

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

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

4
5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6
7 In the Matter of:

8 Ann Galpin,

9 **Petitioner,**

10 v.

11 University Shadows Homeowners
12 Association, Inc.,

13 **Respondent.**

No. 25F-H099-REL

**ADMINISTRATIVE LAW JUDGE
DECISION**

14

HEARING: March 26, 2026 at 1:00pm

15 **APPEARANCES:** Complainant Ann Galpin appeared on her own behalf.
16 Attorney Mark Lines appeared on behalf of Respondent University Shadows
17 Homeowners Association, Incorporated with witness Austin Heywood and observer
18 Treven Nuttall.

19 **ADMINISTRATIVE LAW JUDGE:** Nicole Robinson

20 **EXHIBITS ADMITTED INTO EVIDENCE:** Arizona Department of Real Estate
21 Notice of Hearing Packet ("Packet"). Petitioner Exhibits. Respondent Prehearing
22 Memorandum.
23

FINDINGS OF FACT

24 **BACKGROUND AND PROCEDURE**

25 1. The Arizona Department of Real Estate ("Department") is authorized by
26 statute to receive and to decide petitions for hearings from members of homeowners'
27 associations and from homeowners' associations in Arizona.

28 2. On November 11, 2025, Ann Galpin ("Petitioner") filed a one issue petition
29 with the Department which alleged that University Shadows Homeowners Association,
30

1 Incorporated (“Respondent” or “Association”) violated condominium statute ARIZONA
2 REVISED STATUTES (ARIZ. REV. STAT) § 33-1258.¹

3 3. The relief requested by Petitioner, other than ordering Respondent to pay
4 to Petitioner the filing fee required by ARIZ. REV. STAT. § 32-2199.01 if Petitioner
5 prevailed, included the following, to order Respondent to abide by the Arizona statute
6 specified in the complaint section.²

7 4. On November 24, 2025, the Department sent a Homeowner’s Association
8 (“HOA”) NOTICE OF PETITION to Respondent which informed Respondent of the petition
9 initiated against it.³ In addition, the petition informed Respondent to send a timely
10 response to the Department and to Petitioner no later than December 19, 2025.⁴

11 5. On or about December 8, 2025, Respondent returned a timely ANSWER to
12 the Department whereby it denied Petitioner’s claims and concluded the following:

13 The statutory framework governing condominium records requests draws
14 a clear line between an association’s obligation to disclose the records it
15 maintains and the impermissible burden of requiring the creation of new
16 ones. The Association met its obligations under ARIZ. REV. STAT. § 33-
17 1258 by timely producing all existing records subject to disclosure and by
18 applying the retention and disclosure requirements of Title 10 and Title 33
19 as written.

20 Petitioner’s remaining demands exceed the scope of those statutes and
21 seek records the Association is not required to maintain or create.
22 Because the Association has fully complied with the law, and because the
23 Petition rests on categories of documents outside the statutes’ reach, the
24 Association respectfully requests that the Petition be dismissed.⁵

25 6. On or about December 23, 2025, the Department referred this matter to
26 the Office of Administrative Hearings (“OAH”), an independent state agency, for an
27 evidentiary hearing to address the issues set forth as follows:

28 The Petitioner’s allegation within the petition states, “I am seeking
29 assistance in obtaining the attached requested records from University
30 Shadows Homeowners Association, Inc.; in accordance with ARS 33-1258
I submitted a written record request around noon on October 14, 2025
which was acknowledge as received at 5:00 pm on October 14, 2025 by

¹ See Packet at Exhibit 6.

² *Id.*

³ See Packet at Notice of Petition.

⁴ *Id.*

⁵ See Packet at ADRE HOA Dispute Process – Response to Petition.

