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

11 **AZNH REVOCABLE TRUST,**
12 by and through
13 **JOHN and SUSAN SULLIVAN, TRUSTEES,**
REAL PARTIES IN INTEREST

14 Plaintiff

15 v.

16 **KAY ABRAMSOHN,**
17 **ADMINISTRATIVE LAW JUDGE,**
18 **ARIZONA OFFICE OF ADMINISTRATIVE**
HEARINGS,

19 *and*

20 **TAMMY EIGENHEER,**
21 **INTERIM DIRECTOR,**
22 **ARIZONA OFFICE OF ADMINISTRATIVE**
HEARINGS,

23 *and*

24 **ARIZONA DEPARTMENT OF REAL**
ESTATE,

25 *and*

26 **SUNLAND SPRINGS VILLAGE**
HOMEOWNERS ASSOCIATION,

27 Defendants

Case No. CV2025-036466

REPLY IN SUPPORT OF
MOTION TO DISMISS ARIZONA
DEPARTMENT OF REAL
ESTATE, OR IN THE
ALTERNATIVE, FOR NOMINAL
PARTY STATUS

(Assigned to the Honorable Scott
Blaney)

1 Pursuant to Rule 7.1(a)(3) of the Arizona Rules of Civil Procedure (“ARCP”),
2 Defendant Arizona Department of Real Estate (“Department”) provides this Reply in support
3 of its Motion to Dismiss Arizona Department of Real Estate, or in the Alternative, for Nominal
4 Party Status (“Motion”).

5 **I. PLAINTIFF FAILS TO ADDRESS THE DEPARTMENT’S STATUS**
6 **AS A NON-JURAL ENTITY.**

7 In AZNH Revocable Trust, by and through John and Susan Sullivan, Trustees, Real
8 Parties in Interest’s (“Plaintiff”) Response to the Department’s Motion (“Response”), Plaintiff
9 argues that the Department’s request for dismissal as a party to the matter must be denied
10 because A.R.S. § 12-911(A)(4) is not applicable.

11 In its Motion, this statutory provision is not cited as the legal basis for the Department’s
12 dismissal as a party to this matter, but rather, as authority for the court to do so. The legal basis
13 for the Department’s dismissal as a defendant in this matter, which Plaintiff fails to address or
14 deny in its Response, is that the Department is a non-jural entity under the current statutory
15 framework that does not possess the power to sue or be sued. As such, the court does not have
16 jurisdiction and the Department is not subject to suit. *See Brillard v. Maricopa County*, 224
17 Ariz. 481, 487 ¶ 12 (2010), *citing Schwartz v. Superior Court*, 186 Ariz. 617, 619, 925 P.2d
18 1068, 1070 (App.1996); *see also Alexander v. Fund Manager*, 166 Ariz. 589, 592 (1990)
19 (“administrative agencies . . . possess only the power delegated to them by the Legislature”)
20 *citing Ayala v. Hill*, 136 Ariz. 88, 664 P.2d 238 (App.1983).

21 **II. THE DEPARTMENT IS A NOMINAL PARTY.**

22 In Plaintiff’s Response, Plaintiff agrees that the Department is a nominal party as the
23 Department is not acting as an advocate or otherwise taking any position on the merits of the
24 litigation and does not have any pecuniary or proprietary stake in the outcome of this matter,
25 and thus, is exempt from liability for attorney’s fees. *See Cortaro Water Users’ Ass’n. v.*
26 *Steiner*, 148 Ariz. 314, 318 (1986) (“... if the agency takes the role of an advocate it ceases to
27 be a nominal party and may lose its statutory protection); *See also Bromley Group, Ltd v.*

1 *Arizona Dept. of Revenue*, 170 Ariz. 532, 539 (1991).

2 While in agreement with the Department's role as a nominal party, Plaintiff appears to
3 have conflated the Department's administrative functions and duties with respect to agency
4 decisions and HOA disputes. This fusion of the Department's roles indicates that the
5 Department may have a proprietary or pecuniary interest in the outcome, which is not the case.
6 Specifically, Plaintiff states in his Response that "[a]ll administrative complaints that a
7 homeowners association has violated the Planned Communities Act (A.R.S. §§ 33-1801 to
8 1820) begin and end with ADRE." However, the statutes governing how the Department is to
9 administer and handle the HOA dispute process, A.R.S. § 32-2199, *et seq*, provide that:

10 The order issued by the administrative law judge is binding on the parties unless a
11 rehearing is granted pursuant to section 32-2199.04 based on a petition setting forth
12 the reasons for the request for rehearing, in which case the order issued at the
13 conclusion of the rehearing is binding on the parties. The order issued by the
14 administrative law judge is enforceable through contempt of court proceedings and
is subject to judicial review as prescribed by section 41-1092.08. A.R.S. § 32-
2199.02(B).

15 Plaintiff cites to A.R.S. § 41-1092.08, which provides that administrative law judge's
16 decisions are sent back to the agency heads for further action after a hearing, as the relevant
17 statute on point. However, this statute governs the process of handling agency decisions or
18 actions, namely, appealable agency actions and contested cases. HOA petitions do not
19 originate within the Department, but rather, originate from private parties that aren't associated
20 with Department decisions. As such, A.R.S. § 32-2199.02(B), which specifically refers to the
21 process for HOA disputes, is the appropriate authority, thus furthering the notion that the
22 Department does not have any proprietary or pecuniary interest in the outcome.

1 **RESPECTFULLY SUBMITTED** this 22nd day of December, 2025

2 KRIS MAYES
3 Attorney General

4 /s/ Raya Gardner
5 Raya Gardner
6 Assistant Attorney General
7 *Attorney for The AZ Department of Real Estate*

8 **ORIGINAL** electronically transmitted
9 to the Clerk of the Court for filing via
10 AZTurboCourt this 22nd day of December, 2025

11 **COPY** of the foregoing e-mailed
12 this same date to:

13 AZNH Revocable Trust,
14 John Sullivan
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16 *Plaintiff*

17 Kara Karlson
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21 and Interim Director Tammy Eigenheer*

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/s/ S. Hack