to all members attending.

6 2. An emergency meeting of the board of directors may be called
7 to discuss business or take action that cannot be delayed until the
8 next regularly scheduled board meeting. The minutes of the
9 emergency meeting shall state the reason necessitating the
10 emergency meeting. The minutes of the emergency meeting shall
11 be read and approved at the next regularly scheduled meeting of
12 the board of directors.

13 3. A quorum of the board of directors may meet by means of a
14 telephone conference if a speakerphone is available in the
15 meeting room that allows board members and association
16 members to hear all parties who are speaking during the meeting.

17 4. Any quorum of the board of directors that meets informally to
18 discuss association business, including workshops, shall comply
19 with the open meeting and notice provisions of this section without
20 regard to whether the board votes or takes any action on any
21 matter at that informal meeting.

22 E. It is the policy of this state as reflected in this section that all
23 meetings of a planned community, whether meetings of the
24 members' association or meetings of the board of directors of the
25 association, be conducted openly and that notices and agendas
26 be provided for those meetings that contain the information that is
27 reasonably necessary to inform the members of the matters to be
28 discussed or decided and to ensure that members have the ability
29 to speak after discussion of agenda items, but before a vote of the
30 board of directors is taken. Toward this end, any person or entity
that is charged with the interpretation of these provisions shall
take into account this declaration of policy and shall construe any
provision of this section in favor of open meetings.

BYLAWS REFERENCED AT THE HEARING

Article III, Section 3.6 of Corte Bella's Bylaws provides, in relevant part, as follows:

In the event of the death, disability, or resignation of a director elected by the Class "A" members, the Board may declare a

1 vacancy and appoint a successor to fill the vacancy for the
2 remainder of such director's term and until the successor director
3 elected by Class "A" Members takes office.

4 **CONCLUSIONS OF LAW**

5
6 1. A.R.S. § 41-2198.01 permits an owner or a planned community organization to
7 file a petition with the Department for a hearing concerning violations of planned
8 community documents or violations of statutes that regulate planned communities. That
9 statute provides that such petitions will be heard before the Office of Administrative
10 Hearings.

11 2. The burden of proof at an administrative hearing falls to the party asserting a
12 claim, right, or entitlement and the standard of proof on all issue in this matter is by a
13 preponderance of the evidence. See A.A.C. R2-19-119.

14 3. Proof by "preponderance of the evidence" means that it is sufficient to persuade
15 the finder of fact that the proposition is "more likely true than not." *In re Arnold and*
16 *Baker Farms*, 177 B.R. 648, 654 (9th Cir. BAP (Ariz.) 1994).

17 4. There was no credible evidence that on or before November 30, 2012, a meeting
18 was conducted by four Board members to vote to appoint Mr. Blake to fill a vacant
19 position on the Board. Three members of the Board did know that they would
20 "probably" bring the matter up for a vote. There was no credible evidence that any of
21 the other three members of the Board had any knowledge of the expected motion to
22 appoint Mr. Blake to fill the vacant position on the Board.

23 5. The motion to appoint Mr. Blake to fill the unexpired term of the open position on
24 the Board was presented as new business during the December 11, 2012 meeting. The
25 matter passed by a four to two vote of the six Board members present for the December
26 11, 2012 meeting. Members of Corte Bella that attended the December 11, 2012
27 meeting were allowed to take part in a public discussion regarding the appointment of
28 Mr. Blake to fill the vacant position on the Board prior to the vote taking place.

29 6. Section 3.6 of Corte Bella's Bylaws provides that In the event of the death,
30 disability, or resignation of a member of the Board elected by the Class "A" members,

1 the Board may declare a vacancy and appoint a successor to fill the vacancy for the
2 remainder of such director's term and until the successor director elected by Class "A"
3 Members takes office. The Bylaws give the Board the right to declare a vacancy and
4 appoint an individual to fill the vacancy on the Board for the remainder of the term of the
5 open position.

6 7. After Mr. Blake was appointed by the Board to fill the vacant director's position on
7 the Board, there was a recall petition filed for the removal of Mr. Blake from the Board.
8 Members of Corte Bella were allowed to vote in recall election. The recall petition failed
9 and Mr. Blake remained a member of the Board.

10 8. This Tribunal concludes that Petitioner failed to failed to meet his burden of proof
11 to establish that Corte Bella violated the provisions of A.R.S. § 33-1804 or any of its
12 Bylaws in this matter.

13 **RECOMMENDED ORDER**

14 In view of the foregoing, it is ORDERED that Corte Bella be deemed the
15 prevailing party in this matter.

16 It is further ORDERED that this petition be dismissed.

17 *In the event of certification of the Administrative Law Judge Decision by the*
18 *Director of the Office of Administrative Hearings, the effective date of this Order will*
19 *be five (5) days from the date of that certification.*

20 Done this day, June 19, 2013.

21
22 /s/ M. Douglas
23 Administrative Law Judge

24 Transmitted electronically to:
25 Gene Palma, Director
26 Department of Fire Building and Life Safety
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