

1 **MAXWELL & MORGAN, P.C.**  
2 PIERPONT COMMERCE CENTER  
3 4854 EAST BASELINE ROAD, SUITE 104  
4 MESA, ARIZONA 85206  
5 TELEPHONE: (480) 833-1001  
6 FAX: (480) 969-8267  
7 EMAIL: [MAIL@HOALAW.BIZ](mailto:MAIL@HOALAW.BIZ)  
8 FILE No.: 34721

9 CHAD M. GALLACHER, ESQ. SBN-025487  
10 *Attorneys for Defendant Sunland Springs Village Homeowners Association*

11 **IN THE SUPERIOR COURT OF THE**  
12 **COUNTY OF MARICOPA, STATE OF ARIZONA**

13 AZNH REVOCABLE TRUST, by and  
14 through JOHN and SUSAN SULLIVAN,  
15 Trustees, Real Parties In Interest,

16 Plaintiff,

17 vs.

18 SUSAN NICOLSON, COMMISSIONER,  
19 ARIZONA DEPARTMENT OF REAL  
20 ESTATE; and TAMMY EIGENHEER,  
21 INTERIM DIRECTOR, ARIZONA  
22 OFFICE OF ADMINISTRATIVE  
23 HEARINGS; and SUNLAND SPRINGS  
24 VILLAGE HOMEOWNERS  
25 ASSOCIATION,

26 Defendants.

Case No. CV2026-008484

**DEFENDANT SUNLAND SPRINGS  
VILLAGE HOMEOWNERS  
ASSOCIATION' RESPONSE IN  
OPPOSITION TO PLAINTIFF'S  
MOTION FOR JUDGMENT ON THE  
CASE FILINGS**

Assigned to:  
Hon. Adele Ponce

(Oral Argument scheduled for  
May 4, 2026 at 9:00 a.m.)

27 Defendant Sunland Springs Village Homeowners Association ("Association"), hereby  
28 submits this Response in opposition to Plaintiff's Motion for Judgment on the Case Filings  
("Motion for Judgment"). Plaintiff Motion for Judgment is both legally and factually flawed  
in fatal ways. This Court must deny Plaintiff's Motion for Judgment.

**I. THE ASSOCIATION FILED A RESPONSE TO PLAINTIFF'S ADRE PETITION.**

The gravamen of Plaintiff's Motion for Judgment, and indeed of the entire Special  
Action Matter, is his assertion that the Response filed by the Association in the underlying

1 matter before the Arizona Department of Real Estate (“ADRE”) was not the product of a  
2 decision by the Board of Directors for the Association. Plaintiff asserts that because the open  
3 meeting minutes from the December 19, 2025, meeting do not mention the ADRE Matter, the  
4 Response was not the product of Board discussion and decision. However, Plaintiff is both  
5 legally and factually incorrect.  
6

7 **A. Before Plaintiff Filed His Second ADRE Petition, the Board had Formally**  
8 **Decided on their Position.**

9 Plaintiff asserts that the Association could not have filed a Response to his ADRE  
10 Petition because the Petition was not discussed during the open meeting held between the  
11 time the Association received his Petition and the time it filed its Response. However, by the  
12 time Plaintiff filed the underlying ADRE Matter, the Association had already discussed the  
13 issue many times and formally taken a position on his allegations. The present ADRE Matter  
14 is not the first time Plaintiff has raised his complaint that the Association did not properly  
15 produce records of the electronic vote that occurred in connection with the annual meeting.  
16 In 2024, Plaintiff filed his first ADRE Petition against the Association for the exact same  
17 issue. In the 2024 ADRE matter, the Association denied that it violated A.R.S. § 33-1812 (as  
18 it did in the underlying ADRE matter to this Special Action) and filed a very similar response.  
19 (A copy of the Response filed by the Association in Plaintiff’s ADRE matter regarding the  
20 2024 election is attached hereto as Exhibit “1”. A copy of the Response filed by the  
21 Association in the underlying ADRE Matter is attached as Exhibit “2” for comparison  
22 purposes.) Following a hearing with the Office of Administrative Hearings (“OAH”), the  
23 OAH issued a decision denying Plaintiff’s petition and confirming that the Association  
24 complied with A.R.S. § 33-1812 in its production of documents related to the 2024 election.  
25  
26  
27  
28

1 (See Decision of OAH attached hereto as Exhibit "3".) In light of Plaintiff's 2024 ADRE  
2 Complaint, the Association was forced to confront whether it wanted to continue with their  
3 practice of allowing homeowners to vote electronically, knowing that Plaintiff could very  
4 likely file another complaint with the ADRE if they did. During their August 16, 2024, open  
5 meeting, the Association's Board of Directors had as an agenda item to decide whether to  
6 continue using Vote HOA Now for election purposes. They voted unanimously to continue  
7 using Vote HOA Now for their elections. (See Meeting Minutes at p. 3, Section H, attached  
8 hereto as Exhibit "4") The Association's Board of Directors had taken the position, which  
9 was supported by the ruling in the first ADRE Matter, that they could comply with A.R.S. §  
10 33-1812 even if electronic voting was used, and they voted to maintain their position.  
11

