



1           4.     Respondent is a homeowners' association whose members own  
2 properties in a residential real estate development located in Maricopa County, Arizona.

3           5.     Petitioners are property owners and member of Val Vista.

4           6.     TFE is governed by its Covenants, Conditions, and Restrictions  
5 ("CC&Rs"), and overseen by a Board of Directors ("the Board"). The Association is also  
6 regulated by Title 33, Chapter 16, Article 1 of the Arizona Revised Statutes ("ARIZ. REV.  
7 STAT.")

8 **25F-H045-REL**

9           7.     On May 8, 2025, the Department issued a Notice of Hearing in this case,  
10 with the following dispute:

11                     Petitioner alleges Respondent of violating, "A.R.S. § 33-1805 by  
12 failing to provide the requested records with the ten-business-day  
13 statutory deadline, conditioning production on a legally  
14 unenforceable 'Records Request Form', and withholding critical  
15 attorney fee information-particularly troubling given its counsel's  
16 documented disciplinary history for inflated or misleading HOA fee  
17 practices.

18           8.     On February 27, 2025, Petitioner requested that Val Vista produce the  
19 following items:

20                     1.     **Final, Fully Executed Records Retention and Request  
21 Policy**

22                             ○ Provide the exact version adopted by the Board on or  
23 about February 25, 2025, including any exhibits, attachments, or  
24 attorney commentaries formally incorporated into the policy.

25                     2.     **Relevant Meeting Minutes (Draft or Final)**

26                             ○ Any minutes or draft minutes from the February 25, 2025,  
27 Board meeting that reflect the discussion, modification, or adoption  
28 of this "Records Retention and Request Policy."

29                     3.     **Any Related Correspondence**

30                             ○ If available, please include any Board memos, explanatory  
documents, or other communications discussing the rationale for or  
scope of the adopted policy.<sup>1</sup>

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<sup>1</sup> Petitioner's Exhibit 4(b).

1           9.     Also on that same day, Petitioner requested that Val Vista produce the  
2 following items:

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4           1.     **Current and Past Legal Services Agreements**

5           ○ Final, fully executed retainer or engagement agreements  
6 with **any law firm** or individual attorney who has represented or is  
7 currently representing the Association.

8           ○ Any amendments, extensions, or addenda to such  
9 agreements.

10           2.     **Attorney Rate Schedules and Fee Structures**

11           ○ Any rate sheets, fee schedules, billing guidelines, or other  
12 formal documents outlining how legal services are charged to the  
13 Association.

14           ○ Copies of any contract exhibits or schedules addressing  
15 standard hourly rates, flat fees, contingencies, or other  
16 compensation arrangements.

17           3.     **Invoices, Billing Statements, and Payment Records**

18           ○ All invoices or statements submitted by the attorney or law  
19 firm for legal services rendered(with legally permitted redactions).

20           ○ Documentation of payments made by the Association to  
21 the attorney or law firm.

22           4.     **Meeting Minutes or Board Resolutions Discussing  
23 Attorney Engagement**

24           ○ Minutes (draft or final) from any Board or committee  
25 meetings where attorney contracts, legal representation, or the  
26 continuation of attorney services were discussed.

27           ○ Any resolutions approving retention of legal counsel or  
28 specifying scope of services.

29           5.     **Selection Process and Related Correspondence**

30           ○ RFPs (Requests for Proposal) or bid solicitations (if any)  
related to retaining legal counsel.

          ○ Correspondence among Board members, management, or  
committees that discuss the selection or evaluation of legal counsel,  
including but not limited to emails, memoranda, or letters.

          6.     **Conflict-of-Interest Disclosures or Waivers**

1                   ○ Any declarations, disclosures, or waivers pertaining to  
2 potential conflicts of interest concerning the attorney or law firm prior  
3 to this law firm being retained.

4                   **7. Policies, Guidance Documents, or Additional Records**  
5                   **Governing Legal Representation**

6                   ○ Internal policies, guidelines, or explanatory documents that  
7 define or clarify the Association’s relationship with its legal counsel.

8                   ○ Any official communications or directives issued by legal  
9 counsel to the Board or the management staff in relation to the  
10 contractual arrangement.

11                   **8. All Other Relevant Records**

12                   ○ Any other written or electronic records that detail or impact  
13 the contractual or advisory relationship between the HOA and its  
14 attorney(s).<sup>2</sup>

15                   10. No documents have been turned over by Val Vista.

16                   **25F-H054-REL**

17                   11. On June 3, 2025, the Department issued a Notice of Hearing in this case,  
18 with the following dispute:

19                   Petitioner alleges Respondent of violating, A.R.S. § 33-1805(A), ‘by  
20 failing to provide the requested bank statements and FSR-related  
21 communications, and is operating in ongoing breach or its statutory  
22 obligations.’

