

# EXHIBIT A

## **Plaintiff's Interrogatory #4 (underscore & bold in original):**

Your Rule 26.1, Initial Disclosure Statement, sec. II (Legal Theories of Defense) dated March 15, 2024, states:

“A.R.S. § 33-1804(C) expressly provides: ‘Before entering into any closed portion of a meeting of the board of directors, or on notice of a meeting under subsection D of this section that will be closed, the 25 board shall identify the paragraph under subsection A of this section that authorizes the board to close the meeting’.”

Records produced by SSV HOA to Plaintiff (AZNH Revocable Trust) show that the Board of Directors for SSV HOA met in a closed session on the following dates: Jan. 20, 2023; Feb. 21, 2023; April 21, 2023; July 21, 2023; Sept. 15, 2023; Oct. 20, 2023; and, Nov. 17, 2023. The records showing the above-referenced meeting dates are marked by SSV HOA as: SSHOA000123 through SSHOA000146.

**For each matter or issue receiving consideration on the above closed meeting dates** by the SSV HOA Board of Directors, and with respect to your Rule 26.1 Disclosure of Legal Theories of Defense, **describe in detail** where, when and how the Board complied with the requirement of A.R.S. § 33-1804(C) to “identify the paragraph under subsection A of this section that authorizes the board to close the meeting” and **include in your response the identity of the document or documents (or meeting minutes)** which describe, discuss, demonstrate, memorialize or record any or all of the actions by the SSV HOA Board of Directors to identify the paragraph under subsection A of A.R.S. § 33-1804 which authorized the board to meet in closed session.

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**Defendant's 2<sup>nd</sup> Amended Response to Interrogatory #4 (in full):**

Since SV HOA's Declaration of Covenants, Conditions and Restrictions ("CC&Rs") was first recorded in 1997, the Association has developed informal processes to triage homeowner-related issues and topics that routinely arise. These issues and topics form the basis of each open and closed executive session agenda. For example, the Association routinely receives violations appeals from homeowners. These appeals are not submitted all at once, rather they trickle in when homeowners receive violation letters and initiate a dispute with management concerning same.

Having processed similar homeowner appeals for over twenty years, the Association is well versed in A.R.S. § 33-1804, the statute governing Association meetings. The Association understands without having to formulaically review the statute that unless the homeowner expressly requests otherwise, all appeals are to be addressed in a closed executive session, pursuant to A.R.S. § 33-1804(A)(3) and (A)(5). Another example would be when Association management receives action items from the Board of Directors requiring input and direction from legal counsel. Association management understands without needing to review statutory language that interactive legal advice occurs during a closed executive session, pursuant to A.R.S. § 33-1804(A)(1).

Executive session agendas gradually take shape as issues arise from homeowners and other matters are brought to management's attention requiring Board input. Per Board determination, homeowners file all appeal forms directly with management, and management in turn interfaces with appropriate vendors if needed. Association management then begins to draft each meeting agenda to reflect the matters that arose following the last Board Meeting. There is no specific date or time for management to determine which items are placed onto which agenda. The items are preliminarily assigned to a tentative agenda once brought to management's attention, pending further review.

Before each Board Meeting, and generally taking place on the preceding Monday, the elected Board President reviews the proposed meeting agendas to confirm that each item has been placed on the correct agenda. Gary Wagner served as the elected Board President until the end of February 2023, at which point Paul Marenda was elected. During President Wagner's tenure, he met with Association Manager Kathy Fowers each week prior to the

Friday executive meeting, including prior to the meetings that occurred on January 20, 2023 and February 21, 2023. During President Marena's tenure, he met with Ms. Fowers each week prior to the Friday executive meeting, including prior to the meetings that occurred on April 21, 2023, September 15, 2023, October 20, 2023, and November 17, 2023. During these meetings with Ms. Fowers, the elected President reviewed and approved of the agendas, at which point the open meeting agendas were published to the community.

In advance of each open session Board Meeting, Association members receive an electronic notification of the meeting. While unrequired, such electronic notification contains the following statement as a voluntary and transparent communication to homeowners about the nature and notice of closed session meetings:

Executive Session Board Meetings - Per Arizona state law, there are some topics of Association business that are considered confidential, and are not open to homeowners or residents unless specifically invited by the Board. If invited, the homeowner is only in attendance for the portion of the meeting they are directly involved with. Notice of executive session meetings will be posted on the bulletin board outside the office, and conform to state law.

Before each closed executive session, the Association posts notice identifying the applicable subsections) of A.R.S. § 33-1804 that permit the Board to conduct a closed meeting. Therefore, it is the Association's contention that it fully complies with the requirements set forth in A.R.S. § 33-1804(C) by identifying on the executive meeting notice the applicable statutory subsections authorizing the Board to conduct a closed meeting. Subsection (C) provides in full, "[b]efore entering into any closed portion of a meeting of the board of directors, or on notice of a meeting under subsection D of this section that will be closed, the board shall identify the paragraph under subsection A of this section that authorizes the board to close the meeting." By way of further response, please see the Board of Directors Meeting Notices produced as SSHOA000001 through SSHOA000021. Each of the referenced documents identifies the statutory subsection that allowed the Association to go into executive session.