

Atty. JOHN SULLIVAN
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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.

**SUSAN NICOLSON,
COMMISSIONER,
ARIZONA DEPARTMENT OF
REAL ESTATE**

and

**TAMMY EIGENHEER,
INTERIM DIRECTOR,
ARIZONA OFFICE OF
ADMINISTRATIVE HEARINGS**

and

**SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,**

Defendants

No. CV2026-008484

**VERIFIED
COMPLAINT
for**

**SPECIAL ACTION
(Original Special Action)**

and

STAY OF PROCEEDINGS

and

**TEMPORARY AND PERMAMENT
INJUNCTION**

1 NOW COMES THE PLAINTIFF, in the above-captioned matter, seeking Special Action
2 Relief, Stay of Proceedings and Injunctive Relief with respect to: (1) Fraud perpetrated upon
3 the Commissioner of the Arizona Department of Real Estate; (2) Hearing Rights and
4 Procedures required by A.R.S. § 32-2199.01 for disputes between a homeowner and a
5 Planned Community; and, (3) the invalid acts of a corporation under the Nonprofit
6 Corporation Act (A.R.S. § 10-3304), and states as follows:
7

8 **I. Introduction**

9 1. “A fraudulent representation may be effected by deceitful statements or half-truths or even
10 the concealment of material facts.” *State v. Clements*, 1 CA-CR 23-0224, 2024 WL
11 2350495, ¶ 4 (Div. 1, 2024) (Memorandum Decision) citing *State v. Haas*, 138 Ariz. 413,
12 418 (Az. Supreme Court, 1983).

13 2. In construing the term “defraud,” the Arizona Supreme Court stated:

14 The federal mail fraud statute encompasses a broad range of fraudulent activities.
15 Both the federal and state statutes proscribe a scheme or artifice to defraud. This
16 element is not defined according to any technical standard. The scheme need not
17 be fraudulent on its face but must involve some sort of fraudulent
18 misrepresentations *or omissions* reasonably calculated to deceive persons of
19 ordinary prudence and comprehension.

20 *State v. Bridgeforth*, 156 Ariz. 60, 63 (1988) (*italics in original*) (cleaned up).

21 3. The Plaintiff petitioned the Arizona Department of Real Estate complaining that the
22 Defendant HOA had violated the Planned Communities Act. The Defendant’s Board of
23 Directors took no action on the matter. Without the HOA Board’s authorization, the HOA
24 President signed a Response to the Petition and delivered it (or caused it to be delivered) to
25 Atty. Chad Gallacher with the intention that the Response be submitted to the Department
26 of Real Estate to oppose the Petition. Because of that submission, it appeared to the
27 Commissioner of the Department of Real Estate that the corporation was contesting the

1 Petition and sent the matter to the Arizona Office of Administrative Hearings for litigation
2 (a contested hearing). But for the fraudulent misrepresentation of the HOA President, the
3 Commissioner would have issued a default decision in favor of the Plaintiff as required by
4 A.R.S. § 32-2199.01(E). There is no provision under A.R.S. § 32-2199.01 allowing the
5 Respondent to cure a default; failing to file a Response within the required time (20 days)
6 is fatal. The matter is now pending an administrative hearing on **April 6, 2026**, which, but
7 for the President’s fraudulent misrepresentation, would not be so and the Plaintiff has been
8 deprived of the default decision required by statute.
9

10 **II. Parties**

- 11 4. **Defendant (“Commissioner”), Susan Nicolson**, is the Commissioner of the Arizona
12 Department of Real Estate (“ADRE”) with a business address 100 North 15th Avenue, #
13 201, Phoenix AZ. 85007.
- 14 5. **Defendant (“Director”), Tammy Eigenheer**, is the Interim Director of the Arizona Office
15 of Administrative Hearings (“OAH”) with a business address of 1740 West Adams Street,
16 Lower Level, Phoenix, AZ. 85007.
- 17 6. **Defendant (“HOA”), Sunland Springs Village Homeowners Association**, is a Planned
18 Community subject to the Planned Communities Act, Title 33, Chapter 16 (A.R.S. §§ 33-
19 1801 to 1820) and is a domestic nonprofit corporation subject to the provisions of the
20 Arizona Nonprofit Corporation Act, Title 10, Chapters 24-40 (A.R.S. §§ 10-3101 to 10-
21 11702), and has a place of business at 11214 E. Laguna Azul Cir., Mesa, AZ 85209.
- 22 7. **Plaintiff (“AZNH”), AZNH Revocable Trust**, holds title to real property within Sunland
23 Springs Village, a Planned Community in Mesa, AZ, and is a statutorily mandated member
24 of the HOA pursuant to A.R.S. § 33-1802(4) & (6) and the HOA Declaration.
- 25 8. **John & Susan Sullivan** (*real parties in interest*) are the Trustees of AZNH Revocable Trust
26 which has its principal place of administration at 336 Intervale Rd., Unit B1, Gilford, NH
27 03249.

1 **III. Venue & Jurisdiction**

- 2 9. Venue & personal jurisdiction are proper in the Superior Court for Maricopa County.
3 10. The Superior Court has subject matter jurisdiction pursuant to Ariz. Const. art. VI, § 14,
4 A.R.S. §§ 10-3304, 12-122, 12-123 and RPSA 2 & 6.
5

6 **IV. A.R.S. § 10-3801 – Requirement for and Duties of Board of Directors**

- 7 11. A.R.S. § 10-3801 states:

- 8 A. Each corporation shall have a board of directors.
9 B. All corporate powers shall be exercised by or under the authority of and
10 the affairs of the corporation shall be managed under the direction of its
11 board of directors, subject to any limitation set forth in the articles of
12 incorporation.
13 C. The articles of incorporation may authorize one or more members,
14 delegates or other persons to exercise some or all of the powers which
15 would otherwise be exercised by a board. To the extent so authorized the
16 authorized person or persons shall have the duties and responsibilities of
17 the directors, and the directors shall be relieved to that extent from those
18 duties and responsibilities.

- 19 12. The HOA has a Board of Directors (“the corporate directors”).
20

21 **V. HOA Articles of Incorporation**

- 22 13. The HOA Articles of Incorporation do not authorize one or more members, delegates or
23 other persons to exercise some or all of the powers which would otherwise be exercised by
24 a board. **Exhibit A.**

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26 //

27 //

1 **VI. A.R.S. § 10-3140 – The Exercise of Corporate Powers and Management**

2 14. The exercise of corporate powers and management of corporate affairs requires an act of
3 the majority of the directors present at a duly called meeting at which a quorum is present.
4 See A.R.S. § 10-3140(2) (unless a greater number is required by law or the Articles or
5 Bylaws).

6 15. A party’s ignorance of the law is not an excuse for failing to comply with it. *In re*
7 *Marriage of Williams*, 219 Ariz. 546, 549, ¶ 13 (Div. 2, 2008). See *Ali v. Diaz*, 2 CA-CV
8 2025-0187, 2026 WL 323296, ¶ 10 (Div. 1, 2026) (Memorandum Decision) & *Moore v.*
9 *Meyers*, 31 Ariz. 347, 356 (ignorance of the law excuses no man from the result of his
10 conduct) *rev’d on other grounds* 31 Ariz. 519 (1927).

11
12 **VII. Procedure for Disputes Between HOA and HOA Members - A.R.S. § 33-2199.01**

13 16. For a dispute between a homeowner and an HOA, the homeowner may petition the ADRE
14 for a hearing concerning violations of the Planned Communities Act.

15 17. On receipt of the aforesaid petition and the filing fee, the ADRE shall mail by certified mail
16 a copy of the petition along with notice to the named respondent that **a response is**
17 **required within twenty days** after mailing of the petition showing cause, if any, why the
18 petition should be dismissed.