1 Treven Nuttall for Heywood Realty and Investment, Inc. acting on behalf of
2 University Shadows Homeowners Association, Inc.; on October 31, 2023
3 the association sent an email with 25 attachments related to request items
4 #1+ #2 + #4; and failed to providing records related to request items #3 +
5 #5; many of the records requested on October 14, 2025 were requested
6 previously in April 2025 and dismissed by Austin Heywood of Heywood
7 Realty and Investment, Inc. on May 23, 2025, acting on behalf of
8 University Shadows Homeowners Association, Inc., as he claimed
9 homeowners must limit any record request to 3 years pursuant to ARS 10-
10 11601 which according to subsection F, ARS 10-11601 does not apply to
11 condominium HOAs.”⁶

8 THE PARTIES AND GOVERNING DOCUMENTS

9
10 7. Respondent is a condominium/community association whose members
11 own properties in the University Shadows residential real estate development located in
12 Tempe, Maricopa County, Arizona.⁷ The community was managed by Heywood
13 Community Management.⁸

14 8. Petitioner has been a University Shadows property owner for 29 years and
15 a member of the Association.⁹

16 9. The Association’s governing document included the Records Retention
17 Policy and authority ARIZ. REV. STAT. § 33-1258 which provides, in pertinent part, the
18 following:

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

29 ⁶ See Packet at Exhibit 6.

30 ⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

1 B. Books and records kept by or on behalf of the association and the
2 board may be withheld from disclosure to the extent that the portion
3 withheld relates to any of the following:

- 4 1. Privileged communication between an attorney for the
5 association and the association.
- 6 2. Pending litigation.
- 7 3. Meeting minutes or other records of a session of a board
8 meeting that is not required to be open to all members pursuant to
9 section 33-1248.
- 10 4. Personal, health or financial records of an individual member of
11 the association, an individual employee of the association or an
12 individual employee of a contractor for the association, including
13 records of the association directly related to the personal, health or
14 financial information about an individual member of the association,
15 an individual employee of the association or an individual employee
16 of a contractor for the association.

17 The Heywood Community Management HOA Records Retention Policy which was
18 revised on January 1, 2019,¹⁰ was listed as follows:

19 **TYPE OF RECORDS**

20 Architectural Control Documents ~ Permanently
21 Articles of Incorporation ~ Permanently
22 Assessment Information ~ 3 years
23 Bank Statements ~ 3 years
24 Budgets ~ 3 years
25 By-Laws ~ Permanently
26 Certificates of Insurance ~ 3 years
27 Contracts ~ 3 years
28 Correspondence: Electronic ~ 3 years
29 Correspondence: E-mails Sent ~ 1 year
30 Correspondence: General ~ 3 years
Correspondence: Legal ~ 3 years
CC&R's ~ Permanently
Deeds - Current Owner ~ Permanently
Financial Reporting and Documents ~ 3 years
Income Tax Returns: Federal ~ 3 years
Income Tax Returns: State ~ 3 years
Insurance: Settled Claims ~ 3 years
Insurance: Policies ~ 3 years
Legal Files: Closed ~ 3 years
Legal Files: Open ~ 3 years
Minutes: Annual Meetings ~ Permanently

¹⁰ See Packet at Exhibit 10.

Minutes: Board Meetings ~ Permanently
Monthly Financial Statements ~ 3 years
Newsletters ~ 3 years
Plat Maps ~ Permanently
Rules and Regulations (current version only) ~ Permanently¹¹

THE DOCUMENT REQUEST

10. On October 14, 2025, Petitioner filed a written request for records with the Association to provide particular documents to her in accordance with ARIZ. REV. STAT. § 33-1258.¹² The documents requested included, in pertinent part, as follows:

