

Final agency action regarding decision below:

ALJFIN ALJ Decision final by statute

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

Jeremy R. Whittaker,
Petitioner,

No. 25F-H026-REL

vs.

ADMINISTRATIVE LAW JUDGE
DECISION

The Val Vista Lakes Community
Association,
Respondent.

HEARING: June 17, 2025, January 30, 2026, and April 06, 2026.¹

APPEARANCES: Jeremy R. Whittaker (“Petitioner”) appeared on his own behalf.² Josh Bolen, Esq. appeared on behalf of The Val Vista Lakes Community Association (“Respondent” and “Association”) with Bryan Patterson as a witness.

ADMINISTRATIVE LAW JUDGE: Jenna Clark.

EXHIBITS ADMITTED INTO EVIDENCE: The NOTICE OF HEARING, including the referring agency’s attached administrative file, Petitioner Exhibits 202, 205-206, 208-209, 211-212, 214, 216-218, 225-226, 237, 239, 300-303, 306, 401, 403, 415, 500, 502-504, 509-510, 514, 524, and Respondent Exhibits C & O were substantively admitted into the evidentiary record. MINUTE ENTRIES dated January 14, 2025, February 19, 2025, February 27, 2025, March 07, 2025, March 13, 2025, March 17, 2025, April 09, 2025, April 18, 2025, April 24, 2025, June 17, 2025, June 26, 2025, June 27, 2025, July 13, 2025, September 27, 2025, December 02, 2025, December 18, 2025, January 09, 2026, January 28, 2026, and March 03, 2026, were admitted into the evidentiary record for administrative purposes only.

¹ Per stipulation of the parties the hearing record was held open until April 29, 2026, for the sole purpose of extending the Tribunal’s statutory decision timeline pursuant to Arizona Revised Statute (“ARIZ. REV. STAT.”) 41-1092.08(A).

² Although Petitioner subpoenaed 7 witnesses, and disclosed an additional 2 witnesses, he declined to call any of them to testify prior to resting his Case-in-Chief.

1 After review of the hearing record in this matter, the undersigned Administrative
2 Law Judge makes the following Findings of Fact and Conclusions of Law, and issues this
3 ORDER to the Commissioner of the Arizona Department of Real Estate (“Department”).

4 **FINDINGS OF FACT**

5 **BACKGROUND AND PROCEDURE**

6 1. The Department is authorized by statute to receive and to decide petitions
7 for hearings from members of homeowners’ associations and from homeowners’
8 associations in the State of Arizona.

9 2. On or about November 19, 2024, Petitioner filed a 4-issue HOA DISPUTE
10 PROCESS PETITION (“PETITION”) with the Department.³ In the petition, Petitioner identified
11 Respondent’s alleged violations as follows: (1) an alleged violation of ARIZ. REV. STAT. §
12 33-1805(A) by failing to timely respond to an October 15, 2023, records request; (2) an
13 alleged violation of ARIZ. REV. STAT. §§ ~~10-11601~~ and 33-1805(A), and Bylaw Art. IV sec.
14 3 by failing to maintain and provide access to the 2023 candidate applications for [D.E.]
15 and [B.H.], and by conducting Association business with personal email accounts and
16 unofficial communication channels; (3) an alleged (and unspecified) violation of the
17 Association’s Covenants, Conditions, and Restrictions (“CC&Rs”) and ARIZ. REV. STAT. §
18 ~~10-3830(A)~~ by expending Association funds for political purposes; and (4) an alleged
19 violation of ARIZ. REV. STAT. § 33-1805(A) and Bylaws Art. IX by failing to provide proof of
20 payments to law firms secured as the Association’s legal counsel.⁴ Petitioner requested
21 an order directing Respondent to abide by the referenced statutes and governing
22 documents.⁵ Civil penalties were not requested.⁶

23 3. On or about November 25, 2024, Petitioner filed another PETITION that
24 contained a 5th issue against Respondent – an alleged violation of CC&Rs Art. VII sec.
25 4(b) by overcharging through assessments in excess of the CPI-based Maximum Annual
26

27
28 ³ See Complete Petition Package to Respondent.pdf.