19 18. After receiving the aforesaid response, the Commissioner or the Commissioner's designee
20 shall promptly review the petition for hearing and, if justified, refer the petition to the
21 office of administrative hearings.

22
23 **VIII. Homeowner Filed Petition – Corporation Did Not Submit Response**

24 19. On November 27, 2025, AZNH filed a Petition (“Petition”) with the ADRE alleging the
25 HOA violated A.R.S. 33-1812 of the Planned Communities Act. **Exhibit B.**

26 20. The Commissioner or her designee assigned a file number to the Petition: 25F-H115.

1 21. On or about December 11, 2025, the Commissioner’s designee sent a copy of the Petition
2 and a Notice of Petition by certified mail to the HOA which states, in part (bold in
3 original):

4 The Arizona Department of Real Estate (“the Department”) has received a
5 Petition for a Hearing against **Sunland Springs Village Homeowners**
6 **Association** (Respondent), and has initiated the HOA Dispute Process pursuant
7 to the Department’s authorization under Arizona Revised Statutes (A.R.S.),
8 Title 32, Chapter 20, Article 11.

9
10 Under A.R.S. § 32-2199.01(C) & (E), The Respondent has **TWENTY (20) days**
11 from the mailing of this letter to respond to the petition, showing cause, if any,
12 as to why the petition should be dismissed.

13
14 Complete the attached Response Form, and submit it to the Department no later
15 than **December 31, 2025**. You are also required to send a copy of your response
16 to the Petitioner (Contact Information provided below.) Failure to answer by
17 the **December 31, 2025** deadline may be deemed as an admission of the
18 allegations within the Petition and an Order of Default may be issued.

19 **Exhibit C.**

20 22. As of this writing, **the HOA has not submitted a Response** to the Petition.

21 23. A.R.S. § 32-2199.01 states (emphasis added):

22 “Failure of the respondent to answer is deemed an admission of the allegations made in
23 the petition, and the commissioner **shall** issue a default decision.”

24 //
25 //
26 //
27 //
28 //

1 **IX. Fraudulent Submission to Commissioner of the ADRE**

2 24. On or about December 23, 2025, Attorney Chad Gallacher submitted an electronic message
3 to the ADRE which read: “Please find attached the Response from the Sunland Springs
4 Village Homeowners Association to the Petition filed in Case No. 25F-H115.” **Exhibit D.**

5 25. The Response (“Response”) attached to above-referenced message from Atty. Gallacher to
6 ADRE was signed by **Pen Mann (a pseudonym)** identifying himself as “President of the
7 Board of Directors for Respondent” and dated December 23, 2025. **Exhibit E.**

8 26. The Response contained the following information: “All of the complaint items in the
9 Petition are denied.”

10 27. The Response also contained the following information: “Respondent will be represented
11 by: Chad M. Gallacher, Esq. from Maxwell & Morgan, P.C.”

12 28. During the time period beginning on Nov. 27, 2025 (when the Petition was filed), through
13 and including December 23, 2025 (when the Response was submitted), there were no
14 meetings by HOA Board of Directors which included discussion or consideration of the
15 Petition or Response.

16 29. The HOA is under a Superior Court Order, issued April 17, 2025, that all voting or formal
17 actions by the HOA Board of Directors must occur in open meetings. **Exhibit F.**

18 30. During the time period beginning on Nov. 27, 2025 (when the Petition was filed), through
19 and including December 23, 2025 (when the Response was submitted), there were no votes
20 or formal actions by HOA Board of Directors which were compliant (or non-compliant)
21 with the above-referenced Court Order and which related in any way to the Petition or
22 Response.

23 31. On information and belief, at the time he signed the Response and at the time he delivered
24 it (or caused it to be delivered) to Atty. Gallacher or Maxwell & Morgan, P.C.,

25 Mr. Mann knew:

- 1 a. That HOA Board of Directors (“the corporate directors”) have a duty, and are
2 vested with sole, non-delegable authority, to manage the affairs of the corporation
3 and to exercise corporate powers;
- 4 b. That he has no authority, acting alone, to exercise corporate powers;
- 5 c. That he had no authorization, consent or instructions from the corporate directors to
6 sign or submit the Response on behalf of the HOA;
- 7 d. That the corporate directors had not authorized him or anyone else to affix a
8 signature to a Response to be submitted to the ADRE on behalf of the HOA;
- 9 e. That the corporate directors had not conducted a meeting compliant with A.R.S. §
10 33-1804 or the above-referenced Court Order to take any action (or vote on
11 anything) related to the Petition or the Response;
- 12 f. That the corporate directors had not authorized the engagement of Maxwell &
13 Morgan, P.C., or Atty. Chad Gallacher, or any other lawyer to provide any services
14 to the HOA in relation to the Petition or a Response;
- 15 g. That the corporate directors had not authorized the payment to Maxwell & Morgan,
16 P.C., or Atty. Chad Gallacher, or any other lawyer to provide any services to the
17 HOA in relation to the Petition or a Response;
- 18 h. That by signing the Response with intent that it be submitted to the ADRE, he
19 would be perpetrating a fraud upon the Commissioner or the ADRE by leading the
20 Commissioner or the ADRE to believe the corporate directors had authorized his
21 signature on, and submission of, the Response to the ADRE; and,
- 22 i. That by signing the Response with intent that it be submitted to the ADRE, he
23 would be perpetrating a fraud upon the Commissioner or the ADRE by leading the
24 Commissioner or the ADRE to believe the corporate directors had voted to respond
25 to the Petition in this manner: “All of the complaint items in the Petition are
26 denied.”

- 1 32. On information and belief, Mr. Mann perpetrated a fraud upon the Commissioner which
2 caused the Commissioner (or her designee) to take actions injurious to the rights of AZNH
3 which the Commissioner would not have taken but for the fraud of Mr. Mann.
- 4 33. On information and belief, Mr. Mann perpetrated a fraud upon the Commissioner which
5 caused the Commissioner (or her designee) to refrain from issuing a default decision which
6 the Commissioner would have issued but for the fraud of Mr. Mann.
- 7 34. On information and belief, Mr. Mann perpetrated a fraud upon the Commissioner which
8 caused the Commissioner (or her designee) to send the matter to the OAH for a contested
9 hearing which the Commissioner would not have done but for the fraud of Mr. Mann.

10 **Exhibit G.**

- 11 35. On information and belief, at the time Atty. Gallacher submitted the Response to ADRE, he
12 knew (or should have known by his duty to inquire [ER 1.16]):
- 13 a. That the HOA Directors are the corporate directors who have a duty, and are vested
14 with sole authority, to manage the affairs of the corporation and to exercise
15 corporate powers;
 - 16 b. That Mr. Mann has no authority, acting alone, to exercise corporate powers;
 - 17 c. That Mr. Mann had no authorization, consent or instructions from the corporate
18 directors to sign or submit the Response on behalf of the HOA;
 - 19 d. That the corporate directors had not authorized Mr. Mann or anyone else to affix a
20 signature to a Response to be submitted to the ADRE on behalf of the HOA;
 - 21 e. That the corporate directors had not conducted a meeting in compliance with A.R.S.
22 § 33-1804 or the above-referenced Court Order to take any action (or vote on
23 anything) related to the Petition or the Response;
 - 24 f. That the corporate directors had not authorized the engagement of Maxwell &
25 Morgan, P.C., or Atty. Chad Gallacher, or any other lawyer to provide any services
26 to the HOA in relation to the Petition or the Response;

- 1 g. That the corporate directors had not authorized the payment to Maxwell & Morgan,
2 P.C., or Atty. Chad Gallacher, or any other lawyer to provide any services to the
3 HOA in relation to the Petition or a Response;
- 4 h. That the corporate directors had not authorized Maxwell & Morgan, P.C., or Atty.
5 Chad Gallacher to act in a representative capacity with respect to the Petition or the
6 Response;
- 7 i. That Mr. Mann's signing of the Response with intent that it be submitted to the
8 ADRE, would be perpetrating a fraud upon the Commissioner or the ADRE by
9 leading the Commissioner or the ADRE to believe the corporate directors had
10 authorized Mr. Mann's signature on, and submission of, the Response to the ADRE;
- 11 j. That Mr. Mann's signing of the Response with intent that it be submitted to the
12 ADRE, would be perpetrating a fraud upon the Commissioner or the ADRE by
13 leading the Commissioner or the ADRE to believe the corporate directors had voted
14 to respond to the Petition in this manner: "All of the complaint items in the Petition
15 are denied;" and,
- 16 k. That he would be aiding Mr. Mann to perpetrate of a fraud on the Commissioner or
17 the ADRE by submitting the Response to the ADRE.