- #1 - Board Election October 6, 2025. All records, including but not limited to sign-in sheet, tally sheets, ballots brought to election meeting including the envelopes they came in or faxed or emailed including the transmittal page, and all ballots not brought to the meeting including the envelopes they came in, or faxed or emailed including the transmittal pages.
- #2 - Detailed Monthly Financials for April'25 + May'25 + Jun'25 + Jul'25 + Aug'25 + Sep'25 including the standard bank statements, check registers, outstanding checks, etc.
- #3 - The Period: 7/1/2018 – 9/30/2025:
 - o Detailed General Ledger, preferably in excel format, or comma-delimited format CSV.
 - o Detailed Accounts Payable Ledger, preferably in excel or CSV format.
 - o Detailed Accounts Receivable Ledger, preferably in excel or CSV format.
 - o Check Registers, all accounts, open and or closed: simple list showing check date, check number, payee, and dollar amount. Preferably in excel or CSV format.
- #4 - Invoices and support documentation for:
 - o Inv. #2231 - 12/30/2022: Splashaway, LLC
 - o Inv. #13715 - 9/16/2024: Arizona Red Mountain Services
 - o Inv. #20241210 - 12/10/2024: Gabrielle Quintana
- #5 - For each vendor below please provide: Detailed Vendor Ledger 7/1/2018-9/30/2025. And records including but not limited to agreements, revised agreements, amended agreements, change orders, revised or amended change orders, communications, walk-throughs, inspections, and invoices not previously provided.
 - o ASAP Restoration LLC
 - o Asphalt Restoration Services
 - o ATLAS COMPANIES [Et.al].

¹¹ *Id.*

¹² See Packet at Exhibit 9.

- o 5 GUYS [Et.al].
- o LG Painting
- o Great Western Landscaping
- o Great Western Tree
- o Great Western Pest
- o Green Keeper Landscaping
- o Green Keeper Tree
- o Swain Asphalt
- o Heywood [Et. al.] - In addition to "h." above; please provide documentation which supports the quarterly invoices "postage and black and white duplicating" typically in the thousands of dollars.¹³

HEARING EVIDENCE

11. Petitioner testified on her own behalf. Respondent presented the testimony of Heywood Community Management Vice President, Austin Heywood. Administrative notice was taken of the Department's electronic file and NOTICE OF HEARING. The substantive evidence of record was as follows:

- a. In August 2025, Petitioner filed a written request for records with the Association. The Association responded and sent Petitioner over 1,000 pages of documents.
- b. On October 14, 2025, Petitioner filed a written request for records with the Association. The request included five categories of documents and Petitioner detailed that she sought electronic copies of the records.¹⁴ Later that day, Respondent responded to Petitioner by email that her request was received and they would get back to her with an estimate on when the documents would be ready.¹⁵
- c. On October 31, 2025, the Association completed its review of records and provided Petitioner with approximately 25 documents which included election materials, monthly financial statements, bank statements, check registers, and the specific invoices identified in the request. The Association provided Petitioner records that were listed in her request identified as categories #1, #2, and #4.
- d. On November 11, 2025, Petitioner detailed that she received documents from the Association, as part of her request, from categories #1, #2, and #4.¹⁶ Petitioner alleged that she did not receive records related to categories #3 and #5.
 - i. Category #3 requested accounting information for the period from July 1, 2018 through September 30, 2025, including general ledger

¹³ *Id.*

¹⁴ See Packet at Exhibit 9.

¹⁵ See Packet at Exhibit 8.

¹⁶ See Packet at Exhibit 4.

1 data, accounts payable and receivable histories, and check register
2 information in CSV or Excel format.

- 3 ii. Category #5 requested vendor-specific ledgers and records
4 surrounding vendors, including agreements, change orders,
5 communications, inspections, invoices (not previously provided),
6 and walk-through documentation for approximately 11 vendors
7 including Heywood Community Management.

8 **ARGUMENTS**

9 Petitioner's Argument

10 12. Petitioner argued that the Association did not comply with ARIZ. REV. STAT.
11 § 33-1258. Petitioner contended that her records request should have taken an hour or
12 less to pull together and the computer accounting systems should be capable of
13 producing these records in multiple formats. Petitioner persistently argued that she
14 should have received a (1) digital record that resides within the computer which must be
15 converted, and (2) a corresponding source document. Petitioner contended that she
16 received neither form of record for categories #3 and #5 and that her petition should be
17 granted.

18 Respondent's Argument

19 13. Respondent asserted that they provided all of the records that can be
20 produced and made them available to Petitioner. Respondent argued that they are not
21 required to take data that may exist within its systems and generate something new by
22 extracting and converting that data into a new record that was not kept in the ordinary
23 course of business. Respondent further argued that the Petitioner was unable to
24 identify any specific records that were maintained by the Association, that were
25 requested by Petitioner, and were not produced. Respondent requested that the
26 Tribunal deny Petitioner's petition.

