

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

2
3 **ALJCERT ALJ decision certified as final**

4
5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 Kristi Hillebrand,

8 Petitioner,

9 vs

10 Camelback Garden Farms Homeowners
11 Association,

12 Respondent.
13

No. 16F-H1616009-BFS/REL

**ADMINISTRATIVE LAW JUDGE
DECISION**

14
15 **HEARING:** July 29, 2016, at 8:30 a.m. and September 26, 2016, at 8:30 a.m.

16 **APPEARANCES:** Kristi Hillebrand (“Petitioner”) was represented by Mark J.
17 Bainbridge, Esq., The Bainbridge Law Firm, LLC; Camelback Garden Farms
18 Homeowners Association (“Respondent”) was represented by Mark E. Lines, Esq.,
19 Shaw & Lines, LLC.

20 **ADMINISTRATIVE LAW JUDGE:** Diane Mihalsky
21

22 **FINDINGS OF FACT**

23 **BACKGROUND AND PROCEDURE**

24 1. The Arizona Department of Real Estate (the “Department”) is authorized by
25 statute to receive and to decide Petitions for Hearings from members of homeowners’
26 associations and from homeowners’ associations in Arizona. Formerly, the Arizona
27 Department of Building, Fire and Life Safety (“DBFLS”) received such petitions.

28 2. Respondent is a homeowners’ association whose members own single-family
29 homes in the Camelback Garden Farms planned community in Litchfield Park, Arizona.

30 3. Petitioner owns a residence in and is a member of Respondent.

1 4. On March 21, 2016, Petitioner filed a petition with the DBFLS that alleged that
2 Respondent had violated various sections of its Covenants, Conditions, and Restrictions
3 (“CC&Rs”), its bylaws, and applicable Arizona statutes by taking four actions:

4 4(a) Respondent failed to follow proper election procedures when it refused to
5 allow her to be nominated from the floor at the February 20, 2016 annual general
6 membership meeting for the election and to run as a write-in candidate. It compounded
7 its failure by allowing two candidates to be elected, even though a quorum of
8 membership was not present, and to appoint a third candidate to serve the remainder of
9 the term of a board member who had expired;

10 4(b) Respondent failed to follow Arizona’s open meeting law after the February
11 20, 2016 annual meeting when its board held meetings without proper notice to
12 membership;

13 4(c) Respondent failed to provide all responsive documents in response to
14 Petitioner’s records request; and

15 4(d) Respondent failed to enforce RV parking restrictions.

16 5. Respondent’s attorney filed an answer to the Petition, denying any violation of
17 its CC&Rs, bylaws, or applicable statutes.

18 6. On July 7, 2016, Respondent moved to summarily dismiss Petitioner’s
19 complaint, based in part on Petitioner’s complaint against Respondent and some of her
20 neighbors in Maricopa County Superior Court Case No. CV2014-011316 regarding the
21 Board’s approval of her neighbors’ construction of carports for RV parking. On
22 December 1, 2015, Respondent and Petitioner resolved Petitioner’s lawsuit by entering
23 into a settlement in which Petitioner released all of her claims against Respondent with
24 prejudice.¹ Petitioner filed a response opposing the motion, in part because
25 Respondent allegedly continued to violate the CC&Rs governing RV parking.
26 On July 25, 2016, the Administrative Law Judge issued an order denying
27 Respondent’s motion to dismiss Petitioner’s claims (a) through (c), but granting its
28 motion to dismiss Petitioner’s claim (d) because the propriety of Respondent’s

29 _____
30 ¹ See Respondent’s Exhibit 30. The court granted summary judgment to Petitioner’s neighbors on
Petitioner’s claims and awarded them \$35,000.00 in attorneys’ fees against her. See Respondent’s
motion to dismiss, Exhibits F and G.

1 enforcement of RV parking restrictions in the CC&Rs had been resolved by the parties'
2 settlement.

