

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

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3 **ALJFIN ALJ Decision final by statute**

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5 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

6  
7 In the Matter of:

8 Yin Macatabas,

9 **Petitioner,**

10 v.

11 Tapestry on Central Condominium  
12 Association,

13 **Respondent.**

No. 25F-H089-REL

**ADMINISTRATIVE LAW JUDGE  
DECISION**

14  
15 **HEARING:** April 2, 2026 at 1:00PM and April 7, 2026 at 10:30AM

16 **APPEARANCES:** Petitioner Yin Macatabas appeared on her own behalf.  
17 Attorneys Monya Cohen and Allison Preston represented Respondent Tapestry on  
18 Central Condominium Association with witnesses Kara Tretbar and Candess Hunter.

19 **ADMINISTRATIVE LAW JUDGE:** Nicole Robinson

20 **EXHIBITS ADMITTED INTO EVIDENCE:** Arizona Department of Real Estate  
21 Notice of Hearing Packet ("Packet"). Petitioner's Exhibits A through C and F through I.  
22 Respondent Exhibit 1.

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 September 3, 2025, Yin Macatabas ("Petitioner") filed a one issue  
29 petition with the Department which alleged that Tapestry on Central Condominium  
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1 Association (“Respondent” or “Association”) violated ARIZONA REVISED STATUTES (ARIZ.  
2 REV. STAT.) § 33-1258.<sup>1</sup>

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.<sup>2</sup>

7 4. On October 27, 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.<sup>3</sup> In addition, the petition informed Respondent to send a timely  
10 response to the Department and to Petitioner no later than November 21, 2025.<sup>4</sup>

11 5. On or about November 17, 2025, Respondent returned its ANSWER to the  
12 Department whereby it denied Petitioner’s claims.<sup>5</sup>

13 6. On or about November 24, 2025, the Department referred this matter to  
14 the Office of Administrative Hearings (“OAH”), an independent state agency, for an  
15 evidentiary hearing to address the issues set forth as follows:

16 The Petitioner’s allegation within the petition states, “On July 30, 2025, I  
17 requested copies of all competitive bids/proposals and related documents  
18 supporting the July 2025 \$3.5M special assessment, and the Association  
19 failed to provide the copies by August 13, 2025” in violation of Ariz. Rev.  
20 Stat. § 33-1258.<sup>6</sup>

### 21 **THE PARTIES AND GOVERNING DOCUMENTS**

22 7. Respondent is a condominium/community association whose members  
23 own properties in the Tapestry on Central residential real estate development located in  
24 Phoenix, Maricopa County, Arizona.<sup>7</sup> The community consisted of 292 units and was  
25 managed by First Service Residential.

26 8. Petitioner purchased her condo unit A123 in the Summer of 2023 and is a  
27 property owner and a member of the Association. Petitioner stopped living at her condo

28 <sup>1</sup> See Packet at ADRE HOA Petition Form.

29 <sup>2</sup> *Id.*

30 <sup>3</sup> See Packet at Notice of Petition.

<sup>4</sup> *Id.*

<sup>5</sup> See Packet at Response to NOP.

<sup>6</sup> See Packet at ADRE HOA Petition Form.

<sup>7</sup> *Id.*

1 at Tapestry on Central in October 2025 and currently lives at one of her other  
2 properties.

3 9. In this matter, the governing authority is ARIZ. REV. STAT. § 33-1258 which  
4 provides, in pertinent part, the following:

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

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

- 20 1. Privileged communication between an attorney for the  
21 association and the association.
- 22 2. Pending litigation.
- 23 3. Meeting minutes or other records of a session of a board  
24 meeting that is not required to be open to all members pursuant to  
25 section 33-1248.
- 26 4. Personal, health or financial records of an individual member of  
27 the association, an individual employee of the association or an  
28 individual employee of a contractor for the association, including  
29 records of the association directly related to the personal, health or  
30 financial information about an individual member of the association,  
an individual employee of the association or an individual employee  
of a contractor for the association.

#### HEARING EVIDENCE

26 10. Petitioner testified on her own behalf. Respondent presented the  
27 testimony of Kara Tretbar, the prior General Manager with First Service Residential; and  
28 Candess Hunter, President of the Association's Board of Directors. Administrative  
29 notice was taken of the Department's electronic file and NOTICE OF HEARING. The  
30 substantive evidence of record was as follows:

