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**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 OBJECTION TO  
DEFENDANT'S AMENDED  
PROPOSED JUDGMENT**

**Tier 2 Case**

**Assigned to: Honorable Rodrick  
Coffey**

1       **I. Voting & Formal Action Prohibited**

2       A.R.S. § 33-1804(A) & (F) prohibits the HOA Board of Directors from taking formal action  
3       or voting in closed session. See accompanying statute, highlighted.

4       The HOA wants the Court to ignore the requirements of the statute by omitting the term  
5       “formal action” from the Judgment. It appears the HOA intends to have the Board of Directors  
6       evade the statute and the Court’s ruling by engaging in “formal action” in closed session –  
7       otherwise there would no reason to exclude that phrase.

8       //

9       //

1        The Trust’s Proposed Judgment is written correctly as:

2                IT IS ORDERED, ADJUDGED AND DECREED, granting in part  
3                Plaintiff’s Motion for Summary Judgment and declaring that all voting or  
4                formal actions by the Defendant’s Board of Directors must occur in open  
5                meetings.  
6

7        **II.     HOA Proposal Does Not Mirror the Ruling**

8        The HOA Amended Proposed Judgment expands and misstates the Court’s ME Ruling.  
9        For example, the Court ruled:

10                The Court has reviewed the sample meeting notices Plaintiff provided and  
11                determined that those meeting notices satisfy the requirements of A.R.S. § 33-  
12                1804(F).  
13

14        The HOA wrote:

15                The Court also determined that Defendant’s meeting notices are sufficient and  
16                satisfy the requirements of A.R.S. § 33-1804(F).  
17

18        The HOA expands the Court’s Ruling to include meeting notices which the Court has not seen.

19        Moreover, the lengthy, first sentence of the HOA’s proposal is unnecessary to the Judgment  
20        and creates language not appearing in the Court’s ruling.

21        The Trust’s Proposed Judgment fully incorporates all of the Court’s reasoning and ruling  
22        as follows:

23                This Declaratory Judgment action came before the Court on Plaintiff’s  
24                Motion for Summary Judgment. The Motion having been considered upon  
25                hearing and under advisement, the Court’s findings and conclusions were  
26                set forth in a Minute Entry dated February 24, 2025, which findings and  
27                conclusions are adopted herein by reference.  
28

1        **III.    Objection & Proposed Result**

2        The Trust objects to the HOA’s proposal and urges the Court to sign the Trust’s Proposed  
3        Judgment which fully and accurately states the Court’s Summary Judgment Ruling.

Dated this 26<sup>th</sup> day of March, 2025.

Respectfully submitted,

          /s/ *John F. Sullivan*  
John F. Sullivan, Esq. (Bar # 023018)  
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CERTIFICATE OF SERVICE

A copy hereof was served this date upon Defense counsel via the Court’s electronic filing service.

*/s/ John F. Sullivan*  
John F. Sullivan, Esq. (Bar # 023018)  
Attorney for Plaintiff

Arizona Revised Statutes Annotated

Title 33. Property

Chapter 16. Planned Communities (Refs & Annos)

Article 1. General Provisions (Refs & Annos)

A.R.S. § 33-1804

§ 33-1804. Open meetings; exceptions; notice; agenda; policy statement

Currentness

A. Notwithstanding any provision in the declaration, bylaws or other documents to the contrary, all meetings of the members' association and the board of directors, and any regularly scheduled committee meetings, are open to all members of the association or any person designated by a member in writing as the member's representative and all members or designated representatives so desiring shall be allowed to attend and speak at an appropriate time during the deliberations and proceedings. The board may place reasonable time restrictions on those persons speaking during the meeting but shall allow a member or member's designated representative to speak once after the board has discussed a specific agenda item but before the board takes formal action on that item in addition to any other opportunities to speak. The board shall provide for a reasonable number of persons to speak on each side of an issue. Persons attending may audiotape or videotape those portions of the meetings of the board of directors and meetings of the members that are open. The board of directors of the association shall not require advance notice of the audiotaping or videotaping and may adopt reasonable rules governing the audiotaping and videotaping of open portions of the meetings of the board and the membership, but such rules shall not preclude such audiotaping or videotaping by those attending, unless the board audiotapes or videotapes the meeting and makes the unedited audiotapes or videotapes available to members on request without restrictions on their use as evidence in any dispute resolution process. Any portion of a meeting may be closed only if that closed portion of the meeting is limited to consideration of one or more of the following:

1. Legal advice from an attorney for the board or the association. On final resolution of any matter for which the board received legal advice or that concerned pending or contemplated litigation, the board may disclose information about that matter in an open meeting except for matters that are required to remain confidential by the terms of a settlement agreement or judgment.

