

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

2  
3 **ALJFIN ALJ Decision final by statute**

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5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6  
7 In the Matter of:

**No. 25F-H081-REL**

8 Joseph Allan,

**ADMINISTRATIVE LAW JUDGE  
DECISION**

9 Petitioner

10 vs.

11 The Springs Condominium Association

12 Respondent.

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14 **HEARING:** January 16, 2025

15 **APPEARANCES:** Joseph Allan (Mr. Allan) appeared on behalf of himself.  
16 John Calgamone (Mr. Caldamone) appeared on behalf of The Springs Condominium  
17 Association (Association).

18 **ADMINISTRATIVE LAW JUDGE:** Velva Moses-Thompson

19 **EXHIBITS ADMITTED INTO EVIDENCE:** None.

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21 **FINDINGS OF FACT**

22 1. Mr. Allan owns a home located at 12221 West Bell Road, Unit 233 in  
23 Surprise, Arizona.

24 2. Mr. Allan received the Association's 2023 tax return and audit.  
25 See Mr. Allan's testimony on Hearing Audio Record 1 at 5:00 to 20:00 minutes].  
26 Mr. Allan discovered that a \$15,240 tax refund was not on the Association's 2023 tax  
27 return. See id.

28 3. On November 22, 2024, Mr. Allan submitted a request for copies of a  
29 check, deposit, receipt, and documentation for the 2022 tax refund, totaling \$15,000,

1 to several members of the Association's Board, including Mr. Caldamone.

2 See Mr. Allan's testimony on Hearing Audio Record 1 at 5:00 to 20:00 minutes.

3 Mr. Allan believed that the 2022 tax refund had not been reported on the Association's  
4 financial records since October of 2022. See id. Mr. Allan did not submit the request to  
5 the Association's property management company.

6 4. After Ms. Guzman, the owner of the property management company,  
7 received Mr. Allan's request, she provided Mr. Allan with a copy of a letter from the  
8 Internal Revenue Service (IRS) that she found in the Association's tax file.

9 See Ms. Guzman's testimony on the Hearing Audio Record 1 at 15:00 to 25:00 minutes.

10 The letter, dated November 4, 2023, provided that for the tax year ending December 31,  
11 2023, a total of \$15,199.00 would be applied to the next tax period. On July 28, 2025,  
12 Ms. Guzman provided the letter in an email that included the following message:

13 As we have explained to you, Butler and Hansen are handling the contact with  
14 the IRS because they conducted the audit to the prior year and they prepare the  
15 following tax year filing. They're the responsible party and until they provide a  
16 response, there's no further information to report. In the meantime, I sent you the  
17 letter that I found The letter you received came directly from the association's tax  
18 file. It was not fabricated. You continue to demand letters that simply do not exist.

19 You have been told that you are welcome to make appointments to inspect the  
20 records in person to see for yourself which in hand. You have not done so if you  
21 are questioning which records are truly in the file. You should make an  
22 appointment to view the records. You reside on the property and records office is  
23 on the property. We will provide the information when Butler and Hansen  
24 provides sending us repeated emails of this letter that does not exist will not  
25 create the records or...

26 [See id].

27 5. On or about August 29, 2025, Mr. Allan filed a petition with the Arizona  
28 Department of Real Estate alleging that the Association violated ARIZ. REV. STAT. § 33-  
29 1258, when it failed to fulfill his request for records.

30 6. The petition was referred to the Office of Administrative Hearings for an  
evidentiary hearing.

7. A hearing was held on January 16, 2025.



1 3. "A preponderance of the evidence is such proof as convinces the  
2 trier of fact that the contention is more probably true than not."<sup>3</sup> A preponderance  
3 of the evidence is "[t]he greater weight of the evidence, not necessarily established  
4 by the greater number of witnesses testifying to a fact but by evidence that has the  
5 most convincing force; superior evidentiary weight that, though not sufficient to free  
6 the mind wholly from all reasonable doubt, is still sufficient to incline a fair and  
7 impartial mind to one side of the issue rather than the other."<sup>4</sup>

8 4. ARIZ. REV. STAT. § 33-1258 (A) provides:

9 Except as provided in subsection B of this section, all financial and other  
10 records of the association shall be made reasonably available for  
11 examination by any member or any person designated by the member in  
12 writing as the member's representative. The association shall not charge  
13 a member or any person designated by the member in writing for making  
14 material available for review. The association shall have ten business  
15 days to fulfill a request for examination. On request for purchase of copies  
16 of records by any member or any person designated by the member in  
17 writing as the member's representative, the association shall have ten  
18 business days to provide copies of the requested records. An association  
19 may charge a fee for making copies of not more than fifteen cents per  
20 page.

21 4. Mr. Allan failed to establish that the Association was in  
22 possession of records of how the 2022 tax refund was handled.

23 5. The Administrative Law Judge concludes that Mr. Allan has not  
24 met his burden to establish, by a preponderance of the evidence, that the  
25 Association violated ARIZ. REV. STAT. § 33-1258.<sup>5</sup>

26 6. Accordingly, Mr. Allan's petition should be dismissed.

27 **ORDER**

28 **IT IS ORDERED** that the Association be deemed the prevailing party in  
29 this matter.

30 **IT IS FURTHER ORDERED** that the petition is dismissed.

<sup>3</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>4</sup> BLACK'S LAW DICTIONARY at page 1220 (8<sup>th</sup> ed. 1999).

<sup>5</sup> Mr. Allan has not asserted that the Association violated any other provision besides 33-1258.

**NOTICE**

**Pursuant to A.R.S. §32-2199.02(B), this Order is binding on the parties unless a rehearing is granted pursuant to A.R.S. § 32-2199.04. Pursuant to A.R.S. § 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.**

Done this day, February 5, 2026.

/s/ Velva Moses-Thompson  
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile February 5, 2026 to:

Susan Nicolson  
Commissioner  
Arizona Department of Real Estate

Belen Guzman  
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Joseph Allan  
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By: OAH Staff