18 36. On information and belief, Atty. Gallacher aided Mr. Mann to perpetrate a fraud upon the
19 Commissioner by submitting the fraudulent Response to ADRE, which caused the
20 Commissioner (or her designee) to take actions injurious to the rights of AZNH which the
21 Commissioner would not have taken but for the fraud of Mr. Mann.

22 37. On information and belief, Atty. Gallacher aided Mr. Mann to perpetrate a fraud upon the
23 Commissioner by submitting the fraudulent Response to ADRE, which caused the
24 Commissioner (or her designee) to refrain from issuing a default decision which the
25 Commissioner would have done but for the fraud of Mr. Mann.

1 38. On information and belief, Atty. Gallacher aided Mr. Mann to perpetrate a fraud upon the
2 Commissioner by submitting the fraudulent Response to ADRE, which caused the
3 Commissioner (or her designee) to send the matter to the OAH for a contested hearing
4 which the Commissioner would not have done but for the fraud of Mr. Mann.
5

6 **X. Joinder**

7 39. The complaint in an original special action must name as a defendant the body, officer, or
8 person whose action or inaction is being challenged. It must also name as defendants all
9 other parties in whose absence the court cannot afford complete relief. RPSA 4 & 5.

10 40. A party asserting a claim, counterclaim, crossclaim, or third-party claim may join, as
11 independent or alternative claims, as many claims as it has against an opposing party. Ariz.
12 R. Civ. P. 18.

13 41. The Defendants are joined herein per RPSA 5(a)(2) and Ariz. R. Civ. P. 19 & 20.
14

15 **XI. Grounds for Original Special Action Relief**

16 42. This matter arises from a fraud perpetrated on the Commissioner of the Department of Real
17 Estate which deprived Plaintiff of a substantive procedural right and the associated benefit
18 which cannot be recovered by awaiting an appeal, i.e., a default decision and avoiding
19 litigation. See, *Desert Mountain Energy Corp. v. City of Flagstaff*, 259 Ariz. 346, ¶ 15
20 (Div. 1, 2025), *review denied* (Sept. 9, 2025) (**Special Action jurisdiction appropriate**
21 because avoiding litigation is a benefit which cannot be remedied by appeal).

22 43. Per A.R.S. § 32-2199.01, upon the failure of the Respondent to file a Response within the
23 required time, such failure is deemed an admission of the allegations made in the Petition,
24 and the commissioner shall issue a default decision.

25 44. The Commissioner, because of fraud, failed to issue a default decision, a duty imposed by
26 law for which she has no discretion and she has proceeded without, or in excess of,

1 jurisdiction or legal authority when she referred the Petition to the OAH for a contested
2 hearing. RPSA 4(a) & (b).

3 45. Based upon the fraud perpetrated on the Commissioner, the Director of the OAH, by and
4 through an Administrative Law Judge, has notified AZNH that a contested hearing shall be
5 held April 6, 2026 (reset from March 6, 2026).

6 46. Based upon the fraud perpetrated on the Commissioner, the Director has proceeded, and is
7 threatening to proceed without, or in excess of, jurisdiction or legal authority. RPSA 4(b).
8

9 **XII. Grounds for Stay of Proceedings and Injunction**

10 47. Per RPSA 9, the court may stay any action or proceeding of a body, officer, or person--with
11 or without notice to the other parties or a hearing--as provided in Rule 65 of the Rules of
12 Civil Procedure.

13 48. Per A.R.S. § 10-3304, a corporation's power to act may be challenged in a proceeding by
14 any member of a planned community association against the corporation to enjoin the act
15 pursuant to title 12, chapter 10, article 1 (A.R.S. §§ 12-1801 to 12-1810).

16 49. Per A.R.S. § 12-1801, Judges of the Superior Court may grant injunctions when:

17 a. Pending litigation, it appears that a party is doing some act respecting the subject of
18 litigation, or threatens or is about to do some act, or is procuring or suffering some act
19 to be done, in violation of the rights of the applicant [for the injunction], which would
20 tend to render the judgment ineffectual.

21 b. It appears that the party applying for the writ is entitled to the relief demanded, and
22 such relief or any part thereof requires the restraint of some act prejudicial to the
23 applicant.
24

25 **XIII. Prayer for Relief**

26 50. AZNH respectfully requests the following relief:

- 1 a. During the pendency of this action, a **temporary injunction** (per A.R.S. § 10-3304)
2 prohibiting Sunland Springs Village Homeowners Association from participating in
3 any proceedings, or filing any documents, at the OAH in relation to the matter
4 identified as Docket # 25F-H115-REL unless or until the Court Orders otherwise.
- 5 b. During the pendency of this action, a **stay of proceedings** (per RPSA 9) which
6 prohibits the Director of the OAH and any Administrative Law Judge employed by
7 the OAH from conducting any proceedings, or issuing any Orders, in relation to the
8 matter identified as Docket # 25F-H115-REL unless or until the Court Orders
9 otherwise.
- 10 c. An **Order** (per A.R.S. § 10-3304) declaring that the Response signed by Mr. Pen
11 Mann and submitted to the Commissioner of the ADRE on or about December 23,
12 2025, in the matter identified by # 25F-H115 is a nullity and of no effect.
- 13 d. A **permanent injunction** (per A.R.S. § 10-3304) prohibiting Sunland Springs
14 Village Homeowners Association from participating in any proceedings, or filing any
15 documents, at the OAH in relation to the matter identified as Docket # 25F-H115-
16 REL.
- 17 e. An **Order** (per RPSA 10) requiring the Director of the OAH to cease all processing
18 or adjudication of the matter identified as Docket # 25F-H115-REL, and to return all
19 related records and materials to the Commissioner of the ADRE, except those records
20 kept by the OAH in the ordinary course of business.
- 21 f. An **Order** (per RPSA 10) requiring the Commissioner of the ADRE to recall the
22 matter identified as Docket # 25F-H115-REL from the OAH.
- 23 g. An **Order** (per RPSA 10) requiring the Commissioner of the ADRE to proceed with
24 the matter identified as Docket # 25F-H115-REL (previously known as file # 25F-
25 H115) in the manner required by A.R.S. § 32-2199.01(E).

PLAINTIFF'S EXHIBIT A

ARTICLES OF INCORPORATION

OF

SUNLAND SPRINGS VILLAGE HOMEOWNERS ASSOCIATION

SEP 5 4 45 PM '97
Rita Mosquita
9/5/97
0817901-0

In compliance with the requirements of § 10-2301, et seq., Arizona Revised Statutes, as amended, the undersigned, who is a person capable of contracting, states as follows:

ARTICLE I

NAME

The name of the corporation is Sunland Springs Village Homeowners Association.

ARTICLE II

DEFINED TERMS

Capitalized terms used in these Articles without definition shall have the meanings specified for such terms in the Declaration of Covenants, Conditions and Restrictions for Sunland Springs Village recorded at Instrument No. 97-0609564, records of Maricopa County, Arizona, as amended from time to time.