23                   12. On March 21, 2025, Petitioner requested that Val Vista produce the  
24 following items:

25                   **1. Operating Bank Statements (January 2024 – Present)**

26                   ○ **Monthly Statements for Any Operating/Checking**  
27 **Accounts**

28                   Please provide complete copies of the original bank  
29 statements from each financial institution maintaining the  
30 Association’s operating or checking accounts, covering the period  
from January 1, 2024, through the most recently available statement  
date in 2025.

                  ○ **Verification of Issuing Financial Institution**

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<sup>2</sup> Petitioner’s Exhibit 6(b)

1 These should be official statements as issued by the  
2 bank(s). If additional transaction details are needed for clarity, please  
3 also provide any accompanying pages or enclosures that were part  
4 of the bank's original statement.

5 **2. Reserve Account Statements (January 2024 – Present)**  
6 **o Monthly or Quarterly Statements**

7 Please provide official copies of all reserve-account  
8 statements from the relevant financial institution(s), covering the  
9 period from January 1, 2024, through the present.

10 **o Verification of Issuing Financial Institution**

11 These statements should be the original or exact copies of  
12 what the institution produced, reflecting the account number(s),  
13 balance(s), and any earned interest to verify their authenticity.<sup>3</sup>

14 13. Val Vista failed to respond to this request.

15 **Arguments:**

16 14. Petitioner argued in the first petition, that Val Vista failed to produce the  
17 requested records within the statutory timeline, and/or otherwise respond to his request  
18 with further clarification and the like. As to the second request, Petitioner argued that  
19 not only did Val Vista fail to produce the requested records within the statutory timeline,  
20 it also had no authority to make him complete the records request on a specific form,  
21 and ignore the request without submission of the form. Petitioner argued that it should  
22 be reimbursed its filing fees and that a civil penalty should be awarded.

23 15. Val Vista argued that A.R.S. §33-1805 was outdated and misunderstood.  
24 It argued that only after an examination of records would it have 10 days to provide  
25 copies. Further because of previously broad requests for documents by members of  
26 the Association, Val Vista created a Records Policy in an attempt to streamline the  
27 process. Val Vista also argued that some of the records requested by Petitioner were  
28 privileged or otherwise expressly excluded by statute.

29 **CONCLUSIONS OF LAW**

30 1. This matter lies within the Department's jurisdiction. Pursuant to ARIZ. REV.  
STAT. §§ 32-2102 and 32-2199 et al., regarding a dispute between an owner and a

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<sup>3</sup> Petitioner's Exhibit 18(b).

1 planned community association, the owner or association may petition the department  
2 for a hearing concerning violations of community documents or violations of the statutes  
3 that regulate planned communities as long as the petitioner has filed a petition with the  
4 department and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

5 2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(D), 32-2199.02,  
6 and 41-1092, OAH has the authority to hear and decide the contested case at bar.

7 3. In this proceeding, Petitioner bears the burden of proving by a  
8 preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-1805.<sup>4</sup>

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

16 11. A.R.S. § 33-1805(A) provides in pertinent part:

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

29 12. The tribunal finds that Val Vista wrongfully withheld the requested  
30 documents. If there were documents which were privileged and/or contained sensitive

<sup>4</sup> See ARIZ. ADMIN. CODE R2-19-119.

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

<sup>6</sup> BLACK'S LAW DICTIONARY 1220 (8<sup>th</sup> ed. 1999).

1 date they could have properly been withheld and/or redacted. This conclusion applies  
2 to both requests. The fact that the second request was not made on the form, does not  
3 excuse Val Vista from at a minimum responding. However, the tribunal finds that  
4 Petitioner complied with the statute as his request was in writing, and if Val Vista  
5 needed clarification on what was to be requested it should have reached out to  
6 Petitioner, rather than ignoring him. Likewise, if Val Vista determined the total cost and  
7 informed Petitioner of the same and Petitioner did not pay the fee that could be a valid  
8 justification for failing to provide the documents. No response by Val Vista was simply  
9 unacceptable, and in violation of the statute.

10 **ORDER**

11 **IT IS ORDERED** that Petitioner's petition in **25F-H045-REL** be granted and that  
12 Respondent shall follow the A.R.S. § 33-1805(A). **IT IS FURTHER ORDERED**, that  
13 Respondent shall reimburse Petitioner's \$500.00 filing fee as required by ARIZ. REV.  
14 STAT. § 32-2199.01. **IT IS FURTHER ORDERED** that a civil penalty is awarded in the  
15 amount of \$500.00.

16 **IT IS ORDERED** that Petitioner's petition in **25F-H054-REL** be granted and that  
17 Respondent shall follow A.R.S. § 33-1805(A). **IT IS FURTHER ORDERED**, that  
18 Respondent shall reimburse Petitioner's \$500.00 filing fee as required by ARIZ. REV.  
19 STAT. § 32-2199.01. **IT IS FURTHER ORDERED** that a civil penalty is awarded in the  
20 amount of \$500.00.

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28 **NOTICE**

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