3 7. A hearing was held on July 29, 2016, and September 26, 2016. Petitioner
4 submitted 16 exhibits and presented the testimony of four witnesses: (1) Louise
5 Vaccaro ("Ms. Vaccaro"), a former member of Respondent's board; (2) Greg Josey ("Mr.
6 Josey"), one of Respondent's members; (3) Mary Ellen Kunz ("Ms. Kunz"), one of
7 Respondent's members; and (4) herself. Respondent submitted 17 exhibits and
8 presented the testimony of two witnesses: (1) Neil Stafford ("Dr. Stafford"), a member
9 of Respondent's board since 2014; and (2) Kathy Loscheider ("Ms. Loscheider"), who
10 was elected to Respondent's board in 2014 and served as its secretary until February
11 20, 2016.

12 8. Due to the settlement of Petitioner's lawsuit against Respondent, the
13 Administrative Law Judge's recommended does not consider evidence of any alleged
14 improprieties that occurred before December 1, 2015.²

15 **STATUTES, CC&RS, AND BYLAWS**

16 9. A.R.S. § 33-1804 provides that meetings of homeowners' associations shall
17 be public and noticed in advance, in relevant part as follows:

18 A. Notwithstanding any provision in the declaration, bylaws
19 or other documents to the contrary, all meetings of the
20 members' association and the board of directors, and any
21 regularly scheduled committee meetings, are open to all
22 members of the association or any person designated by a
23 member in writing as the member's representative and all
24 members or designated representatives so desiring shall be
25 permitted to attend and speak at an appropriate time during
the deliberations and proceedings. . . . Any portion of a
meeting may be closed only if that closed portion of the
meeting is limited to consideration of one or more of the
following:

26 1. Legal advice from an attorney for the board or the
27 association. On final resolution of any matter for which the
28 board received legal advice or that concerned pending or
29 contemplated litigation, the board may disclose information
30 about that matter in an open meeting except for matters that

² See *Petitioners* Exhibits 11, 6, and 5, Respondent's Exhibit 10, 12, 14, 15, 16, 18, 19, 21, and 22.

1 are required to remain confidential by the terms of a
2 settlement agreement or judgment.

3 2. Pending or contemplated litigation.

4 3. Personal, health or financial information about an
5 individual member of the association, an individual employee
6 of the association or an individual employee of a contractor
7 for the association, including records of the association
8 directly related to the personal, health or financial
9 information about an individual member of the association,
10 an individual employee of the association or an individual
11 employee of a contractor for the association.

12

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

17 B. [. . .] A meeting of the members' association shall be held
18 at least once each year. . . . Not fewer than ten nor more
19 than fifty days in advance of any meeting of the members
20 the secretary shall cause notice to be hand-delivered or sent
21 prepaid by United States mail to the mailing address for
22 each lot, parcel or unit owner or to any other mailing address
23 designated in writing by a member. The notice shall state the
24 time and place of the meeting. A notice of any special
25 meeting of the members shall also state the purpose for
26 which the meeting is called, including the general nature of
27 any proposed amendment to the declaration or bylaws,
28 changes in assessments that require approval of the
29 members and any proposal to remove a director or an
30 officer. The failure of any member to receive actual notice of
a meeting of the members does not affect the validity of any
action taken at that meeting.

10. A.R.S. § 33-1805 governs the information that Respondent must produce to
its members upon request:

A. Except as provided in subsection B of this section, all
financial and other records of the association shall be made
reasonably available for examination by any member or any
person designated by the member in writing as the
member's representative. The association shall not charge a
member or any person designated by the member in writing

1 for making material available for review. The association
2 shall have ten business days to fulfill a request for
3 examination. On request for purchase of copies of records
4 by any member or any person designated by the member in
5 writing as the member's representative, the association shall
6 have ten business days to provide copies of the requested
7 records. An association may charge a fee for making copies
8 of not more than fifteen cents per page.

9 B. Books and records kept by or on behalf of the association
10 and the board may be withheld from disclosure to the extent
11 that the portion withheld relates to any of the following:

12 1. Privileged communication between an attorney for the
13 association and the association.

14 2. Pending litigation.

15 3. Meeting minutes or other records of a session of a board
16 meeting that is not required to be open to all members
17 pursuant to section 33-1804.

18 4. Personal, health or financial records of an individual
19 member of the association, an individual employee of the
20 association or an individual employee of a contractor for the
21 association, including records of the association directly
22 related to the personal, health or financial information about
23 an individual member of the association, an individual
24 employee of the association or an individual employee of a
25 contractor for the association.

