

1 1. The Department of Real Estate has authority over this matter. ARIZ. REV.
2 STAT. Title 32, Ch. 20, Art. 11.

3 2. Petitioner bears the burden of proof, and the standard of proof on all issues
4 in this matter is that of a preponderance of the evidence. ARIZ. ADMIN. CODE § R2-19-119.

5 3. A preponderance of the evidence is:

6 The greater weight of the evidence, not necessarily established
7 by the greater number of witnesses testifying to a fact but by
8 evidence that has the most convincing force; superior
9 evidentiary weight that, though not sufficient to free the mind
10 wholly from all reasonable doubt, is still sufficient to incline a
11 fair and impartial mind to one side of the issue rather than the
12 other.

13 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

14 4. The CC&Rs are a contract between the parties and the parties are
15 required to comply with its terms. *See Johnson v. The Pointe Community Association*,
16 205 Ariz. 485, 73 P.3d 616 (App. 2003).

17 5. Petitioner has not shown that Respondent violated CC&R Section 14.2.
18 The preponderance of the evidence shows that the water damage for which Petitioner
19 seeks redress was caused by the Owner of unit 218, and Section 14.2 imposes no duty
20 on the Respondent to repair such damage. Although Respondent did repair the
21 damage, Petitioner presented no credible evidence or legal authority showing that by
22 making those repairs, Respondent became obligated to reimburse Petitioner for any
23 expenses she incurred.

24 6. Consequently, Petitioner's petition should be dismissed.

25 **ORDER**

26 **IT IS ORDERED** that Petitioner Bonnie Senftner's petition is dismissed.

27 **NOTICE**

28 **Pursuant to ARIZ. REV. STAT. section 32-2199.02(B), this Order is binding on the**
29 **parties unless a rehearing is granted pursuant to ARIZ. REV. STAT. section 32-**
30 **2199.04. Pursuant to ARIZ. REV. STAT. section 41-1092.09, a request for rehearing**
in this matter must be filed with the Commissioner of the Department of Real
Estate within 30 days of the service of this Order upon the parties.

1 Done this day, July 22, 2019.

2 /s/ Thomas Shedden
3 Thomas Shedden
4 Administrative Law Judge

5 Copy mailed/e-mailed/faxed to:
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