ARTICLE III

PRINCIPAL OFFICE

The principal office of the Association shall be located at 2150 S. Farnsworth Drive, Mesa, Arizona 85208.

ARTICLE IV

STATUTORY AGENT

Donald E. Dyekman, whose address is 6750 East Camelback Road, Suite 104, Scottsdale, Arizona, 85251, and who has been a bona fide resident of the State of Arizona for more

than three (3) years last past, is hereby appointed and designated as the initial statutory agent for the corporation.

ARTICLE V

PURPOSE OF THE ASSOCIATION

The object and purpose for which this Association is organized is to provide for the management, maintenance, and care of the Common Area and other property owned by the Association or property placed under its jurisdiction and to perform all duties and exercise all rights imposed on or granted to the Association by the Project Documents. In furtherance of, and in order to accomplish the foregoing object and purpose, the Association may transact any or all lawful business for which corporations may be incorporated under the laws of the State of Arizona, as they may be amended from time to time.

ARTICLE VI

CHARACTER OF BUSINESS

The character of the business which the Association intends to conduct in Arizona is to provide for the management, maintenance and care of the Common Area and to exercise and perform such other powers and duties as are imposed on or granted to the Association by the Project Documents.

ARTICLE VII

MEMBERSHIP AND VOTING RIGHTS

Membership in the Association shall be limited to Owners of Lots. Each Owner shall have such rights, privileges and votes in the Association as are set forth in the Project Documents.

ARTICLE VIII

BOARD OF DIRECTORS

The number of directors constituting the initial Board of Directors shall be three (3). The names and addresses of the initial directors of the Association who shall serve until the first annual meeting of the members or until their successors are elected and qualified are as follows:

<u>Name</u>	<u>Mailing Address</u>
— Craig Ahlstrom	2150 S. Farnsworth Drive Mesa, AZ 85208
Jeff Decker	2150 S. Farnsworth Drive Mesa, AZ 85208
David Palmer	2150 S. Farnsworth Drive Mesa, AZ 85208

The Board shall adopt the initial Bylaws of the Association. The power to alter, amend or repeal the Bylaws is reserved to the Members except that the Declarant, so long as the Declarant owns any Lot, and thereafter, the Board, without a vote of the members, may amend the Bylaws in order to conform the Bylaws to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required by law or requested by the Declarant or the Association.

ARTICLE IX

OFFICERS

The following persons shall be the initial officers of the Association and shall hold the positions opposite their names until the first annual meeting of the Association and until their successors have been elected and qualified:

Craig Ahlstrom	-	President
Jeff Decker	-	Vice President
David Palmer	-	Secretary
David Palmer	-	Treasurer

ARTICLE X

LIMITATION ON LIABILITY OF DIRECTORS –

The personal liability of a director of the Association to the Association or its members for monetary damages for breach of his fiduciary duties as a director is hereby eliminated to the extent permitted by the Arizona Nonprofit Corporation Act, as it may be amended from time to time.

ARTICLE XI

AMENDMENTS

These Articles may be amended by Members representing at least seventy-five percent (75%) of the total authorized votes entitled to be cast by Members of the Association; provided, however, that the Declarant, so long as the Declarant owns any Lot, and thereafter, the Board, without a vote of Members, may amend these Articles in order to conform these Articles to the requirements or guidelines of the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the Federal Housing Administration, the Veterans Administration or any federal, state or local governmental agency whose approval of the Project, the Plat or the Project Documents is required by law or requested by the Declarant or the Association. So long as the Declarant owns any Lot, any amendment to these Articles must be approved in writing by the Declarant.

ARTICLE XII

DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by owners representing not less than two-thirds (2/3) of the authorized votes in each class of membership. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed or assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purpose.

ARTICLE XIII

DURATION

The corporation shall exist perpetually.

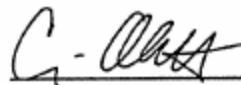
ARTICLE XIV

INCORPORATOR

The name and address of the incorporator of the Association is:

<u>Name</u>	<u>Address</u>
Craig Ahlstrom	2150 S. Farnsworth Drive Mesa, Arizona 85208

Dated this 4th day of September, 1997.



Craig Ahlstrom

ACCEPTANCE OF APPOINTMENT AS STATUTORY AGENT

The undersigned, having been designated to act as statutory agent for this corporation, hereby accepts such appointment and agrees to act in that capacity until removal or resignation is submitted in accordance with applicable provisions of the Arizona Revised Statutes.

Dated this 4th day of September, 1997.



Donald E. Dyekman

PLAINTIFF'S EXHIBIT B

HOMEOWNERS ASSOCIATION (HOA) PETITION REQUEST FORM

Use this form to begin the HOA Dispute Process with the Department of Real Estate. This completed application must be accompanied by a copy of the condominium or planned community documents that are at issue in this matter.

Once complete, the application and additional documents should be submitted through our [Message Center](#).

PETITIONER INFORMATION (Party Filing the Petition)		
Homeowner or Association Name: AZNH Revocable Trust (John & Susan Sullivan, Trustees, RPI)		
<input checked="" type="checkbox"/> Homeowner	<input type="checkbox"/> Condominium/Community Association	<input type="checkbox"/> Planned Community Association
Address: 336 Intervale Rd., Unit B1		
City: Gilford	State: NH	ZIP: 03249
Phone: 480-818-5070	Email: info@SullivanAppeals.com	

SUBJECT PROPERTY (If different than Petitioner address)		
Address: 11360 E. Keats Ave., Unit 90		
City: Mesa	State: AZ	ZIP: 85209

PETITIONER'S ATTORNEY INFORMATION (if applicable)		
Attorney Name: John Sullivan	Law Firm:	
Address: 1909 E. Ray Rd., Suite 9-198		
City: Chandler	State: AZ	ZIP: 85225
Phone: 480-818-5070	Email: info@SullivanAppeals.com	

RESPONDENT INFORMATION (Opposing Party)		
Homeowner or Association Name: Sunland Springs Village Homeowners Association		
<input type="checkbox"/> Homeowner.	<input type="checkbox"/> Condominium/Community Association.	<input checked="" type="checkbox"/> Planned Community Association.
Address: 11214 E. Laguna Azul Circle		
City: Mesa	State: AZ	ZIP: 85209
Phone: 480-354-8758	Email:	

ISSUE(S)			
Has a lawsuit been filed regarding this matter?			<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Number of issue(s) claimed in this petition:			
<input checked="" type="checkbox"/> One (1) - \$500.00	<input type="checkbox"/> Two (2) - \$1,000.00	<input type="checkbox"/> Three (3) - \$1,500.00	<input type="checkbox"/> Four (4) - \$2,000.00
Alleged violation (check box and provide reference of the violation, this must be completed):			
<input type="checkbox"/> Condominium Statutes (example. A.R.S. § 33-1243):			
<input checked="" type="checkbox"/> Planned Community Statutes (example. A.R.S. § 33-1809(A)(1)): A.R.S. § 33-1812 (A)(7)			
<input type="checkbox"/> Bylaws (Example: Article 4.1(a)):			
<input type="checkbox"/> CC&Rs (Example: Article 4, Sec. 4.1):			
Relief Requested - Other than ordering Respondent to reimburse the filing fee required by A.R.S § 32-2199.01, if the Petitioner prevails, Petitioner requests that the following relief be awarded by the Office of Administrative Hearings. Please select all that apply.			
<input checked="" type="checkbox"/> Order Respondent to abide by the Arizona statute specified in the complaint section.	<input type="checkbox"/> Order Respondent to abide by the section(s) of the condominium/planned community document(s) specified.	<input checked="" type="checkbox"/> Impose a civil penalty based on the violation specified. (Penalties, if granted, are awarded to the State, not the Petitioner).	
Description. Use this space to provide a one (1) sentence statement of the violation(s) for each issue claimed. Include within the statement the specific rule or statute that is allegedly in violation, the factual basis for the violation you are alleging, and the date and time of the alleged violation(s).			
Respondent conducted an election in February, 2025, and after completion of the election, failed produce for Petitioner's inspection, all ballots and related materials used in the election as required by A.R.S. § 33-1812(A)(7).			
Petitioner requests relief by an enforceable Order pursuant to the requirements articulated in <i>Whitmer v. Hilton Casitas</i> , No. 1 CA-CV 23-0350 (Div. 1, Jan. 30, 2024, rev. denied Aug. 2, 2024) (ALJ Order must describe in reasonable detail the prohibited or required conduct - an Order to obey-the-statute is insufficient). See accompanying Div. 1 Memorandum Decision.			

