

1 *Inc. v. 407417 B.C., L.L.C.*, 213 Ariz. 83, 138 P.3d 1210 (App. 2006)(the tribunal must
2 give effect to a contract's clear and unambiguous terms).

3 5. CC&R section 4.3 unambiguously requires that the annual budget be
4 delivered to the unit owners at least fifteen days before the meeting at which the budget
5 is considered. The preponderance of the evidence shows that the Association placed
6 the budget in the mail on January 2, 2019, which is fifteen days before the meeting, but
7 it was not delivered to Mr. Stoltenberg on that date and was not delivered to him fifteen
8 days before the meeting as required.

9 6. Consequently, Mr. Stoltenberg has met his burden to show that the
10 Association violated CC&R section 4.3.

11 7. Mr. Stoltenberg has not demonstrated that the dues increase should be
12 rescinded, nor has he shown that it is appropriate to issue a civil penalty against the
13 Association.

14 8. Because Mr. Stoltenberg is the prevailing party, the Association must pay
15 to him his \$500 filing fee. ARIZ. REV. STAT. § 32-2199.02.

16 **ORDER**

17 **IT IS ORDERED** that Petitioner Michael J. Stoltenberg is deemed to be the
18 prevailing party in this matter;

19 **IT IS FURTHER ORDERED** that Rancho Del Oro Homeowners Association must
20 pay to Mr. Stoltenberg his filing fee of \$500.00 within thirty days of this Order.

21 **NOTICE**

22 **Pursuant to ARIZ. REV. STAT. section 32-2199.02(B), this Order is binding on the**
23 **parties unless a rehearing is granted pursuant to ARIZ. REV. STAT. section 32-**
24 **2199.04. Pursuant to ARIZ. REV. STAT. section 41-1092.09, a request for rehearing**
25 **in this matter must be filed with the Commissioner of the Department of Real**
26 **Estate within 30 days of the service of this Order upon the parties.**

27 Done this day, September 4, 2019.

28 /s/ Thomas Shedden
29 Thomas Shedden
30 Administrative Law Judge

Transmitted to:

1 Judy Lowe, Commissioner
2 Arizona Department of Real Estate
3 100 N. 15th Avenue, Suite 201
4 Phoenix, Arizona 85007

5 Lydia A. Peirce Linsmeier
6 Nicole Payne
7 CARPENTER, HAZLEWOOD, DELGADO & BOLEN LLP
8 1400 E. Southern Ave., Suite 400
9 Tempe, Arizona 85282

10 Michael J. Stoltenberg
11 11777 E Calle Gaud
12 Yuma, AZ 85367

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By F. Del Sol