

Final agency action regarding decision below:

ALJCERT ALJ decision certified as final

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

Barbara Printy,  
Petitioner

No. 16F-H1616010-BFS

v.

ADMINISTRATIVE LAW JUDGE

Olive Grove Village Association Inc.  
Respondent

DECISION

**HEARING:** October 12, 2016

**APPEARANCES:** Petitioner Barbara Printy appeared and was represented by Phil Whitaker. Olive Grove Village Association Inc. was represented by Jonathan Ebertshauser.

**ADMINISTRATIVE LAW JUDGE:** Tammy L. Eigenheer

**RULING**

This hearing involved an allegation made by Petitioner Barbara Printy that Olive Grove Village Association Inc. (Respondent or Association) violated A.R.S. § 33-1243(J) by failing to obtain an audit of the 2014 financials. The Administrative Law Judge concludes that Petitioner established a violation by Respondent.

**FINDINGS OF FACT**

1. Respondent is an association of condominium owners located in Phoenix, Arizona.

2. Respondent's 2014 fiscal year ended on December 31, 2014.

3. A.R.S. § 33-1243(J) provides as follows:

Unless any provision in the condominium documents requires an annual audit by a certified public accountant, the board of directors shall provide for an annual financial audit, review or compilation of the association. The audit, review or compilation shall be completed no later than one hundred eighty days after the end of the association's fiscal year and shall be made available on request to the unit owners within thirty days after its compilation.

1                   4.                   Respondent's Covenants, Conditions, and Restrictions (CC&Rs)  
2 provide as follows:

3                   The books and records of the Condominium Association shall be audited by  
4 an independent auditor at the close of each fiscal year and the results of  
5 such audit submitted to each Owner and First Mortgagee within ninety (90)  
6 days after the end of such fiscal year.

7                   5.                   Respondent's By-Laws outline the duties of Respondent's  
8 Treasurer to include the following:

9                   Cause an Audit of the Association's books to be made by a Certified Public  
10 Accountant as required by the Association. A complete August is to be  
11 made each even numbered year; a review may be made each odd  
12 numbered year.

13                   6.                   On or about April 15, 2015, Petitioner requested a copy of the  
14 audit report during an Association meeting. Petitioner was told that the information was  
15 with the CPA and the audit would be available for inspection by June.

16                   7.                   On or about October 15, 2015, Petitioner submitted a written  
17 request for the audit.

18                   8.                   At the Association's October 21, 2015 meeting, Petitioner again  
19 requested the audit. Petitioner was told to make the request to the management  
20 company.

21                   9.                   At the Association's March 17, 2016 meeting, Petitioner again  
22 requested the audit. Petitioner was told homeowners wanting an audit would be charged  
23 \$35.00 each.

24                   10.                  On or about March 23, 2016, Petitioner filed a Petition with the  
25 Department of Fire, Building and Life Safety<sup>1</sup> alleging Respondent violated the CC&Rs,  
26 by-laws, and A.R.S. § 33-1243(J) by failing to complete an audit of the 2014 financials  
27 within 90 days of the end of the fiscal year. Petitioner paid a \$750.00 filing fee.

28                   11.                  In August 2016, Respondent engaged a CPA to perform the audit  
29 of the Association's 2014 financials.

30                   12.                  On or about October 11, 2016, Respondent received a copy of  
the audit.

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<sup>1</sup> As of July 1, 2016, this matter now falls under the purview of the Department of Real Estate.