29 ⁴ *Id.*

30 ⁵ *Id.*

⁶ *Id.*

1 Assessment formula.⁷ Petitioner requested an order directing Respondent to abide by the
2 referenced statutes and governing documents.⁸ Civil penalties were not requested.⁹

3 a. On December 02, 2024, Petitioner tendered a \$2,500.00 filing fee to the
4 Department for both PETITIONS.¹⁰

5 4. On December 04, 2024, the Department issued a HOA NOTICE OF PETITION
6 to Respondent.¹¹

7 5. On December 20, 2024, Respondent returned its ANSWER to the
8 Department whereby it denied all complaint items in the petition, save the first which it
9 admitted violating.¹²

10 6. On January 08, 2025, the Department issued a NOTICE OF HEARING setting
11 the above-captioned matter for hearing before the Office of Administrative Hearings
12 (“OAH”), an independent state agency, on February 20, 2025, to address Respondent’s
13 alleged violation(s) of ARIZ. REV. STAT. § 33-1805(A), Bylaw Art. IV sec. 3, and CC&Rs
14 Art. VII sec. 4(b).¹³

15 7. On January 13, 2025, the parties submitted a STIPULATION TO CONTINUE,
16 which was granted by the Tribunal. On January 14, 2025, the Tribunal issued an ORDER
17 GRANTING CONTINUANCE that set the matter for a Status Update by March 14, 2025.

18 8. On March 17, 2025, the Tribunal issued a MINUTE ENTRY that scheduled a
19 telephonic prehearing conference for April 21, 2025. Per stipulation of the parties, on April
20 24, 2025, the Tribunal issued an ORDER GRANTING CONTINUANCE that set the matter for
21 continued hearing June 17-18, 2025.

22 9. On June 17, 2025, at the time scheduled for continued hearing, Petitioner
23 submitted a MOTION TO CONTINUE. As a result, on June 26, 2025, the Tribunal issued an
24 ORDER GRANTING CONTINUANCE that set the matter for continued hearing August 13-14,
25 2025.

26 ⁷ *Id.*

27 ⁸ *Id.*

28 ⁹ *Id.*

29 ¹⁰ See Deposit receipt2.pdf.

30 ¹¹ See Complete Petition Package to Respondent.pdf.

¹² See Response to Whittaker ADRE Petition 25F-HO26.pdf.

¹³ See 1.8.25 NOH Whittaker v Val Vista Lake Assoc signed LR (1).pdf.

1 16. CC&Rs Art. VII sec. 4(b) – **Maximum Annual Assessment**¹⁷ provides the
2 following:

3 The Annual Assessment to be established by the Board may not exceed a certain
4 amount, hereinafter referred to as the “Maximum Annual Assessment”, which
5 Maximum Annual Assessment shall be determined and shall vary in accordance
6 with the following provisions:

7 (b) From and after January 1 of the year immediately following recordation
8 of the first Trace Declaration and during such year, the Maximum Annual
9 Assessment shall be increased effective January 1 of each year without a
10 vote of the Membership in conformance with the rise, if any, of the
11 Consumer Price Index as hereinafter defined. The Maximum Annual
12 Assessment for each such period shall be computed by reference to the
13 statistics published in the Monthly Labor Review by the United States
14 Department of Labor, Bureau of Labor Statistics, designated “Consumer
15 Price Index – U.S. City Average for Urban Wage Earners and Clerical
16 Workers, 1967 Equals 100, All Items”, hereinafter called the “Consumer
17 Price Index”. For purposes of identification, the Consumer Price Index for
18 June, 1980 was 247.8. The Maximum Annual Assessment shall be
19 computed by the following formula:

20 X – Consumer Price Index for September of the year immediately
21 preceding the year of the first Annual Assessment.

22 Y = Consumer Price Index for September of the year immediately
23 preceding the calendar year for which the Maximum Annual
24 Assessment is to be determined.

25
$$\frac{(Y) \times \$300}{(X)} = \text{the Maximum Annual Assessment for the}$$

26 year in question.

27 If the Bureau of Labor Statistics shall change the method of determining the
28 Consumer Price Index, the formula for determining the Maximum Annual
29 Assessment shall be altered or amended, if possible, so as to continue the base
30 period and base figure, but in the event it shall be impossible to do so, or in the
event the Bureau of Labor Statistics shall cease to publish the said statistical
information and such information is not available from any other source, public or
private, then and in any such events a new formula for determining the Maximum
Annual Assessment shall be adopted by the Board.¹⁸

(All errors in original.)