SIGNATURE	
Under penalty of perjury, I swear that this complaint is true and accurate to the best of my knowledge.	
Petitioner Name: AZNH Revocable Trust	Date: NOV. 27, 2025
Petitioner Signature: /s/ John F. Sullivan, Trustee	

2024 WL 338160

Only the Westlaw citation is currently available.

NOTICE: NOT FOR OFFICIAL PUBLICATION.

UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS
NOT PRECEDENTIAL AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

Court of Appeals of Arizona, Division 1.

R.L. WHITMER, Plaintiff/Appellant,

v.

HILTON CASITAS HOMEOWNERS ASSOCIATION, Defendant/Appellee.

No. 1 CA-CV 23-0350

|

Filed January 30, 2024

|

Review Denied August 2, 2024

Appeal from the Superior Court in Maricopa County, No. CV 2022-014709, The Honorable [John Christian Rea](#), Judge (*Retired*).

AFFIRMED

Attorneys and Law Firms

Meyer & Partners, PLLC, Phoenix, By [Ross P. Meyer](#), Counsel for Plaintiff/Appellant

Carpenter Hazlewood Delgado & Bolen, LLP, Tempe, By Edith I. Rudder, Counsel for Defendant/Appellee

Presiding Judge [Daniel J. Kiley](#) delivered the decision of the Court, in which Judge [Kent E. Cattani](#) and Judge [D. Steven Williams](#) joined.

MEMORANDUM DECISION

[KILEY](#), Judge:

*1 ¶1 R.L. Whitmer filed a petition asking the superior court to hold Hilton Casitas Homeowners Association (“Hilton Casitas”) in contempt for failing to comply with a decision rendered in an administrative proceeding several years earlier. The court dismissed his claim for relief, and Whitmer appeals. For the following reasons, we affirm.

FACTS AND PROCEDURAL HISTORY

¶2 Hilton Casitas is the homeowners association for the Scottsdale condominium community where Whitmer lives. Hilton Casitas is subject to the Arizona Condominium Act. *See* [A.R.S. §§ 33-1201](#) to -1270.

¶3 In 2014, Whitmer filed a petition with the predecessor agency to the Arizona Department of Real Estate (the “Department”) alleging that Hilton Casitas had violated its statutory obligations regarding association budgets. Specifically, Whitmer alleged that Hilton Casitas incurred legal fees in 2013 and 2014 that exceeded budgeted amounts without receiving authority from members to amend the budgets as required by [A.R.S. § 33-1243\(D\)](#).

¶4 At an evidentiary hearing before the Office of Administrative Hearings (“OAH”), Hilton Casitas’ former board president admitted that Hilton Casitas incurred legal fees in 2014 that “substantially exceeded the amount of money that had been budgeted for legal fees” that year. She explained that Whitmer had filed two or three lawsuits against Hilton Casitas that required Hilton Casitas to incur attorney fees that had not been anticipated.

¶5 After the hearing, the administrative law judge (the “ALJ”) issued a decision (the “2015 Decision”) concluding that Hilton Casitas violated [A.R.S. § 33-1243\(D\)](#) by “exceed[ing] the amount of money that had been budgeted for legal fees in 2014.” The ALJ did not impose a civil penalty against Hilton Casitas but ordered it to “fully comply with the applicable provisions of [A.R.S. § 33-1243\(D\)](#) in the future.”

¶6 Eight years later, in 2022, Whitmer petitioned the superior court to hold Hilton Casitas in contempt for violating the 2015 Decision. In his petition as amended, Whitmer alleged that Hilton Casitas had incurred legal expenses of \$67,195.50 in 2021 and \$46,591.60 in 2022, more than the amounts budgeted for those years. The amended petition further alleged that, by failing to amend its budget for either year, Hilton Casitas violated the 2015 Decision’s directive to “fully comply with the applicable provisions of [A.R.S. § 33-1243\(D\)](#) in the future.” Whitmer asked the court to find Hilton Casitas in contempt for violating the 2015 Decision, award him attorney fees, and order Hilton Casitas to “amend its future budgets within thirty (30) days of exceeding or knowing [it] will exceed its adopted budget’s authorized expenditures.”

¶7 Hilton Casitas moved to dismiss the amended petition for failure to state a claim upon which relief may be granted. *See Ariz. R. Civ. P. 12(b)(6)*. It argued that the ALJ exceeded his authority by issuing the 2015 Decision because an administrative agency lacks authority to issue a “non-specific order” requiring a condominium association “to obey [A.R.S. § 33-1243\(D\)](#) moving forward.” In the alternative, Hilton Casitas denied that it had violated [Section 33-1243\(D\)](#) and argued that, in any event, “[a]ny alleged overspend[ing]” for legal fees “in the 2021 and 2022 budgets” resulted from Whitmer’s own actions in “continuing to file” lawsuits against Hilton Casitas, “thereby causing the very problem of which he complains.”

*2 ¶8 Whitmer opposed the motion to dismiss, arguing that [A.R.S. § 32-2199.02\(A\)](#) confers statutory authority on administrative law judges to “order any party” to a condominium dispute “to abide by the statute, condominium documents, community documents or contract provision at issue.” He also asserted that Hilton Casitas violated [A.R.S. § 33-1243\(D\)](#) by “overspend[ing] its adopted annual budget” in 2021 and 2022 without asking members to approve an amended budget.

¶9 After full briefing, the superior court issued a ruling stating that it did not interpret the 2015 Decision to require Hilton Casitas to comply with [Section 33-1243\(D\)](#) for the indefinite future. Citing evidence presented at the OAH hearing that the Hilton Casitas board “intended to meet soon to ratify the increased legal costs,” the court stated that it construed the 2015 Decision simply to mandate Hilton Casitas’ compliance with [Section 33-1243\(D\)](#) at its upcoming board meeting to amend the 2014 budget. Accordingly, the court ruled, the 2015 Decision did not apply to Hilton Casitas’ actions in 2021 and 2022.

¶10 The court went on to hold that if the 2015 Decision were interpreted to impose an ongoing obligation on Hilton Casitas to comply with [Section 33-1243\(D\)](#) for the indefinite future, the decision would be “too vague to enforce by contempt.” The court concluded by dismissing Whitmer’s amended petition. After awarding attorney fees to Hilton Casitas, the court entered final judgment from which Whitmer has timely appealed. We have jurisdiction under [A.R.S. § 12-2101\(A\)\(1\)](#).