26 11. A.R.S. § 33-1812 provides voting procedures for homeowner's associations,
27 including proxies and absentee ballots, in relevant part as follows:

28 A. Notwithstanding any provision in the community
29 documents, after termination of the period of declarant
30 control, votes allocated to a unit may not be cast pursuant to
a proxy. The association shall provide for votes to be cast in
person and by absentee ballot and, in addition, the
association may provide for voting by some other form of
delivery, including the use of e-mail and fax delivery.
Notwithstanding section 10-3708 or the provisions of the
community documents, any action taken at an annual,
regular or special meeting of the members shall comply with
all of the following if absentee ballots or ballots provided by
some other form of delivery are used:

1. The ballot shall set forth each proposed action.
 2. The ballot shall provide an opportunity to vote for or against each proposed action.
 3. The ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
 4. The ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted ballot to the member.
 5. The ballot does not authorize another person to cast votes on behalf of the member.
 6. The completed ballot and envelope and any related materials shall contain the name, address and signature of the person voting, except that if the community documents permit secret ballots, only the envelope and any nonballot-related materials shall contain the name, address and signature of the voter.
 7. Ballots, envelopes and related materials, including sign-in sheets if used, shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.
- B. Votes cast by absentee ballot or other form of delivery, including the use of e-mail and fax delivery, are valid for the purpose of establishing a quorum.

12. Respondent's CC&Rs provide that it is a nonprofit association and that every lot was entitled to one vote in elections.³ With respect to Notice and Quorum for meetings, the CC&Rs provide in relevant part as follows:

Written notice of any meeting called for the purpose of taking any action authorized under Section 4 shall be sent all members not less than thirty (30) days nor more than sixty (60) days in advance of the meeting and shall set forth the purpose of the meeting. At the first such meeting called, the presence of members or of proxies entitled to cast fifty

³ See Respondent's Exhibit 32 at Article V, Section 1 and 3.

1 percent (50%) of all the votes of the membership shall
2 constitute a quorum. If the required quorum is not present,
3 another meeting may be called subject to the same notice
4 requirement, and the required quorum at the subsequent
5 meeting shall be one-half (1/2) of the required quorum at the
6 preceding meeting. No such subsequent meeting shall be
7 held more than sixty (60) days following the preceding
8 meeting.⁴

9 13. Article VI of the CC&Rs provides for assessments of dues on members.
10 Article VI does not contain any provision requiring members to have paid their dues
11 before they can vote in elections.⁵

12 14. Respondent's bylaws provide that its board has five members who serve 2-
13 year staggered terms and that the board must have a minimum of three members.⁶ An
14 amendment to the bylaws provides that candidates receiving the highest number of
15 votes shall be elected to the board.⁷ Respondent's bylaws allowed the Board to make
16 appointments to fill vacancies left by former board members' resignations.⁸

17 15. Respondent's bylaws also provide that the secretary of the board has a duty
18 to deliver or mail a notice of each annual or special meeting of lot owners, stating the
19 purpose thereof as well as the time and place where it will be held to each lot or to any
20 other mailing address designated by the lot owner at least 10 and not more than 60
21 days before the meeting.⁹

22 16. Respondent's bylaws provide that one-third of the votes entitled to be cast
23 constitutes a quorum.¹⁰

24 17. Respondent's bylaws provide among the board's powers and duties that it
25 shall "formulate policies for the administration, management and operation" of
26 Respondent.¹¹

27 **THE PROPRIETY OF THE FEBRUARY 20, 2016 ELECTION**

28 ⁴ Respondent's Exhibit 32 at 13.
29 ⁵ See Respondent's Exhibit 32 at 12-15.
30 ⁶ See Bylaws at Article III, Section 1 (Petitioner's Exhibit 14).
⁷ Respondent's Exhibit 7, Article III, Section 1.
⁸ See Petitioner's Exhibit 14, Article III, Section 3.
⁹ See Petitioner's Exhibit 14, Article II, Section 6.
¹⁰ See Petitioner's Exhibit 14, Article II, Section 4.
¹¹ See Petitioner's Exhibit 14, Article III, Section 11(D).

