

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 VINMAR LLC,
3 Petitioner,
4 v.
5 Third Avenue Lofts Unit Owner
6 Association,
7 Respondent.

No. 25F-H013-REL

**ADMINISTRATIVE LAW
JUDGE DECISION**

8 **HEARING:** September 19, 2025; February 17, 2026.

9 **APPEARANCES:**

10 For Petitioner: Jonathan Blangiardo.

11 For Respondent: Tessa Knueppel.

12 **ADMINISTRATIVE LAW JUDGE:** Samuel Fox

13 **EXHIBITS ADMITTED INTO EVIDENCE:** Notice of Hearing File, provided by the
14 Department of Real Estate. Petitioner’s Exhibits A–O; SA–SI. Respondent’s Exhibit
15 Packet.

16 **FINDINGS OF FACT**

- 17 1. Third Avenue Lofts Unit Owner Association (Respondent) was a
18 Condominium Association in Arizona.
- 19 2. VINMAR LLC (Petitioner) owned Unit 216 at Respondent’s community and
20 was a member of Respondent.
- 21 3. On or about October 3, 2024, Petitioner filed a one-issue Petition with the
22 Arizona Department of Real Estate (Department) alleging that Respondent had violated
23 Condominium Statutes, A.R.S. § 33-1260.01 and 33-1227, and CC&Rs § 4.14.¹ The
24 Issue Statement was as follows:

25 **THIRD AVENUE LOFTS UNIT OWNERS ASSOCIATION IS
26 UNLAWFULLY IMPOSING EXPLOITATIVE FEES AND RENTAL RULES
27 IN VIOLATION OF CC&RS 4.14, ARS § 33-1260.01, AND ARS § 33-**

¹ See 1_ADRE OAH – Dispute Petition VINMAR Update; see also SUBMITTAL – ADRE OAH HOA Dispute October 3, 2024.

1 1227, PRESSURING ME TO COMPLY BY RESTRICTING MY AMENITY
2 ACCESS AND SUSPENDING MY VOTING RIGHTS, WHICH CREATES
3 UNDUE HARDSHIP FOR ALL AFFECTED HOMEOWNERS.

4 4. Respondent, through its Attorney, Alexis Firehawk, filed a written answer
5 to the Petition, denying the allegations.²

6 5. The issue statement presented more than one issue, even though
7 Petitioner only paid for one issue. Although the Arizona Department of Real Estate
8 arranged a hearing at the Arizona Office of Administrative Hearings, it did not provide a
9 copy of the Notice of Hearing to the Tribunal, identifying a single issue for hearing. The
10 Tribunal required Petitioner to select a single issue for hearing, but Petitioner did not.

11 6. The parties agreed on the following issue: whether or not the move-in and
12 move-out fees were permissible, including whether they violated A.R.S. § 33-1260.01.

13 7. At the hearing, Petitioner's manager, Jonathan Blangiardo, stated that his
14 issue was discrimination against rentals and he wanted to address a pattern of bad
15 conduct by Respondent by discussing other issues, including improperly blocking his
16 amenities, not responding to document requests, not holding special meetings,
17 changing rules outside of the ordinary process, and other issues that would each
18 require a separate petition item to be addressed here. Those issues were not relevant
19 to the issue for hearing.³ He stated that he would file another petition to address the
20 other issues.

21 8. Petitioner testified that Respondent charged a \$150.00 move-in fee, a
22 \$150.00 move-out fee, and a \$25.00 registration fee. He testified that his unit is pre-
23 furnished, so his tenants were low impact when they moved in and out. Although he did
24 not phrase it this way, Petitioner testified that he should be treated differently from
25 owner-occupied and non-pre-furnished rental units because of his tenants' low impact.⁴

26 ² 3_Respondent's Response Case 2F-H013.

27 ³ Petitioner was provided significant leeway to discuss what he wanted, but some testimony and argument regarding the other issues was prohibited or limited on the basis of relevance.

⁴ Petitioner framed the issue as the rule treating rental units differently because they paid the fee more frequently than owner-occupied units.