- a. On November 25, 1986, the first sentence of Art. VII sec. 4(b) was amended
to “From and after January 1 of the year immediately following the
Recording of the first Tract Declaration and during such year, the Maximum

¹⁷ See Petitioner Exhibits 306 and 500.

¹⁸ See Complete Petition Package to Respondent.pdf.

1 Annual Assessment may be increased effective January 1 of each year
2 without a vote of the Membership in conformance with the rise, if any, of the
3 Consumer Price Index as hereinafter defined, or by five percent (5%),
4 whichever is greater.¹⁹ However, on July 11, 1990, the amendment was
5 cancelled in its entirety.²⁰ The original language was restored with full force
6 and effect.²¹

7 17. CC&Rs Art. IX sec. 1 – **Purpose for which Association’s Funds may be**
8 **Used**²² provides the following, in pertinent part:

9 The Association shall not expend funds directly or indirectly to support, endorse, or
10 contribute to any political candidate or issue.²³

11 18. Bylaw Art. IV sec. 3 – **Candidates for the Board of Directors**²⁴ provides
12 the following:

13 Nomination for election to the Board of Directors may be made by a call for
14 candidates delivered to all Members at least ninety (90) days in advance of the
15 Annual Meeting of the Members. In no event shall nominations be made from the
16 floor of the Annual Meeting. Each candidate for the Board of Directors shall fill out
17 an application which at minimum will require the candidate to disclose any familial,
18 business or ownership relationships with other Directors or candidates; any current
19 or anticipated conflicts of interest with the Association, including whether the
20 candidate is current in Assessments and/or otherwise in violation of the
21 Declaration or Rules; and whether they have previously served on the Board. The
22 application shall be made available to all Association Members prior to the
23 election.²⁵

24 19. Bylaws Art. IX – **Books and Records**²⁶ provides the following, in pertinent
25 part:

26 The books, records and papers of the Association, including, but not limited
27 to the Declaration and Bylaws, Membership register, books of account, and
28 minutes of meeting of the Members, the Board of Directors, and
29 committees, shall be made available for inspection by any Member of any
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¹⁹ See Petitioner Exhibit 502.

²⁰ See Petitioner Exhibit 503.

²¹ *Id.*

²² See Petitioner Exhibit 306.

²³ See Petitioner Exhibit 202.

²⁴ See Complete Petition Package to Respondent.pdf.

²⁵ *Id.*

²⁶ *Id.*

1 person designated by the Member in writing as the Member’s representative
2 during reasonable business hours withing ten (10) business days of such
3 request.

4 20. The Val Vista Lakes Document Retention Policy²⁷ provides, in pertinent
5 part, that accounting records must be retained for “at least 7 years”, and voting
6 agreements must be retained for “at least 3 years.”

7 21. Val Vista Lakes Resolution – Enforcement of the Governing Documents
8 (updated August 2023) provides that, in accordance with CC&Rs Art. V and Bylaws Art.
9 VI, the Board has the authority to adopt rules and regulations as it pertains to the
10 governing of the Association.²⁸ The Resolution specifies as follows, in pertinent part:

11 It is hereby RESOLVED, that the following policy and procedures be implemented
12 in regards to the campaign, ballot and election procedures for the Annual Meeting
13 of the Members.

14 GENERAL CAMPAIGN PROCEDURE

- 15 • The General Manager is responsible for supervising the entire campaign
16 process.
- 17 • A member of the Board (who is not running for re-election) will be appointed
18 to be the Board member liaison for the annual election process. The
19 appointment of this Board member will take place in the June timeframe.
- 20 • The appointed Board member liaison is responsible for ensuring the
21 election process is handled in compliance with applicable law and per the
22 agreed upon process and rules governing the elections.
- 23 • The election process timeline is updated each year in order to achieve a
24 Member Meeting where the results are announced in or around mid-
25 November.

26 * * *

27 CAMPAIGN MATERIAL

- 28 • All candidates may submit a biography for inclusion in official election
29 materials. The candidate biography must be submitted on the Val Vista
30 Lakes form and in a format suitable for duplication and posting on the
website.

(Emphasis in original.)

²⁷ See Petitioner Exhibit 239.

²⁸ See Respondent Exhibit C.