DISCUSSION

¶11 Whitmer challenges the dismissal of his amended petition under [Arizona Rule of Civil Procedure 12\(b\)\(6\)](#). We review an order granting a motion to dismiss *de novo*. *Mills v. Ariz. Bd. of Tech. Registration*, 253 Ariz. 415, 420, ¶ 10, 514 P.3d 915 (2022). We accept the facts alleged as true and determine whether those facts state a claim upon which relief can be granted. *See Mirchandani v. BMO Harris Bank, N.A.*, 235 Ariz. 68, 70, ¶ 7, 326 P.3d 335 (App. 2014); *Ariz. R. Civ. P. 12(b)(6)*. We likewise review *de novo* the superior court’s interpretation of the 2015 Decision. *See Holcomb v. Ariz. Dep’t of Real Estate*, 247

Ariz. 439, 443, ¶ 9, 451 P.3d 795 (App. 2019) (“We review de novo any legal issues addressed by the [administrative] agency or the superior court.”); see also *Abbott Labs. v. TorPharm, Inc.*, 503 F.3d 1372, 1382 (Fed. Cir. 2007) (“As with any other legal instrument, interpretation of the terms of an injunction is a question of law we review de novo.”).

¶12 Pursuant to A.R.S. § 33-1243(D),

Except as provided in the declaration, within thirty days after adoption of any proposed budget for the condominium, the board of directors shall provide a summary of the budget to all the unit owners. Unless the board of directors is expressly authorized in the declaration to adopt and amend budgets from time to time, any budget or amendment shall be ratified by the unit owners in accordance with the procedures set forth in this subsection. If ratification is required, the board of directors shall set a date for a meeting of the unit owners to consider ratification of the budget not fewer than fourteen or more than thirty days after mailing of the summary. Unless at that meeting a majority of all the unit owners or any larger vote specified in the declaration rejects the budget, the budget is ratified, whether or not a quorum is present. If the proposed budget is rejected, the periodic budget last ratified by the unit owners shall be continued until such time as the unit owners ratify a subsequent budget proposed by the board of directors.

*3 ¶13 The superior court dismissed Whitmer's amended petition because it interpreted the 2015 Decision to impose no obligation on Hilton Casitas beyond compliance with Section 33-1243(D) at its upcoming meeting to amend the 2014 budget. The court also held, in the alternative, that to the extent the 2015 Decision's directive purported to require future compliance with Section 33-1243(D) for an indefinite period, the directive was unenforceable. Because we agree with the parties that the 2015 Decision's directive can be read to mandate ongoing compliance with the statute for the indefinite future, we address the superior court's alternative holding that such a directive is unenforceable.

¶14 Whitmer asserts that the court erred in dismissing his amended petition for failure to state a claim for relief because, he contends, A.R.S. § 32-2199.02(A) authorized the ALJ to issue a “forward binding order” requiring Hilton Casitas to abide by Section 33-1243(D) on an ongoing basis. In response, Hilton Casitas argues the 2015 Decision's injunction provision is insufficiently specific to be enforced by contempt.

¶15 Administrative law judges have authority to issue injunctions directing parties to condominium disputes to abide by the requirements of particular statutes and contract provisions. See A.R.S. § 32-2199.02(A) (“The administrative law judge may order any party to abide by the statute, condominium documents, community documents or contract provision at issue and may levy a civil penalty on the basis of each violation.”). The injunctions may be enforced through contempt proceedings in superior court. *Whitmer v. Hilton Casitas Homeowners Ass'n*, 245 Ariz. 77, 80-81, ¶¶ 11-12, 425 P.3d 253 (App. 2018).

¶16 All injunctions must, *inter alia*, “describe in reasonable detail—and not by referring to the complaint or other document—the act or acts restrained or required.” Ariz. R. Civ. P. 65(d)(1). The requisite specificity will be found “only if the enjoined party can ascertain from the four corners of the order precisely what acts are forbidden or required.” *Havens v. James*, 76 F.4th 103, 121 (2d Cir. 2023) (citation omitted).

¶17 The specificity required of injunctions serves “to prevent uncertainty and confusion on the part of those faced with injunctive orders,” *Schmidt v. Lessard*, 414 U.S. 473, 476, 94 S.Ct. 713, 38 L.Ed.2d 661 (1974), thereby “protect[ing] the elementary due process requirement of notice,” *Axia NetMedia Corp. v. Mass. Tech. Park Corp.*, 889 F.3d 1, 12 (1st Cir. 2018) (cleaned up). As courts have long held, “basic fairness requires that those enjoined receive explicit notice of precisely what conduct is outlawed.” *Schmidt*, 414 U.S. at 476, 94 S.Ct. 713; see also *Granny Goose Foods v. Bhd. of Teamsters & Auto Truck Drivers Loc. No. 70*, 415 U.S. 423, 444, 94 S.Ct. 1113 (1974) (“[O]ne basic principle built into [Federal Rule of Civil Procedure] 65 is that those against whom an injunction is issued should receive fair and precisely drawn notice of what the injunction actually prohibits.”). To provide fair notice to the defendant of what he or she “is ordered to do or not to do,” an injunction “should be phrased in terms of objective actions, not legal conclusions.” *John H. Harland Co. v. Clarke Checks, Inc.*, 711 F.2d 966, 985 (11th Cir. 1983) (citation omitted).

¶18 An injunction that lacks the required specificity, or otherwise “does not clearly describe prohibited or required conduct, ... is not enforceable by contempt.” *Gates v. Shinn*, 98 F.3d 463, 468 (9th Cir. 1996); see also *United States v. Askans & Miller Orthopaedics, P.A.*, 924 F.3d 1348, 1362 (11th Cir. 2019) (noting that injunctions’ specificity requirement is “designed,” *inter alia*, “to avoid the possible founding of a contempt citation on a decree too vague to be understood”) (citation omitted). As the United States Supreme Court has recognized, “[t]he judicial contempt power is a potent weapon,” and “[w]hen it is founded upon a decree too vague to be understood, it can be a deadly one.” *Int’l Longshoremen’s Ass’n, Loc. 1291 v. Phila. Marine Trade Ass’n*, 389 U.S. 64, 76, 88 S.Ct. 201, 19 L.Ed.2d 236 (1967); see also *Payne v. Travenol Lab’ys, Inc.*, 565 F.2d 895, 897 (5th Cir. 1978) (finding that the specificity requirement of Federal Rule of Civil Procedure 65(d) is “a reflection of the seriousness of the consequences which may flow from a violation of an injunctive order”).

*4 ¶19 “[C]ourts are generally hesitant to order a defendant to obey a law in the future,” *W. Valley New, Inc. v. Maricopa Cnty. Sheriff’s Off.*, 216 Ariz. 225, 228, ¶ 11, 165 P.3d 203 (App. 2007), and one reason for this reluctance is that injunctions that simply direct parties to comply with the law provide no specific guidance for future conduct. An injunction that “gives little more direction than a general command to obey the law” sets forth mere “legal conclusions” instead of the required “specific acts.” See *Pardilla v. Vill. of Hoffman Ests.*, — N.E.3d —, 2023 IL App (1st) 211580, ¶ 37 (Ill. App. Ct. 2023). Such an order does not provide “fair and precisely drawn notice of what the injunction actually prohibits,” leaving the defendant “to guess at what kind of conduct would be deemed” to be a violation. *Calvin Klein Cosms. Corp. v. Parfums de Coeur, Ltd.*, 824 F.2d 665, 669 (8th Cir. 1987). So-called “obey-the-law” injunctions thus “run afoul” of the principle “that an injunction state its terms specifically and describe in reasonable detail the act or acts restrained or required.” *Bone v. Univ. of N.C. Health Care Sys.*, 1:18-cv-994, 2023 WL 4144277, at *32 (M.D.N.C. June 22, 2023) (mem. decision) (cleaned up); cf. *Osorio v. Ross*, 1 CA-CV 20-0543, 2021 WL 2836431, at *4, ¶ 18 (Ariz. App. July 8, 2021) (mem. decision) (affirming denial of claim for injunctive relief because plaintiff’s request that defendants be ordered to obey agency policies and procedures “amounts to little more than a broad demand to obey the law,” and “ordering such relief would have been improper”).