1 Petitioner believed that the fee was unreasonable in his circumstances. Petitioner
2 testified that Respondent intended to target rental units with these fees, noting a
3 communication where the fees were referred to as “rental fees.”⁵ Petitioner believed
4 that Respondent’s intent was to target rental units.

5 9. Respondent’s General Manager for the Association, Michelle Collins,
6 testified that resident occupation fee is to get the resident set up for entry of the building
7 (an app), entry to the garage (an app and a sticker), and receiving updates (e.g.
8 emergency communications or utility outages) through Respondent’s systems. It also
9 provided for desk staff, who were available to help residents. She testified that tenant-
10 residents and owner-residents both pay the same fees. She testified that the fees were
11 reasonable compared to comparable condominiums.

12 10. Respondent changed its fee structure to charge a \$25.00 check-in fee, a
13 \$25.00 registration fee, and a \$75.00 charge to use the elevators to move furniture.⁶

14 11. Ms. Collins testified that the check-in fee is an administrative fee for
15 setting up residents to access the building, garage, and receive communications.

16 **CONCLUSIONS OF LAW**

17 1. A.R.S. § 32-2199 authorizes the administrative law judge to “adjudicate
18 complaints regarding and ensure compliance with . . . [t]itle 33, chapter 9 and
19 condominium documents.”

20 2. A.R.S. § 32-2199.01 permits a member of a condominium association to
21 file a petition with the Department for a hearing concerning the planned community
22 association’s alleged violations as set forth in Title 33, Chapter 9. A Petition may have
23 up to four issues, and a fee of \$500.00 is imposed for each issue. An issue is a matter
24 of fact, and the fact at issue may result in more than one violation of statute or

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⁵ See *e.g.* Pet. Exh. N.

27 ⁶ See *also* Resp. Exh. Pkt at 112.

1 community documents within a single Petition issue. Different factual issues must be
2 presented under different Petition issues and a separate fee must be paid.

3 3. One Petition issue was properly brought under this matter. That issue
4 was “whether or not the move-in and move-out fees were permissible, including whether
5 it was a violation of A.R.S. § 33-1260.01.” This matter lies within the Department’s
6 jurisdiction. That statute provides that such petitions will be heard before the Office of
7 Administrative Hearings.

8 4. A.R.S. § 32-2199.02 authorizes the administrative law judge to “order any
9 party to abide by the statute, condominium documents, community documents or
10 contract provision at issue and may levy a civil penalty on the basis of each violation.”
11 This Tribunal is not authorized to order other remediation or order civil penalties for
12 other conduct.

13 5. Respondent’s CC&Rs § 3.3.1(a), Unit Owners’ Easements of Enjoyment,
14 sets the following restriction:

15 The right of the Association to adopt reasonable rules and regulations
16 governing the use of the Common Elements. Such rules and regulations
17 may include rules and regulations to control parking in the Parking
Garage.

18 6. Respondent’s CC&Rs § 1.11, defines Common Elements as “all portions
19 of the Condominium other than the Units.”

20 7. Respondent’s CC&Rs § 7.4, User Fee Assessment, states:

21 The Association may establish and charge fees for the use of certain
22 recreational or other facilities in the Condominium. All such fees shall be
23 assessed to the Owners as a User Fee Assessment which shall be
payable within fifteen (15) days after notice of the Use Fee Assessment is
given to the Owner.

24 8. Respondent’s CC&Rs § 1.14, defines Condominium as “the Parcel,
25 together with the Building and all other Improvements located thereon.” Facilities is not
26 a defined term.

1 9. A.R.S. § 33-1260.01 states, in relevant part:

2 C. Notwithstanding any provision in the condominium documents, on rental of a
3 unit an association shall not require a unit owner or a unit owner's agent to
4 disclose any information regarding a tenant other than the name and contact
5 information for any adults occupying the unit, the time period of the lease,
6 including the beginning and ending dates of the tenancy, and a description and
7 the license plate numbers of the tenants' vehicles. If the condominium is an age
8 restricted condominium, the unit owner, the unit owner's agent or the tenant shall
9 show a government issued identification that bears a photograph and that
10 confirms that the tenant meets the condominium's age restrictions or
11 requirements.