1 22. The Association was managed by FirstService Residential (“FSR”) until
2 termination on August 20, 2024.²⁹ On October 01, 2024, HOAMCO was appointed by vote
3 of the Board of Directors as the Associations’ new property management company.

- 4 a. A number of files were not transferred by FSR to HOAMCO as they were
5 missing, corrupted, and/or unable to be downloaded due to being
6 inaccessible.

7 **PARTY STIPULATIONS**

8 23. Only Issues 2-5 are to be adjudicated due to Respondent’s admission of
9 Issue 1.

10 24. Issue 3 is clarified to be a sole alleged violation of CC&Rs Art. IX sec. 1.

11 25. Because Title 10 (Corporations and Associations) of the ARIZ. REV. STAT.
12 falls outside the jurisdiction of the Department, and therefore cannot be addressed by
13 OAH, Respondent’s alleged violations of ARIZ. REV. STAT. §§ 10-11601 and 10-3830(A)
14 are removed from the underlying PETITION.

15 **HEARING EVIDENCE**

16 26. Petitioner testified on his own behalf. Bryan Petterson testified on behalf of
17 Respondent. The substantive evidence of record is as follows:

- 18 a. Petitioner owns residential property located at 2103 E. Clipper Ln. Gilbert,
19 Arizona 85234 and is a member of the Association. Petitioner was conveyed
20 the property on or about June 07, 2024.³⁰

21 **Issue #2 –**

- 22 b. On October 15, 2024, Petitioner submitted a records request to the Board of
23 Directors to review the 2023 candidate applications for D.E. and B.H.³¹
24 c. On October 31, 2024, counsel for the Association advised Petitioner that the
25 Association did not have the records in its possession but was “working on
26 obtaining them” from the Association’s prior property management
27

28 ²⁹ See Petitioner Exhibit 300.

29 ³⁰ See Petitioner Exhibit 504.

30 ³¹ See Petitioner Exhibits 211 and 401.

1 company.³² Counsel further advised that once the records were obtained,
2 they would be provided to Petitioner.³³

- 3 d. Petitioner did not receive the requested documents, or an opportunity to
4 review them, withing ten (10) days of his original request.
- 5 e. On December 26, 2024, Petitioner submitted a follow-up records request to
6 counsel for the Association.³⁴
- 7 f. On February 19, 2025, counsel for the Association advised Petitioner that
8 there were no candidate applications for the 2023 election, and that
9 candidates had only been required to complete a Request for Candidates
10 form.³⁵
- 11 g. On February 25, 2025, counsel for the Association provided Petitioner with
12 a 2023 Request for Candidates biography page that outlined all of the
13 information candidates were required to submit to the Board of Directors.³⁶
- 14 h. On March 04, 2025, counsel for the Association informed Petitioner that an
15 alleged lack of disclosure(s) was attributable to the 2023 Board President,
16 S.M., who approved the Request for Candidates form along with the rest of
17 the Board of Directors, and who also appointed another member, C.T., to
18 oversee the 2023 election.³⁷ Neither D.E., B.H., nor CHDB Law. were
19 involved in the 2023 election process.³⁸
- 20 i. Attached were all 2023 Candidate Forms received as required by the
21 2023 Board of Directors.³⁹

22 **Issue #3 –**

- 23 i. On unknown date(s), the Association placed several signs throughout
24 common areas regarding an upcoming vote to increase monthly dues by

25 ³² See Petitioner Exhibit 212.

26 ³³ *Id.*

27 ³⁴ See Petitioner Exhibit 214.

28 ³⁵ See Petitioner Exhibit 218.

29 ³⁶ See Petitioner Exhibit 216

30 ³⁷ See Petitioner Exhibit 225.