¶20 Because of their lack of specificity, “obey-the-law” injunctions are generally unenforceable by contempt. See *Hope v. Warden York Cnty. Prison*, 972 F.3d 310, 322 (3d Cir. 2020) (“Persons may not be placed at risk of contempt unless they have been given specific notice of the norm to which they must pattern their conduct.”) (citation omitted); *Hughey v. JMS Dev. Corp.*, 78 F.3d 1523, 1531 (11th Cir. 1996) (“Broad, non-specific language that merely enjoins a party to obey the law ... does not give the restrained party fair notice of what conduct will risk contempt.”) (citation omitted). And even courts that have approved of “obey-the-law” injunctions often require temporal limitations for such orders to avoid leaving defendants at perpetual risk of contempt for future statutory violations “no matter how remote in time” they may occur. *E.E.O.C. v. AutoZone, Inc.*, 707 F.3d 824, 844 (7th Cir. 2013) (remanding injunction compelling compliance with the Americans with Disabilities Act “with instructions to modify [it] to impose a reasonable time limit”); see also *Rome v. Mandel*, 405 P.3d 387, 401-02, ¶¶ 78-79 & n10 (Colo. App. 2016) (reversing permanent injunction compelling compliance with state securities act and holding that, “[e]ven assuming that a court may enter such an [injunction] in some cases,” it must contain a “temporal limit,” explaining that “[t]he need for a temporal limit in an obey-the-law injunction derives from [its] suspect nature and our duty to scrutinize such an injunction with great care”).

¶21 The 2015 Decision does not identify any specific act that is mandated or prohibited. Instead, it merely directs Hilton Casitas to “fully comply with the applicable provisions of A.R.S. § 33-1243(D) in the future.” (Emphasis added.) The statute includes multiple provisions governing varied matters (including adopting and amending budgets, notice to unit owners, setting meetings, voting, and proceeding without a ratified budget), and the 2015 Decision does not indicate which are the “applicable provisions” with which Hilton Casitas is being ordered to “fully comply.” Further, the 2015 Decision contains no temporal limitation, requiring compliance with Section 33-1243(D) for the indefinite “future.” An unlimited “obey-the-law” injunction of this kind is too vague to be enforceable by contempt. See *City of New York v. Mickalis Pawn Shop, LLC*, 645 F.3d 114, 144 (2d Cir. 2011) (holding “insufficiently specific,” and therefore unenforceable, injunctions purporting to direct defendants “to act in full conformity with applicable laws pertaining to firearms” without “specifying which laws are ‘applicable’”) (cleaned up); see also *United States v. Philip Morris USA Inc.*, 566 F.3d 1095, 1137 (D.C. Cir. 2009) (noting that, because “basic fairness

requires that those enjoined receive explicit notice of precisely what conduct is outlawed[.] ... we have held injunctions to be too vague when they enjoin all violations of a statute in the abstract without any further specification”) (citation omitted).

*5 ¶22 Because the 2015 Decision’s injunction provision lacks the specificity required to be enforced by contempt, the court did not err by dismissing Whitmer’s amended petition for failure to state a claim.

CONCLUSION

¶23 For the foregoing reasons, we affirm.

¶24 Hilton Casitas requests an award of attorney fees under [A.R.S. § 12-341.01](#) based on the parties’ contractual relationship. We grant Hilton Casitas’ request for reasonable attorney fees and taxable costs upon its compliance with [ARCAP 21](#).

All Citations

Not Reported in Pac. Rptr., 2024 WL 338160

End of Document

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PLAINTIFF'S EXHIBIT C

December 11, 2025

HOA Notice of Petition

Sunland Springs Village Homeowners Association
c/o FirstService Residential
9000 E Pima Center Parkway, Ste 300
Scottsdale AZ 85258
Certified Mail No. 9407 1098 9864 3576 4979 67

Sunland Springs Village Homeowners Association
11214 East Laguna Azul Circle
Mesa AZ 85209
Certified Mail No. 9407 1098 9864 3576 4990 91

Via Email: hoaboard@ssvhoa.com

RE: NOTICE OF PETITION – HOA Dispute Petition

PETITIONER: AZNH Revocable Trust

RESPONDENT: Sunland Springs Village Homeowners Association

ADRE File No.: 25F-H115 AZNH Revocable Trust v Sunland Springs

To Whom It May Concern:

The Arizona Department of Real Estate ("the Department") has received a Petition for a Hearing against **Sunland Springs Village Homeowners Association** (Respondent), and has initiated the HOA Dispute Process pursuant to the Department's authorization under Arizona Revised Statutes (A.R.S.), Title 32, Chapter 20, Article 11.

Under A.R.S. § 32-2199.01(C) & (E), The Respondent has **TWENTY (20) days** from the mailing of this letter to respond to the petition, showing cause, if any, as to why the petition should be dismissed.

Complete the attached Response Form, and submit it to the Department no later than **December 31, 2025**. You are also required to send a copy of your response to the Petitioner (Contact Information provided below.) Failure to answer by the **December 31, 2025** deadline may be deemed as an admission of the allegations within the Petition and an Order of Default may be issued.

Upon a timely response, the Department will review your submission and if justified, the case shall be referred to the Office of Administrative Hearings to schedule a hearing.

Submit your response to the ADRE Message Center under the HOA Dispute Process inbox at www.azre.gov/message-center for the fastest response time or mail to: ADRE HOA Dispute Process: 100 N. 15th Ave. Suite 201 Phoenix AZ 85007

If you have any further questions, additional information regarding this process is available at www.azre.gov/consumers/hoa. If you are unable to find the answer there, please submit questions to the Department message center at the link provided above.

Sincerely,

/s/ Vivian Nunez

HOA Dispute Coordinator
HOA Dispute Process
Department of Real Estate

Enclosures: Petition Response Form & Petition

Cc: via U.S. Mail:

Petitioner's Contact Information

AZ Revocable Trust
John Sullivan
336 Intervale Rd, Unit B1
Gilford, NH 03249

John Sullivan
1909 E Ray Rd, Ste 9-198
Chandler AZ 85225
Email: info@SullivanAppeals.com

ATTENTION RESPONDENT

Pursuant to Arizona Revised Statute § 32-2199.01 (C) you are required to file a response to the Petition with the Department of Real Estate within twenty (20) days of the notification. Failure to file a response will be deemed an admission of the allegations made in the Petition, and the Commissioner shall issue a default decision.

Response Re: Case # 25F-H115

- All of the complaint items in the Petition are denied.
- The following complaint items are denied (if not specifically denied, allegations will be deemed admitted)

- All of the complaint items have been resolved
- Respondent intends to call witnesses at the hearing
 - Number of witnesses: _____
- A copy of this response was sent to Petitioner

If this matter is referred, Respondent will be represented by: (provide name and contact information)

Respondent's Name (PRINT) _____ Date _____

Respondent's Signature _____ Date _____

PLAINTIFF'S EXHIBIT D

Message Details

Message ID

898434

Sender Type

Public

License Number

Sender

Chad Gallacher

Sender Email

cgallacher@hoalaw.biz

Sender Phone

480-833-1001

Date Sent

12/23/2025 5:02:25 PM

Subject

Homeowner Association (HOA) Dispute Process

Reply Status

Not Replied

Reply Status Date

Reply Status User

Message

Please find attached the Response from the Sunland Springs Village Homeowners Association to the Petition filed in Case No. 25F-H115.