1 18. Dr. Stafford testified that board members are volunteers who receive no
2 compensation. Because Respondent does not have a professional management team,
3 the board is responsible for management of the association.

4 19. Two positions on the board were up for election in 2016. On January 7,
5 2016, Ms. Vaccaro resigned from her position on the board, creating a third vacancy.

6 20. On December 7, 2015, Respondent issued a call for candidates and noticed
7 the February 20, 2016 meeting at which board members would be elected.¹² The call
8 for candidates requested that members submit a candidate application by January 8,
9 2016.

10 21. Petitioner testified that she did not respond to the December 2015 call for
11 candidates because she was busy planning a party for over 100 guests over the
12 holidays.

13 22. On January 7, 2016, Ms. Vaccaro resigned from the Board, creating a third
14 vacancy until her term would expire, in 2017.

15 23. On January 9, 2016, Respondent's board held an executive meeting,
16 reviewed the candidate applications, and determined that all three applicants would be
17 eligible to serve on the Board.¹³ The board accepted Ms. Vaccaro's resignation but did
18 not appoint a new board member to serve the remainder of her term.

19 24. Respondent subsequently provided ballots to its members that showed the
20 three names of the candidates who had submitted applications and had been
21 determined to be eligible. The ballot provided that it could be brought to the meeting,
22 sent via U.S. mail to Respondent, or sent via email to any or Respondent's board
23 members. The ballot provided that if the ballot was mailed, the ballot must be received
24 by 5 p.m. on February 18, 2016, and if the ballot was emailed, it must be received by 5
25 p.m. on February 19, 2016.¹⁴

26 25. On February 20, 2016, Aaron Chournos ("Mr. Chournos") was president of
27 Respondent's board. Mr. Chournos resigned from Respondent's board when he moved
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¹² See Petitioner's Exhibit 1.

30 ¹³ See Petitioner's Exhibit 2.

¹⁴ See Petitioner's Exhibit 3.

1 out of the subdivision. At the time of the hearing, only four members served on
2 Respondent's board. Mr. Chournos did not testify at the hearing.

3 26. At the February 20, 2016 meeting, Petitioner announced her intention of
4 being nominated from the floor and running for a board position as a write-in candidate.
5 Mr. Chournos stated that Arizona statute prohibits nominations from the floor and write-
6 in candidates because advance notice of the matters to be decided was not provided in
7 advance of the person's candidacy.¹⁵

8 27. The minutes for the February 28, 2016 meeting provide in relevant part as
9 follows:

10 Board Members Present: Aaron Chournos, Daniel Shuler,
11 Kathy Loscheider and Neil Stafford.

12 Members present: 23 HOA lots were represented out of 65
13 possible. . . .

14 Board Candidates

15 The three Board candidates running for election to the
16 Board, Alice Thomas, Becky Bernal and Melissa Cruz,
17 introduced themselves, and shared why they chose to
18 volunteer for the Board.

19 [Petitioner] spoke to the members stating she would like their
20 consideration as a write-in candidate for the Board election.
21 Aaron informed all this was not possible due to Arizona law
22 requiring all candidate names to be listed on the ballot prior
23 to mail out (AZ Condo and Planned Community Statute 33-
24 1812). [Petitioner] informed the members they could
25 withdraw their ballots which would indicate a no vote for the
26 Board candidates whose names were on the ballot.

27 Election

28 Aaron called for any outstanding ballots to be turned in. Neil
29 and Daniel completed a tally of the votes and announced
30 Alice Thomas and Becky Bernal had received 28 votes each
and Melissa Cruz had received 27 votes. Alice and Becky
will serve two-year terms and Melissa will be appointed by
the Executive Board to fill the 1-year term left on Louise
Vaccaro's position.¹⁶

¹⁵ See Petitioner's Exhibit 23 (video of meeting on thumb-drive).

¹⁶ Petitioner's Exhibit 16.

1 28. Ms. Vaccaro served on Respondent's board since the initial January 2007
2 election. Ms. Vaccaro testified that in the past, there was little interest in serving on the
3 board and board positions were routinely decided based on a show of hands. Ms.
4 Vaccaro testified that she believed that Respondent manipulated the process to keep
5 Petitioner off its board.