- 1 a. The Association considered instituting special assessments that totaled  
2 \$3.5 million dollars with \$1.2 million going to the reserve account.  
3 b. The Association mailed out to all homeowners a special assessment  
4 justification packet.<sup>8</sup>  
5 c. The Association held bi-monthly meetings from January 2025 through  
6 July 2025, in regards to the proposed assessments. The meetings  
7 included board meetings and town hall style meetings to discuss the  
8 assessments and where potential vendors for the elevator and garage  
9 repairs presented.  
10 d. Petitioner did not attend any of these special assessment meetings.  
11 e. A heating, ventilation, and air conditioning (“HVAC”) reserve study was  
12 conducted. No bids were received for HVAC systems.  
13 f. On July 28, 2025, the Association Board sent out a communication  
14 email to all owners providing a status update for the special assessment  
15 vote.<sup>9</sup>  
16 g. On July 30, 2025, a special assessment meeting was held and  
17 Petitioner attended and spoke at this meeting. Also, during the meeting  
18 representatives for the Association, informed Petitioner that all  
19 documents related to the special assessment, including elevator bids,  
20 were available through the Association’s online owner portal.  
21 h. Petitioner had access to the Association’s owner portal.  
22 i. On July 30, 2025 at 3:44PM, Petitioner sent a records request<sup>10</sup> to the  
23 Association, requesting the following documents:  
24 i. Full CC&Rs and Bylaws;  
25 ii. Special Assessment justification packet;  
26 iii. All contractor bids or vendor proposals for the elevator, lobby,  
27 hallway, and HVAC projects;  
28 iv. Detailed financial breakdowns used to justify the \$3.5 million  
29 special assessment amount; and  
30 v. Meeting minutes and records of votes taken by the Board related to  
the assessment.  
j. At the time of the Petitioner’s request, the Association did not have  
lobby bids or HVAC bids.  
k. On August 8, 2025, Ms. Tretbar put together the documents for  
Petitioner with the assistance of the General Manager. Included in the  
packet were the CC&Rs, Bylaws, copy of emails, elevator bids,  
minutes, and special assessment justification packet.

<sup>8</sup> Refer to the record between the 10:00 and 15:00 minute mark where Petitioner testified that she received this packet by mail.

<sup>9</sup> See Petitioner Exhibit F.

<sup>10</sup> See Petitioner Exhibit A and B.

- i. Ms. Tretbar expected Petitioner to pick up the prepared document packet from the front office at Tapestry on Central.
  - ii. Around 4:30PM, Ms. Tretbar could no longer wait for Petitioner to pick up the documents. Ms. Hunter suggested Ms. Tretbar hand deliver the document packet to Petitioner's door.
  - iii. Ms. Tretbar went to Petitioner's unit and hand delivered the document packet.
  - iv. Petitioner was not home.
  - v. Ms. Tretbar left the document packet at Petitioner's front door.
- I. On September 3, 2025, Petitioner filed an HOA Petition with the Department.<sup>11</sup>

### **CLOSING ARGUMENTS**

#### Petitioner's Closing Argument

11. In closing, Petitioner argued that she did not receive the elevator bids and the Respondent failed to provide an audit trail or delivery log as to how this part of the request was provided to her. Petitioner argued that the Tribunal should focus on proof not narrative. Petitioner further concluded that the Tribunal should hold that the Respondent did not provide the requested records to her in the manner the Association stated nor were they not made available to her.

#### Respondent's Closing Argument

12. In closing, Respondent contended within hours after Petitioner's record request the Association verbally informed her that all the requested documents and elevator bids were available on the portal. Respondent argued that Petitioner's claim was unsupported by the facts and was premised on speculation regarding the existence of additional documents. Respondent argued that the Association fully complied with its statutory obligations by timely producing all records responsive to Petitioner's request and making such records reasonably available on the Association portal which Petitioner was able to access. Respondent concluded that Petitioner's petition be denied in its entirety.

### **CONCLUSIONS OF LAW**

1. The Department's jurisdiction pursuant to ARIZ. REV. STAT. §§ 32-2102 and 32-2199 *et seq.*, regarding a dispute between an owner and a condominium/community

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<sup>11</sup> See Packet at ADRE HOA Petition Form.

1 association. The owner or association may petition the department for a hearing  
2 concerning violations of community documents or violations of the statutes that regulate  
3 planned communities as long as the petitioner has filed a petition with the department  
4 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(A), 32-  
6 2199.01(D), 32-2199.02, and 41-1092 *et seq.*, OAH has the authority to hear and  
7 decide the contested case at bar. OAH has the authority to interpret the contract  
8 between the parties.<sup>12</sup>

9 3. In this proceeding, Petitioner bears the burden of proving by a  
10 preponderance of the evidence that Respondent violated the aforementioned ARIZ. REV.  
11 STAT. § 33-1258.<sup>13</sup>

12 4. A preponderance of the evidence means “proof which leads the [trier of  
13 fact] to find that the existence of the contested fact is more probable than its  
14 nonexistence.”<sup>14</sup>

15 5. Condominium Associations are regulated by ARIZ. REV. STAT. Title 33,  
16 Chapter 9, Article 3. In pertinent part, ARIZ. REV. STAT. § 33-1242(A) provides as  
17 follows:

18 6. In this case, the credible weight of the evidence established that  
19 Respondent made the requested documents reasonably available to Petitioner for  
20 examination. Petitioner had access to the owner portal whereby all of the requested  
21 documents resided. In addition, Respondent provided all of the requested documents  
22 via copies and hand delivered the packet to Petitioner’s home. Although Petitioner  
23 argued that she did not receive the packet at her condo unit, the requested documents  
24 were available via the owner portal. Furthermore, Petitioner requested documents for  
25 the lobby, hallway, and HVAC projects, however, those bids/proposals did not exist at  
26 the time of the request, and as such, cannot be produced by the Association.  
27  
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29 <sup>12</sup> See *Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

30 <sup>13</sup> See ARIZ. ADMIN. CODE R2-19-119.

<sup>14</sup> *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)).



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By: OAH Staff