

Atty. JOHN SULLIVAN
1909 E. Ray Rd., Suite 9198
Chandler, Arizona 85225
(480) 818-5070
Bar No. 023018
Attorney for Plaintiff

**IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF MARICOPA**

AZNH REVOCABLE TRUST,
by and through
JOHN and SUSAN SULLIVAN,
TRUSTEES, REAL PARTIES IN
INTEREST

Plaintiff

v.

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Defendant

No. CV2023-096192

**Plaintiff's Motion for
Reconsideration**

Tier 2 Case

**Assigned to:
Honorable Rodrick Coffey**

1 **I. Court's Ruling for Reconsideration**

2 Plaintiff seeks reconsideration of the Court's ruling that:

3 Plaintiff also contends that Defendant must meet in an open session and explain
4 what subsection of A.R.S. § 33-1804(A) permits the Board to consider a matter in
5 closed session before it commences a closed session.

6 * * *

7

1 As long as a meeting notice identifies the subsection of A.R.S. § 33-1804(A) that
2 authorizes it to meet in a closed session, Defendant has satisfied its obligations
3 under A.R.S. § 33-1804(C).

4 **II. The Undisputed Facts**

5 Prior to all Board meetings, the HOA manager decides which matters appear on an
6 open meeting or closed meeting agenda, and prepares proposed meeting agendas.
7 Thereafter, the Board President meets with the HOA manager to review the
8 proposed meeting agendas to confirm that each item has been placed on the correct
9 agenda. At that time, the Board president approves the Board's open and closed
10 meeting agendas.

11 See CORRECTED Plaintiff's Statement of Facts, #8.

12 **III. The HOA Board Must Identify the Applicable Paragraph**
13 **Which Allows a Closed Session**

14 A.R.S. § 33-1804(C) reads in full:

15 Before entering into any closed portion of a meeting of the board of directors, or on
16 notice of a meeting under subsection D of this section that will be closed, the board
17 shall identify the paragraph under subsection A of this section that authorizes the
18 board to close the meeting.

19 The key requirement of this statute is that the Board, acting as a group, must identify the
20 applicable paragraph. Therefore, the practice of the HOA manager and Board President making
21 this identification does not comply with the statute.

22 **IV. The Board Must Make This Identification in Open Session**

23 There is no provision in A.R.S. § 33-1804 which allows the Board to make this identification
24 (a formal act of the Board) in anything other than an open session. As the Court correctly
25 observed, A.R.S. § 33-1804(A) strictly limits a closed session to matters identified in A.R.S. §
26 33-1804(A)(1-5). The Board's act of identifying the applicable paragraph which allows a closed
27 session is not among the matters identified in A.R.S. § 33-1804(A)(1-5). Thus, the Board's act
28 of identifying the applicable paragraph must be conducted in open session.