6 29. Ms. Vaccaro testified that when she was the board's treasurer, she printed
7 out a ledger that showed which members had not paid their annual assessments and
8 that the members were not allowed to vote in elections. Ms. Vaccaro testified that no
9 less than 15 lots and as many as one-third of all members were generally delinquent in
10 paying their dues. Ms. Vaccaro acknowledged that the policy of not permitting
11 members who were not current in paying their dues to vote was not written.

12 30. Mr. Josey testified that he wanted to nominate Petitioner as a write-in
13 candidate at the February 20, 2016 election and would have voted for her if he had
14 been allowed to do so.

15 31. Ms. Kunz testified that she would have voted for Petitioner in the February
16 20, 2016 election if she had been allowed to do so.

17 32. After the February 20, 2016 meeting, Petitioner made a public records
18 request. Included in Respondent's response to the request were all the ballots that
19 were submitted and the sign-in sheet for the meeting.¹⁷

20 33. Petitioner testified that she requested envelopes and emails, but that she
21 did not receive any. Petitioner testified that the ballots included sixteen ballots from
22 members who attended the February 20, 2016 meeting. Some of the ballots that were
23 submitted by people who did not sign the sign-in sheet were dated February 20, 2016.

24 34. Petitioner testified that by her count, only 19 valid ballots had been cast.
25 Since a quorum was one-third of the 65 lots in Respondent, or 22 members, Petitioner
26 argued that Respondent did not have a quorum and could not have conducted the
27 election.

28 **WHETHER RESPONDENT PROPERLY COMPLIED WITH ARIZONA'S OPEN MEETING LAW**

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¹⁷ See Petitioner's Exhibits 6 and 7.

1 35. Ms. Loscheider testified that she generally provided notice of meetings
2 through email to members and by posting the notice on the community board.
3 However, because her term ended on February 20, 2016, she did not know how
4 Respondent had noticed meetings after that date.

5 36. Petitioner submitted an email from Mr. Chournos dated February 27, 2016,
6 forwarding to the other board members a request from a member regarding approval of
7 a structure. Mr. Chournos stated, "When you meet today, will you please discuss
8 approval OR process for approval of this structure for the Hardys?"¹⁸

9 37. On March 5, 2016, Respondent held an open board meeting, at which the
10 minutes of the February 20, 2016 meeting were approved.¹⁹

11 38. Ms. Vaccaro, Mr. Josey, Ms. Kunz, and Petitioner testified that they did not
12 receive notice of the January 9, 2016, February 27, 2016, or March 5, 2016 board
13 meetings. Petitioner submitted a photograph of the community board that she testified
14 was taken on July 27, 2016, that showed no posted notices after the February 20, 2016
15 meeting.²⁰

16 39. Dr. Stafford testified that because the January 9, 2016 meeting was an
17 executive board meeting, no homeowner would have been present. Nothing was
18 discussed that should not have been discussed in a closed meeting. Notice is not given
19 of executive board meetings. It is rare for a homeowner to attend even an open board
20 meeting.

21 40. Dr. Stafford testified that Respondent notices open board meetings and
22 general meetings through email and by posting a notice on the community board. The
23 email list is the same one used for irrigation.

24 41. Ms. Loscheider testified that she sent out an agenda and notice of meetings
25 during the time she was Respondent's secretary. Respondent submitted Ms.
26 Loscheider's affidavit that she emailed members notice of all meetings that Respondent
27 held between May 10, 2014, and February 20, 2016, and provided copies of the
28 notices.²¹

29 ¹⁸ Petitioner's Exhibit 12 at 5.

¹⁹ See Petitioner's Exhibit 8 (agenda).

²⁰ See Petitioner's Exhibit 22.

²¹ See Respondent's Exhibit 33.

1 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather
2 than the other.”²⁷

3 4. Respondent is a nonprofit corporation. Respondent’s board members are
4 unpaid volunteers who may have full-time jobs and families and do not have the benefit
5 of a professional property manager to help them manage Respondent’s affairs. A.R.S.
6 § 10-3304(A) provides that “the validity of corporate action shall not be challenged on
7 the ground that the corporation lacks or lacked power to act.” Board members are
8 bound by the unequivocal language of applicable statutes, CC&Rs, and bylaws.²⁸ They
9 are not bound by alleged past practices or policies of past boards that have never been
10 reduced to writing and formally adopted.