27 **CONCLUSIONS OF LAW**

28 1. The Department's jurisdiction pursuant to ARIZ. REV. STAT. §§ 32-2102 and
29 32-2199 *et seq.*, regarding a dispute between an owner and a condominium/community
30 association. The owner or association may petition the department for a hearing
concerning violations of community documents or violations of the statutes that regulate

1 planned communities as long as the petitioner has filed a petition with the department
2 and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

3 2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(A), 32-
4 2199.01(D), 32-2199.02, and 41-1092 *et seq.*, OAH has the authority to hear and
5 decide the contested case at bar. OAH has the authority to interpret the contract
6 between the parties.¹⁷

7 3. In this proceeding, Petitioner bears the burden of proving by a
8 preponderance of the evidence that Respondent violated the aforementioned ARIZ. REV.
9 STAT. § 33-1258.¹⁸

10 4. A preponderance of the evidence means “proof which leads the [trier of
11 fact] to find that the existence of the contested fact is more probable than its
12 nonexistence.”¹⁹

13 5. Condominium Associations are regulated by ARIZ. REV. STAT. Title 33,
14 Chapter 9, Article 3 and ARIZ. REV. STAT. § 10-11601 does not govern in this matter.

15 6. Based on the Tribunal’s jurisdiction, this matter was focused on the
16 October 14, 2025 requests #3 and #5.²⁰ In this case, Petitioner received a voluminous
17 amount of documents, over 1,000 pages, from the Association between two different
18 records requests made in 2025. Mr. Heywood credibly testified that all of the
19 Association records kept in the normal course of business were provided to Petitioner.
20 In fact, Petitioner admitted that some of the documents in category #3 were provided
21 but may have not been complete.²¹ As an example, Petitioner testified that a
22 homeowner may have received an insurance payout and that should have been a
23 record provided to her. However, Petitioner had no proof that the Association had any
24 such record and refused or failed to provide.

25 7. The credible weight of the evidence establishes that it is challenging for
26 Petitioner to prove that a particular record exists when Mr. Heywood credibly testified

27 ¹⁷ See *Tierra Ranchos Homeowners Ass’n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

28 ¹⁸ See ARIZ. ADMIN. CODE R2-19-119.

29 ¹⁹ *In re William L.*, 211 Ariz. 236, 238 (App. 2005) (quoting *Matter of Appeal in Maricopa Juv. Action No. J-84984*, 138 Ariz. 282, 283 (1983)).

30 ²⁰ Determined at pre-hearing conference between the parties on February 13, 2026 at 1:00pm. Per the October 14, 2025 written request for records, categories #1, #2, and #4 were determined to be moot because the parties acknowledged that Petitioner did receive those documents.

²¹ Refer to Recording #1, March 26, 2026 at 53:00.

1 that they provided all requested records that do exist. Respondent successfully argued
2 that Ariz. Rev. Stat. § 33-1258, does not require an Association to create new
3 documents or generate data into a particular format.

4 8. Therefore, the undersigned Administrative Law Judge concludes that,
5 because Petitioner failed to meet her burden of proof that Respondent committed the
6 alleged violation, her petition must be denied.

7 **ORDER**

8 Based on the foregoing,

9 **IT IS ORDERED** that Petitioner's petition be **DENIED**.

10 **IT IS FURTHER ORDERED** pursuant to ARIZ. REV. STAT. § 32-2199.02(A),
11 Respondent shall not reimburse Petitioner's filing fee as required by ARIZ. REV. STAT. §
12 32-199.01.

13 *In the event of certification of the Administrative Law Judge Decision by the*
14 *Director of the Office of Administrative Hearings, the effective date of the Order will be*
15 *forty (40) days from the date of that certification.*

16 Done this day, April 15, 2026.

17 /s/ Nicole Robinson
18 Administrative Law Judge

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

20 Susan Nicolson, Commissioner
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