

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2  
3 Robert H. Gelinias,  
4 Petitioner,  
5 vs.  
6 The Meadows at Eagle Ridge Property  
7 Owners Association, Inc.,  
8 Respondent.

**No. 21F-H2121034-REL**

**ADMINISTRATIVE LAW JUDGE  
DECISION**

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9 **HEARING:** April 8, 2021

10 **APPEARANCES:** Petitioner Robert H. Gelinias appeared on behalf of himself.  
11 Deborah Bolzano appeared on behalf of Respondent The Meadows at Eagle Ridge  
12 Property Owners Association, Inc.

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

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14 Robert H. Gelinias filed a petition with the Department of Real Estate alleging that  
15 The Meadows at Eagle Ridge Property Owners Association, Inc. had violated Title 33,  
16 Arizona Revised Statutes and the Meadows at Eagle Ridge Property Owners Association,  
17 Inc., Inc. Bylaws. Based on the evidence of record, the Administrative Law Judge makes  
18 the following Findings of Fact, Conclusions of Law and Order:

19 **FINDINGS OF FACT**

20 1. The Department of Real Estate (the Department) is authorized by statute  
21 to receive and to decide Petitions for Hearings from members of homeowners'  
22 associations and from homeowners' associations in Arizona.

23 2. Respondent The Meadows at Eagle Ridge Property Owners Association,  
24 Inc. (the Association) is a homeowners' association whose members own property  
25 and/or residences in the The Meadows at Eagle Ridge development in Prescott,  
26 Arizona (Eagle Ridge).

27 3. At all times relevant to this matter, DHB Management (DHB) managed the  
28 Association.

29 4. In 1996, Eagle Ridge owners adopted bylaws (Bylaws) that, among other  
30 things, govern member meetings. See Exhibit 1.

1           5.     Robert H. Gelinas is the owner of property located at 131 East Rosser  
2 Street, Prescott, Arizona 86301.

3           6.     In the year of 2019, the Association did not hold a members meeting.

4           7.     The Association held the 2019 members meeting on January 11, 2020.

5           8.     On or about January 13, 2021, Mr. Gelinas filed a single-issue petition  
6 with the Department alleging that the Association had violated Arizona Revised Statutes  
7 (A.R.S.) section 33-1804(B) and the Association Bylaws Article IV, Section 1, because the  
8 Association did not hold a members meeting in 2019.

9           9.     The Association filed a timely answer to the petition.

10          10.    The Department referred the petition to the Office of Administrative  
11 Hearings, an independent state agency, for an evidentiary hearing.

12          11.    On February 25, 2021, the Department issued a Notice of Hearing setting  
13 the matter for hearing on April 8, 2021.

14          12.    The February 25, 2021 Notice of Hearing provided that the issue set  
15 for determination was Mr. Gelinas's allegation that the Association violated A.R.S.  
16 section 33-1804 (B) and Article IV, Section 1 of the Association Bylaws.

17          13.    A hearing was held on April 8, 2021.

18          14.    Deborah Bolzano and Bill Godwin testified on behalf of the Association.  
19 Mr. Gelinas testified on behalf of himself.

20          15.    Ms. Bolzano is the President DHB. Ms. Bolzano testified to the effect that  
21 she believed that the members meeting is always held in January after the financial  
22 books have closed at the end of December. Ms. Bolzano admitted that the Association  
23 did not hold a members meeting in 2019.

24          16.    Mr. Godwin testified that a meeting was not held in 2019 because the  
25 Association was unable to ensure that there would be enough members present to  
26 obtain a sufficient amount of votes, due to the holiday season.

27          17.    The Bylaws (Article IV, Section 1) state with respect to the annual meeting  
28 of members:

29                 The first annual meeting of the Members shall be held within (90)  
30                 ninety days after all voting rights in the Association have become

1 vested in the Members of the Association. An annual meeting of the  
2 Members shall be held at least once every twelve (12) months  
3 thereafter at such time and place as is determined by the Board.

4 **CONCLUSIONS OF LAW**

5 1. At this proceeding, Petitioner bear the burden of proving by a  
6 preponderance of the evidence that Respondent violated A.R.S. section 33-1804(B) and  
7 the Association Bylaws Article IV, Section 1. See A.A.C. R2-19-119.

8 2. A preponderance of the evidence is “[e]vidence which is of greater weight or  
9 more convincing than the evidence which is offered in opposition to it; that is, evidence  
10 which as a whole shows that the fact sought to be proved is more probable than not.”  
11 BLACK’S LAW DICTIONARY 1182 (6th ed. 1990).

12 3. A meeting of the Association’s members must be held at least once each  
13 year. See A.R.S. § 33-1804(B).

14 4. It is undisputed that the Association did not hold a members meeting in  
15 2019.

16 5. Upon consideration of the evidence presented at the hearing, the  
17 Administrative Law Judge concludes that Petitioner has established that the Association  
18 violated A.R.S. § 33-1804(B) and the Article IV, Section 1 of the Association’s Bylaws  
19 (Article IV, Section 1).

20 **ORDER**

21 **IT IS ORDERED** that Mr. Gelinias’s petition is granted.

22 **IT IS FURTHER ORDERED** that Respondent shall fully comply with A.R.S. § 33-  
23 1804(B) and Article IV, Section 1 of the Association’s Bylaws in the future.

24 **IT IS FURTHER ORDERED** that not later than 30 days from the date of this Order,  
25 The Meadows shall pay \$500.00 to Mr. Gelinias for his filing fee.

26 **NOTICE**

27 **Pursuant to ARIZ. REV. STAT. section 32-2199.02(B), this Order is binding on the**  
28 **parties unless a rehearing is granted pursuant to ARIZ. REV. STAT. section 32-**  
29 **2199.04. Pursuant to ARIZ. REV. STAT. section 41-1092.09, a request for rehearing**  
30 **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, April 23, 2021.

/s/ Velva Moses-Thompson  
Administrative Law Judge

Transmitted electronically to:

Judy Lowe, Commissioner  
Arizona Department of Real Estate