11 5. No statute, CC&R, or bylaw addresses write-in ballots or nominations from
12 the floor. By the time of the February 20, 2016 general meeting, ballots showing the
13 names of the three homeowners who responded to the Board’s call for candidates,
14 submitted an application to the Board, and been determined to be eligible to serve on
15 the board had been distributed to Respondent’s members. Mr. Chournos’ interpretation
16 of statutory requirements of prior notice of matters to be voted upon to prevent
17 nominations from the floor and write-in ballots was not unreasonable. No statute,
18 CC&R, or bylaw prevents homeowners who are not current in paying their assessments
19 from voting in an election or establishes a procedure and/or cut-off date for when
20 absentee ballots must be submitted to be counted. Therefore, Petitioner did not
21 establish by a preponderance of the evidence that the February 20, 2016 election
22 violated any statute, CC&R, or bylaw, or was otherwise improper.²⁹

23 6. Respondent established that the January 9, 2016 board meeting was an
24 executive meeting that homeowners were not allowed to attend because it concerned
25 discussion of the personal and financial qualifications of the three homeowners who had
26 responded to the Board’s call for candidates. Complainant did not establish that any
27 matters were discussed at the January 9, 2016 executive meeting that should have

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

29 ²⁸ See *Jansen v. Christensen*, 167 Ariz. 470, 471, 808 P.2d 1222, 1223 (1991) (quoted in *Bentivegna*, 206
30 Ariz. at 587 ¶ 20, 81 P.3d at 1046).

²⁹ If Petitioner wishes to serve on Respondent’s board, she may comply that procedures that
Respondent’s board promulgates for the 2017 election or request that the Board appoint her to serve the
remainder of Mr. Chournos’ term.

1 been discussed in a public meeting. Complainant did not establish that the Board
2 formally met on February 27, 2016, or that the discussion of the Hardys' structure did
3 not involve a potential violation or involved something that should have been noticed
4 publicly. Although Petitioner, Ms. Vaccaro, Mr. Josey, and Ms. Kunz testified that they
5 did not receive notice of the March 5, 2016 open board meeting, they all acknowledged
6 that they do not routinely attend all board meetings. A.R.S. § 33-1804(B) provides that
7 the failure of any member to receive actual notice of a meeting of the members does not
8 affect the validity of any action taken at the meeting. Dr. Stafford and Ms. Loscheider
9 credibly testified that the Board has adopted reasonable procedures for noticing its
10 meetings and Ms. Loscheider's affidavit and the attachments thereto established that
11 Respondent properly noticed all general and board meetings held between May 10,
12 2014, and February 20, 2016. Therefore, Petitioner did not establish that Respondent
13 violated A.R.S. § 33-1804.

14 7. Dr. Stafford credibly testified that Respondent provided all the documents in
15 its possession that were responsive to Petitioner's records request. There is no
16 evidence that anyone prepared a QuickBooks spreadsheet showing whether
17 homeowners were current on their dues after Ms. Vaccaro resigned from the board.
18 Even if such a document existed, it would contain financial information about a
19 homeowner and be exempt from production under A.R.S. § 33-1805(B)(4). Moreover,
20 as noted above, even if some members voted in the election who had not paid their
21 dues, it would not have voided the result of the election under applicable statutes, the
22 CC&Rs, or the bylaws. Therefore, Petitioner did not establish that Respondent withheld
23 documents that it should have produced or otherwise violated A.R.S. § 33-1805 in its
24 response to Petitioner's records request.

25 **RECOMMENDED ORDER**

26 In view of the foregoing, it is ORDERED that no action is required of Respondent
27 in this matter and that the petition is dismissed.

28 *In the event of certification of the Administrative Law Judge Decision by the*
29 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
30 *five days from the date of that certification.*

Done this day, September 30, 2016.

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/s/ Diane Mihalsky
Administrative Law Judge

Transmitted electronically to:

Judy Lowe, Commissioner
Arizona Department of Real Estate
2910 North 44th Street, Room 100
Phoenix, AZ 85018
Attn: Louis Dettorre
Deputy Commissioner
LDettorre@azre.gov
AHansen@azre.gov