Conversation Details

Conversation ID

350176

Status

Open

Subject

Homeowner Association (HOA) Dispute Process

Date Created

12/23/2025 5:02:25 PM

Assigned Employee

Issue Resolved

No

Notes

Attachments

10 records per page

Q

Description	Name	Size (KB)	Date Added
Message ID 898434 Attachment	Signed Response to Petition in Case No. 25F-H115.pdf	390	12/23/2025 5:02:27 PM

Showing 1 to 1 of 1 entries

← Previous 1 Next →

Records

50 records per page

Q

Record No	Name 1	Name 2	Status	Type	Email	SSN	Description
No data available in table							

Showing 0 to 0 of 0 entries

← Previous Next →

Payment Requests

10 records per page

Q

Payment Request ID	Purpose	Description	Status	Date Created
No data available in table				

Showing 0 to 0 of 0 entries

← Previous Next →

Work Items

10 records per page

Q

Work Item ID	Subject	Description	Status	Assigned	Date Created	Date Due	Date Last Updated
No data available in table							

Showing 0 to 0 of 0 entries

← Previous Next →

Action Log

10 records per page

Q

Session	User Name	Action Date	Detail
12437949	Chad Gallacher	12/23/2025 5:02:25 PM	Create new message and conversation from Chad Gallacher to Department for subject Homeowner Association (HOA) Dispute Process.
12437949	Chad Gallacher	12/23/2025 5:02:27 PM	Send message verification email to cgallacher@hoalaw.biz for Message ID 898434.
12437953	Chad Gallacher	12/23/2025 5:02:50 PM	Email address successfully confirmed for Conversation ID 350176

PLAINTIFF'S EXHIBIT E

ATTENTION RESPONDENT

Pursuant to Arizona Revised Statute § 32-2199.01 (C) you are required to file a response to the Petition with the Department of Real Estate within twenty (20) days of the notification. Failure to file a response will be deemed an admission of the allegations made in the Petition, and the Commissioner shall issue a default decision.

Response Re: Case # 25F-H115

- All of the complaint items in the Petition are denied.
- The following complaint items are denied (if not specifically denied, allegations will be deemed admitted)

- All of the complaint items have been resolved
- Respondent intends to call witnesses at the hearing
 - Number of witnesses: 2
- A copy of this response was sent to Petitioner

If this matter is referred, Respondent will be represented by: (provide name and contact information)

Chad M. Gallacher, Esq. from Maxwell & Morgan, P.C., 4854 E. Baseline Rd., Ste. 104, Mesa, AZ 85206
(480) 833-1001; cgallacher@hoalaw.biz

Respondent's Name (PRINT) Paul Marena Date _____
President of the Board of Directors for Respondent

Respondent's Signature *Paul Marena* Date _____

Showing 1 to 3 of 3 entries

← Previous 1 Next →

Ok (/LmsStaging/MessageCenter/Message/NavigateBackTo?backUrl=~%2FMessageCenter%2FMessage%2FViewDepartmentMessage%2F898039)

PLAINTIFF'S EXHIBIT F

APR 17 2025 4:12pm

S. Moberg, Deputy

Superior Court of Arizona
Maricopa County

CV 2023-096192

HONORABLE RODRICK COFFEY

AZNH Revocable Trust

John Sullivan, Esq.

v.

Sunland Springs Village
Homeowners Association Inc.,

Megan Rittenour, Esq.

JUDGMENT & ORDER

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

WHEREFORE:

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

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, denying in part Plaintiff's Motion for Summary Judgment with regard to the other issues that were raised therein.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED, pursuant to A.R.S. § 12-1840 that Plaintiffs are awarded their taxable costs in the amount of FOUR HUNDRED SIXTY-NINE DOLLARS AND FIFTY-FIVE CENTS (\$469.55) to be paid by the Defendant.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that interest shall accrue on the total amount at the legal rate of 8.5% per annum from the date of this Judgment until paid in full.

This is a final Judgment pursuant to Rule 54(c). There are no matters still pending in this case.

So Ordered and Entered by the Court this 15 day of April, 2025.



HONORABLE RODRICK COFFEY
Judge of the Superior Court

Judge Rodrick J. Coffey

PLAINTIFF'S EXHIBIT G

1 **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 In the Matter of:

4 **AZNH Revocable Trust**

Petitioner

5 vs.

6 **Sunland Springs Village Homeowners
Association,**

Respondent

File No.: 25F-H115

Docket No.: 25F-H115-REL

NOTICE OF HEARING

(Assigned to ALJ Nicole Robinson)

7
8 YOU ARE HEREBY NOTIFIED that under Arizona Revised Statutes ("A.R.S.")
9 § 41-1092.01, a hearing on the above-captioned matter will be conducted through the Office of
10 Administrative Hearings, an independent agency.

11 **Date of Hearing:**

March 6, 2026 at 1:00 p.m.

12 **Location:**

Office of Administrative Hearings

1740 W. Adams St.

Lower Level

Phoenix, Arizona 85007

13
14
15 Any person affected by this action must appear in person and can be represented by
16 counsel. Parties or witnesses wishing to appear by video conference or telephone may, not
17 later than 7 calendar days prior to the hearing date, request that the assigned Administrative
18 Law Judge permit them to appear by video conference or by telephone. This must be done by
19 contacting the Office of Administrative Hearings directly. Parties must be present during the
20 giving all evidence to have a reasonable opportunity to inspect all documentary evidence and
21 examine witnesses. Parties must also be present to evidence and argument on all relevant
22 issues. Parties must be present to have subpoenas issued by the Administrative Law Judge to
compel attendance of witnesses and production of evidence.

Information regarding procedures, practice pointers, or the online filing of motions is
available through the Office of Administrative Hearings' website at www.azoah.com, or by

1 calling their offices at (602) 542-9826.

2 The Office of Administrative Hearings has designated Adam Stone, at the address listed
3 above, as the Administrative Law Judge for these proceedings.

4 If the Respondent does not appear, the hearing will proceed in the Respondent's absence.
5 If the Petitioner does not appear, the Petition may be dismissed.

6 You are requested to be present at the hearing and produce all association rules and
7 regulations and any amendments thereto, correspondence, associate policy statements and
8 other relevant evidence, including photographs. **You are requested to bring three (3) copies
9 of any documentary or photographic evidence.** You may present evidence through your
10 own testimony and through the testimony of witnesses on your behalf. It is your responsibility
11 to secure the attendance of your witnesses.

12 Additional information regarding rules for OAH, hearing procedures, preparing for
13 your hearing, and frequently asked questions, may be found on OAH's website at
14 www.azoah.com.

15 **If you have filed any motions prior to the receipt of this Notice of Hearing, you
16 must re-file the motions with the Office of Administrative Hearings (OAH) electronically
17 or at the address listed above. With this notice, all oral and written communication
18 should be directed to the OAH and a copy must be provided to the opposing party.**

19 **As the hearing is now scheduled before an Administrative Law Judge, there is no
20 need by either party to copy the Arizona Department of Real Estate with motions,
21 responses or further correspondence on the matter.**

22 Under the Americans with Disabilities Act (ADA), the Office of Administrative
Hearings endeavors to ensure the accessibility of its hearings to all persons with disabilities.
Persons with disabilities may request reasonable accommodations such as interpreters,
alternative formats, or assistance with physical accessibility. Requests for accommodations
should be made as early as possible to allow time to arrange the accommodations. If you
require accommodations, please contact the Office of Administrative Hearings at (602)
542-9826.

1 AZNH Revocable Trust
John Sullivan
2 1909 E Ray Rd, Ste 9-198
Chandler, AZ 85225
3 Return Receipt No. 9414 8098 9864 3078 0436 54
Email: info@SullivanAppeals.com
4 *Petitioner*

5 Chad M. Gallacher, Esq.
Maxwell & Morgan, P.C.
6 4854 East Baseline Rd, Ste 104
Mesa AZ 85206 9414 8098 9864 3078 0438 45
7 Email: cgallacher@hoalaw.biz
8 *Attorney for Respondent*

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