2. Pending or contemplated litigation.

3. Personal, health or 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, including records of the association directly related to the personal, health or 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.

4. Matters relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association.

5. Discussion of a member's appeal of any violation cited or penalty imposed by the association except on request of the affected member that the meeting be held in an open session.

**B.** Notwithstanding any provision in the community documents, all meetings of the members' association and the board shall be held in this state. A meeting of the members' association shall be held at least once each year. Special meetings of the members' association may be called by the president, by a majority of the board of directors or by members having at least twenty-five percent, or any lower percentage specified in the bylaws, of the votes in the association. Not fewer than ten or more than fifty days in advance of any meeting of the members the secretary shall cause notice to be hand delivered or sent prepaid by United States mail to the mailing address for each lot, parcel or unit owner or to any other mailing address designated in writing by a member. The notice shall state the date, time and place of the meeting. A notice of any annual, regular or special meeting of the members shall also state the purpose for which the meeting is called, including the general nature of any proposed amendment to the declaration or bylaws, changes in assessments that require approval of the members and any proposal to remove a director or an officer. The secretary shall also provide an agenda for any meeting of the members' association by hand delivery, mail, website posting, email or other electronic means or posting at a community center or other similar location. The failure of any member to receive actual notice of a meeting of the members or the meeting agenda does not affect the validity of any action taken at that meeting.

**C.** 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 board shall identify the paragraph under subsection A of this section that authorizes the board to close the meeting.

**D.** Notwithstanding any provision in the declaration, bylaws or other community documents, for meetings of the board of directors that are held after the termination of declarant control of the association, notice to members of meetings of the board of directors and meeting agendas shall be given at least forty-eight hours in advance of the meeting by newsletter, conspicuous posting or any other reasonable means as determined by the board of directors. An affidavit of notice by an officer of the corporation is prima facie evidence that notice was given as prescribed by this section. Notice to members of meetings of the board of directors is not required if emergency circumstances require action by the board before notice can be given. Any notice of a board meeting shall state the date, time and place of the meeting. The failure of any member to receive actual notice of a meeting of the board of directors or a meeting agenda does not affect the validity of any action taken at that meeting.

**E.** Notwithstanding any provision in the declaration, bylaws or other community documents, for meetings of the board of directors that are held after the termination of declarant control of the association, all of the following apply:

1. The agenda shall be available in advance for all members attending.
2. An emergency meeting of the board of directors may be called to discuss business or take action that cannot be delayed for the forty-eight hours required for notice. At any emergency meeting called by the board of directors, the board of directors may act only on emergency matters. The minutes of the emergency meeting shall state the reason necessitating the emergency meeting. The minutes of the emergency meeting shall be read and approved at the next regularly scheduled meeting of the board of directors.
3. A quorum of the board of directors may meet by means of a telephone conference if a speakerphone is available in the meeting room that allows board members and association members to hear all parties who are speaking during the meeting.
4. Any quorum of the board of directors that meets informally to discuss association business, including workshops, shall comply with the open meeting and notice provisions of this section without regard to whether the board votes or takes any action on any matter at that informal meeting.

**F.** It is the policy of this state as reflected in this section that all meetings of a planned community, whether meetings of the members' association or meetings of the board of directors of the association, be conducted openly and that notices and agendas be provided in advance for those meetings that contain the information that is reasonably necessary to inform the members of the matters to be discussed or decided and to ensure that members have the ability to speak after discussion of agenda items, but before a vote of the board of directors or members is taken. Toward this end, any person or entity that is charged with the interpretation of these provisions, including members of the board of directors and any community manager, shall take into account this declaration of policy and shall construe any provision of this section in favor of open meetings.

### **Credits**

Added as § 33-1904 by [Laws 1994, Ch. 310, § 1](#). Renumbered as § 33-1804. Amended by [Laws 1996, Ch. 236, § 5](#); [Laws 1997, Ch. 40, § 5](#); [Laws 2003, Ch. 209, § 3](#); [Laws 2004, Ch. 114, § 4](#); [Laws 2006, Ch. 71, § 6](#); [Laws 2011, Ch. 50, § 2](#); [Laws 2011, Ch. 156, § 3](#); [Laws 2017, Ch. 217, § 5](#); [Laws 2024, Ch. 180, § 2](#).

A. R. S. § 33-1804, AZ ST § 33-1804

Current through legislation of the Second Regular Session of the Fifty-Sixth Legislature (2024), and includes Election Results from the November 5, 2024 General Election.