³⁸ *Id.*

³⁹

1 \$25.00.⁴⁰ Signage included phrases “Help VVL Come Back,” “You’re your
2 Community,” “Stand Up for VVL,” “Why \$25?” and “Make a Difference.”⁴¹
3 Postcards titled HOW TO VOTE were also mailed to members.⁴² The
4 postcards provided notice that voting deadline was November 21, 2024, and
5 instructed members to scan the included QR code to **Vote “YES”** online to
6 increase the maximum yearly assessment by \$25.00 per month.⁴³ Members
7 were also advised that voting via paper ballot at the Clubhouse was also an
8 option.⁴⁴ (*Emphasis in original.*)

- 9 i. An unknown number of signs were privately purchased. An unknown
10 number of signs were purchased by the Association. The Association
11 spent approximately \$1,200.00 on its own signage.⁴⁵
- 12 j. On November 15, 2024, Petitioner submitted an objection to the Association
13 regarding alleged misuse of community funds, lack of transparency, and a
14 breach of fiduciary duties.⁴⁶ Specifically, Petitioner accused the Board of
15 Directors of improperly voting for the “Vote Yes” campaign in closed
16 session, and opined that signs at issue were not for the collective benefit of
17 the community and therefore violated statute.⁴⁷
- 18 k. On November 18, 2024, D.E. sent an email blast to members regarding the
19 “Vote Yes” campaign and November 21, 2024, deadline.⁴⁸ D.E. directly
20 asked members to “vote to approve a one-time increase of the maximum
21 yearly assessment by just \$25.00 a month,” and noted that the request was
22 due to inflation eroding the Association’s resources despite streamlining
23 costs for years.⁴⁹

24 ⁴⁰ See Petitioner Exhibit 301.

25 ⁴¹ *Id.*

26 ⁴² *Id.*

27 ⁴³ *Id.*

28 ⁴⁴ *Id.*

29 ⁴⁵ See Petitioner Exhibit 300.

30 ⁴⁶ See Petitioner Exhibit 302.

⁴⁷ *Id.*

⁴⁸ See Petitioner Exhibit 303.

⁴⁹ *Id.*

1 I. On December 26, 2024, Petitioner submitted a copy of meeting minutes
2 where funds were approved for “Vote Yes” campaign sign creation and
3 placement.⁵⁰

4 **Issue #4 –**

5 m. On October 15, 2024, Petitioner submitted a request for financial
6 information to Respondent.⁵¹ Specifically, Petitioner sought to review the
7 amount of monies paid to CHDB Law, formerly Carpenter Hazlewood, hired
8 by the Association for “services rendered during for the 2023 election.”⁵²

9 n. Petitioner did not receive the requested information, or an opportunity to
10 review related documents, withing ten (10) days of his original request.

11 o. On November 03, 2024, Petitioner renewed his financial records request.⁵³

12 p. On December 26, 2024, Petitioner submitted a follow-up records request to
13 counsel for the Association.⁵⁴

14 **Issue #5 –**

15 q. At the Annual Meeting held September 05, 2024, the Board announced that
16 members would vote on whether to approve a proposed 20% increase to
17 the Maximum Annual Assessment per Lot for the 2025 fiscal year. The
18 Association advised that it had determined that a \$300.00 annual increase,
19 or \$25.00 monthly, would total \$150.49 per month starting January 01,
20 2025, and that at least two-thirds of members would have to vote in favor in
21 order for the proposed Maximum Annual Assessment increase to pass.

22 r. On September 09, 2024, Petitioner submitted an inquiry to FSR and the
23 Board of Directors whereby he opined, pursuant to his calculations, that a
24 5% increase cap was limited to \$6.27 per month.⁵⁵ Petitioner requested
25

26 ⁵⁰ See Petitioner Exhibit 214.

27 ⁵¹ See Petitioner Exhibit 211.

28 ⁵² *Id.*

29 ⁵³ See Petitioner Exhibit 403.

30 ⁵⁴ See Petitioner Exhibit 214.

⁵⁵ See Petitioner Exhibit 509.

1 clarification on the Consumer Price Index used and reconsideration of its
2 determination.⁵⁶

- 3 s. On September 11, 2024, the Board President replied that, after consulting
4 counsel, it was determined the 1990 amendment cancellation of the first
5 sentence in Art. VII sec. 4(b) was invalid because the filer did not have
6 authority and the cancellation was not filed with the County.⁵⁷ Petitioner was
7 additionally advised that in August 2024 the Board of Directors approved a
8 motion to cancel the 1990 amendment cancellation in general session.⁵⁸
9 Thus, it was the Association's position that since 1987 the Maximum Annual
10 Assessment was either per the Consumer Protection Index or 5%,
11 whichever was greater, resulting in a 20% dues increase.⁵⁹