12 D. On request of an association or its managing agent for the disclosures
13 prescribed in subsection C of this section, the managing agent or, if there is no
14 managing agent, the association may charge a fee of not more than twenty-five
15 dollars, which shall be paid within fifteen days after the postmarked request. The
16 fee may be charged for each new tenancy for that unit but may not be charged
17 for a renewal of a lease. Except for the fee permitted by this subsection and fees
18 related to the use of recreational facilities, the association or its managing agent
19 shall not assess, levy or charge a fee or fine or otherwise impose a requirement
20 on a unit owner's rental unit any differently than on an owner-occupied unit in the
21 association.

22 10. Respondent's CC&Rs § 7.7(e) only addresses use of funds, which is not
23 relevant to the analysis in this matter. It authorizes "[t]he Association [to] use the funds
24 and property collected and received by the Association for the purpose of . . . taking
25 such other action as the Board of Directors deems necessary, appropriate or desirable
26 for the management and administration of the Association or the benefit of the
27 Association or the Condominium." It does not authorize imposition of fees.

11. A.R.S. § 33-1260.01 does not prohibit either fee structure applied by
Respondent. It authorizes Respondent to charge a disclosure fee, not larger than
\$25.00, for each new tenant that moves into a rental unit. That disclosure fee and fees
for use of recreational facilities are the only fees that Respondent can charge to a rental
unit differently than owner-occupied units. The statute is clear that all fees (other than
the stated exemptions) must be applied to all units without difference, meaning equally.

12. The preponderance of the evidence did not establish that Respondent
charged a disclosure fee in excess of \$25.00.

1 13. For the \$150.00 move-in and move-out fees, the fees were applied every
2 time residents moved into a unit or moved out of a unit, regardless of any other factor.
3 Petitioner argued that the rule treats pre-furnished rentals differently because those
4 residents basically only bring clothing, so it disproportionately impacted pre-furnished
5 rental units. This argument is asking to be treated differently. Equal treatment is
6 applying one rule for everyone, which is what Respondent had done. Petitioner sought
7 equitable treatment, which would take other circumstances into account (such as the
8 low impact of moving in and out of a pre-furnished rental) and treat different units
9 differently to promote fairness.

10 14. Respondent changed their rule to provide the equity Petitioner sought with
11 the \$25.00 check-in fee, \$25.00 registration fee, and \$75.00 elevator fee for moving
12 furniture. That rule is applied equally to all units.

13 15. The preponderance of the evidence did not establish that Respondent
14 violated A.R.S. § 33-1260.01(D).

15 16. The CC&Rs authorize Respondent to charge reasonable fees for use of
16 certain recreational facilities or other facilities in the Condominium. Facilities is not
17 defined, and those “certain” facilities are not identified. A facility is “something that
18 makes an action, operation, or course of conduct easier;” or “something that is built,
19 installed, or established to serve a particular purpose.”⁷ Therefore, the moving elevator
20 is a facility, the phone applications to access the doors and garage are facilities, and the
21 front desk with an attendant is a facility. Accordingly, Respondent was authorized to
22 apply a charge for use of those facilities.

23 17. Respondent argued that staff time was also a permissible charge;
24 however, staff time, alone, is not a facility, and the record did not support that
25 Respondent had other authorization for charging a fee for staff time.

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27 ⁷ See e.g. Facility, <https://www.merriam-webster.com/dictionary/facility>.

1 Transmitted by either mail, e-mail, or facsimile to:

2 Susan Nicolson, Commissioner
3 Arizona Department of Real Estate

4 Vinmar LLC
5 C/O Jonathan W. Blangiardo
6 jblangiardo@gmail.com

7 Alexis Firehawk Esq & Emily Cooper Esq
8 C/O CHDB Law LLP
9 minuteentries@chdblaw.com

10 By: OAH Staff

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