12 **ADDITIONAL EVIDENCE**

- 13 t. Petitioner was unaware of the Association's financial position during fiscal
14 years 2021-2024, including concerns of receivership and bankruptcy.
- 15 u. Mr. Patterson testified that while the Association's general ledger did
16 contain information regarding legal payments related to Petitioner's records
17 request, that it also contained confidential and privileged information.
18 Redacted materials were not provided, in part, because monthly financial
19 statements were made available to members on the Association's website –
20 including payments made to legal counsel.
- 21 v. In an affidavit dated August 03, 2025, former Board member S.M. avowed
22 that she served from November 2020 through November 2024.⁶⁰ Per S.M.,
23 when FSR was the Association's property manager it distributed monthly
24 Accrual Basis Financial Statements consisting of approximately 65 pages,
25 beginning with a Table of Contents and including a General Ledger

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27 ⁵⁶ *Id.*

⁵⁷ See Petitioner Exhibit 510.

28 ⁵⁸ *Id.*

29 ⁵⁹ *Id.*

⁶⁰ See Petitioner Exhibit 415.

Transaction Register that detailed non-privileged vendor payments and accounting entries.⁶¹

CLOSING ARGUMENTS

27. In closing, Respondent conceded its violation of Issue 1 but argued that it should prevail on the remaining contested Issues 2-5. Specifically, Respondent opined that Petitioner could not prevail because the Candidate Form was not a “record” that was required to be kept and was not in its possession when the request was made but was provided to Petitioner in good faith. Regarding Issue 3, Respondent argued that funds were expended for the “common good” of community members which served as an exception to CC&Rs Art. IX sec. 1 by advocating for financial stability on the nonprofit. Regarding Issue 4, Respondent argued that it was under no obligation to create records, and that Petitioner conceded that he had asked for a summary. Lastly, regarding Issue 5, Respondent argued that Petitioner failed to sustain his burden of proof as he was required to establish yearly increases since 1987, and opined that finding in Petitioner’s favor required the Tribunal to ignore member votes in support of annual increases. Per Respondent, Petitioner used a “bad faith” calculation to accuse the Association of mischarging members, which was inaccurate.

28. In closing, Petitioner argued that he had sustained his burden of proof on all contested issues and requested the imposition of civil penalties against Respondent.

CONCLUSIONS OF LAW

1. This matter lies within the Department’s jurisdiction pursuant to ARIZ. REV. STAT. §§ 32-2102 and 32-2199 et seq., regarding a dispute between an owner and a planned community association. The owner or association may petition the department for a hearing concerning violations of community documents or violations of the statutes that regulate planned communities as long as the petitioner has filed a petition with the department and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

⁶¹ *Id.*

1 2. Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(A), 32-2199.01(D),
2 32-2199.02, and 41-1092 et seq. OAH has the authority to hear and decide the contested
3 case at bar. OAH has the authority to interpret the contract between the parties.⁶²

4 3. In this proceeding, Petitioner bears the burden of proving by a
5 preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-1805(A),
6 Bylaw Art. IV sec. 3, and CC&Rs Art. VII sec. 4(b).⁶³ Respondent bears the burden of
7 establishing any affirmative defenses by the same evidentiary burden.⁶⁴

8 4. “A preponderance of the evidence is such proof as convinces the trier of fact
9 that the contention is more probably true than not.”⁶⁵ A preponderance of the evidence is
10 “[t]he greater weight of the evidence, not necessarily established by the greater number of
11 witnesses testifying to a fact but by evidence that has the most convincing force; superior
12 evidentiary weight that, though not sufficient to free the mind wholly from all reasonable
13 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than
14 the other.”⁶⁶

15 5. ARIZ. REV. STAT. § 33-1805(A) provides, in relevant part, as follows:

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

28 *(Emphasis added.)*

29 ⁶² See *Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

30 ⁶³ See Arizona Administrative Code (“ARIZ. ADMIN. CODE”) R2-19-119.

⁶⁴ *Id.*

⁶⁵ MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

⁶⁶ BLACK'S LAW DICTIONARY 1220 (8th ed. 1999).

1 6. In Arizona, when construing statutes, we look first to a statute's language as
2 the best and most reliable index of its meaning. If the statute's language is clear and
3 unambiguous, we give effect to that language and apply it without using other means of
4 statutory construction, unless applying the literal language would lead to an absurd result.
5 Words should be given "their natural, obvious, and ordinary meaning."⁶⁷ Statutes should
6 be interpreted to provide a fair and sensible result.⁶⁸ Unless defined by the legislature,
7 words in statutes are given their ordinary meanings.⁶⁹ Each word, phrase, clause, and
8 sentence of a statute or rule must be given meaning so that no part will be void, inert,
9 redundant, or trivial.⁷⁰

10 7. The crux of the case at bar is whether Petitioner established that
11 Respondent's alleged conduct constitutes one or more violations of ARIZ. REV. STAT. § 33-
12 1805(A), Bylaw Art. IV sec. 3, and CC&Rs Art. VII sec. 4(b) by the requisite evidentiary
13 standard. Based upon a review of the credible and relevant evidence in the record, the
14 Tribunal finds that Petitioner sustained his burden of proof regarding Issues 1 and 3-4,
15 and that Petitioner failed to sustain his burden of proof regarding issues 2 and 5.

16 8. Here, the material facts are clear.

17 9. The credible evidence of record reflects that the Association advocated for a
18 political position by vehemently encouraging members to vote a specific way, and that the
19 Association deliberately did not fulfill Petitioner's financial records request. Neither the
20 fact that information was likely available online, ignoring the fact that such information was
21 not provided to Petitioner, nor any concerns the Association may have had regarding
22 Petitioner's ability to un-redact information, the Association was still obliged to timely reply
23 to the underlying request.

24 10. There is insufficient evidence in the record to find that the Association had a
25 duty to maintain the 2023 Request for Candidates form for D.E. and/or B.H. Moreover,
26 because it was established that the Maximum Annual Assessment was calculated by the

27 ⁶⁷ *Arpaio v. Steinle*, 201 Ariz. 353, 355 ¶ 5, 35 P.3d 114, 116 (App. 2001) (footnotes and citations omitted).

28 ⁶⁸ *Gutierrez v. Industrial Commission of Arizona*; see also *State v. McFall*, 103 Ariz. 234, 238, 439 P.2d 805,
809 (1968) ("Courts will not place an absurd and unreasonable construction on statutes.").

29 ⁶⁹ *Id.*

30 ⁷⁰ See *Deer Valley, v. Houser*, 214 Ariz. 293, 296, 152 P.3d 490, 493 (2007).

1 greater outcome of the Consumer Protection Index or 5%, the Association's increase for
2 the 2025 fiscal year was permissible.

3 11. Thus, the undersigned concludes that because Petitioner sustained his
4 burden of proof as to Issues 1 and 3-4 but failed to sustain his burden of proof as to Issues
5 2 and 5, his petition must be granted in part and denied in part.

6 **FINAL ORDER**

7 In light of the foregoing,

8 **IT IS ORDERED** that Issues 1, 3, and 4 as pled in the November 19, 2024,
9 PETITION, including the relief requested for each, are granted.

10 **IT IS FURTHER ORDERED** that Issues 2 and 5 as pled in the November 25, 2024,
11 PETITION, including the relief requested for both, are denied and dismissed with prejudice.

12 **IT IS FURTHER ORDERED** that Respondent shall reimburse a portion of
13 Petitioner's filing fee, totaling \$1,500.00, as required by ARIZ. REV. STAT. §§ 32-2199.01-
14 02.

15 **IT IS FURTHER ORDERED** that no civil penalties shall be levied against
16 Respondent as a result of these proceedings.

17 **NOTICE**

18 Pursuant to ARIZ. REV. STAT. §32-2199.02(B), this ORDER is binding on the parties
19 unless a rehearing is granted pursuant to ARIZ. REV. STAT. § 32-2199.04. Pursuant to
20 ARIZ. REV. STAT. § 41-1092.09, a request for rehearing in this matter must be filed with the
21 Commissioner of the Arizona Department of Real Estate within thirty (30) days of the
22 service of this ORDER upon the parties.⁷¹

23 Done this day, May 19, 2026.

24 **Office of Administrative Hearings**

25 /s/ Jenna Clark
26 Administrative Law Judge

27
28 Transmitted by either mail, e-mail, or facsimile to:

29 ⁷¹ See <https://azre.gov/sites/default/files/2025-07/Dispute%20Rehearing%20Request%20Form.pdf>.

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