12  
13  
14 By the time Plaintiff filed the ADRE Petition underlying this Special Action, the  
15 Association had already established its position with respect to the application of A.R.S. § 33-  
16 1812. There was no need for the Association's Board of Directors to hold a special meeting  
17 to re-vote on an issue it had already decided. The Association's position had already been  
18 discussed and decided during the 2024 ADRE matter wherein Plaintiff raised the exact same  
19 challenge to the Association's election process as he did in the present, underlying ADRE  
20 matter. The Board President was fully within his authority to sign the Response on behalf of  
21 the Association on an issue that was well-settled through many hours of prior discussion and  
22 deliberation.  
23  
24

25 **B. In an Abundance of Caution, the Association Formally Voted to Approve the**  
26 **Response Filed.**

27 As explained above, the Association was not required to hold a special meeting to vote  
28 on continuing to take the position that they espoused since their use of electronic voting was

1 first challenged by Plaintiff in 2024. Nevertheless, in an abundance of caution, and in an effort  
2 to ensure the Response could not be challenged, the Board of Directors formally voted at a  
3  
4 duly called meeting to approve the Response filed in the underlying ADRE Matter as the  
5 official Response of the Association. (See Executive Session and Open Session Meeting  
6 Minutes attached hereto collectively as Exhibit "5".) The Association does not believe the  
7 approval vote was required. Nevertheless, to remove any argument that the Response signed  
8  
9 by then-President Paul Marena and filed on behalf of the Association might not reflect the  
10 position of a unified Board of Directors, the Directors voted unanimously to confirm that the  
11 Response accurately reflects the position of the Association with respect to the ADRE Petition  
12 filed by Plaintiff.

13  
14 **C. The Response Was Legally Binding on the Association Even if the then-Board  
15 President Had Acted Outside the Scope of His Authority (which He Did Not).**

16 As explained in the Association's Motion to Dismiss, the Arizona Supreme Court held  
17 that even if a director does not have actual authority to enter a contract or take action that  
18 binds a corporation, such director may legally bind the corporation because of application of  
19 the principle of apparent authority. *See Miller v. Mason-Mcduffie Co.*, 153 Ariz. 585 (1987).  
20 Consequently, the filing of a Response signed by the then-Board President legally became the  
21 Response of the Association regardless of whether he had acted outside the scope of his  
22 authority (which he did not). *See id.* Thus, Plaintiff's concerns that the Response timely filed  
23 was not actually the Response of the Association are irrelevant. If the other Board Members  
24 felt that the Board President acted outside the scope of his authority and signed the Response  
25 without approval of a majority of the Board, the Board Members could challenge the  
26 Response and attempt to have it set aside. However, none of the Board Members have  
27  
28

1 challenged the Response filed on behalf of the Association. To the contrary, they voted to  
2 approve the Response as the official and formal Response of the Association so as to eliminate  
3 any question regarding the validity of the Response. Plaintiff has no legal basis to avoid the  
4 consequences of the Response filed by the Association in the underlying ADRE matter by his  
5 unsupported belief that the Response filed was not filed on behalf of the Association.  
6

7 **D. Even if the Association had Not Timely Filed a Response, Plaintiff would Not**  
8 **have Automatically been Entitled to a Judgment because the Department of**  
9 **Real Estate Would have Filed an Affidavit of Default First.**

10 Plaintiff cited to A.R.S. § 32-2199.01(E) for his contention that if the Association had  
11 not filed a Response, the ADRE had no option but to enter judgment in Plaintiff's favor.  
12 Plaintiff asserted that "There is no provision under A.R.S. § 32-2199.01 allowing the  
13 Respondent to cure a default; failing to file a Response within the required time (20) days is  
14 fatal." However, Plaintiff ignores the procedural steps and Administrative Procedures  
15 applicable to the ADRE matters. R4-28-1304(B), applicable specifically to matters before the  
16 ADRE, provides as follows:  
17

18  
19 If the party fails to file a response or after being served notice, fails to appear at  
20 a hearing within the time provided by the statute under which the hearing is  
21 commenced, the Department may file an Affidavit of Default against the party,  
22 and proceed to take action against the party based upon the allegations of the  
23 charges. This action may be taken before the hearing date established in the  
24 Notice of Hearing. The party may file a motion to vacate the default and any  
25 action taken by the Commissioner within 15 days after receiving a copy of the  
26 default and the action or order by the Commissioner. For good cause, the  
27 Commissioner may vacate a default and any action taken and reschedule a  
28 hearing.

25 Consequently, and contrary to Plaintiff's assertions, R4-28-1304(B) indicates that the ADRE  
26 should file an Affidavit of Default against a party that fails to file a Response to an ADRE  
27

1 Petition. Once the Default is served on a party who failed to file a Response, the party may  
2 move to set aside the default within fifteen days.

3  
4 As explained above, the Association did timely file a Response to Plaintiff's ADRE  
5 Petition. As such, the default rule of R4-28-1304(B) was inapplicable to this matter.  
6 Nevertheless, to the extent Plaintiff believes that the Association's Response should not have  
7 been accepted by the ADRE, Plaintiff would not have been entitled to an automatic judgment  
8 as he claims. Rather, the ADRE would have filed an Affidavit of Default and the Association  
9 would have had fifteen days to demonstrate that the Response was a proper Response on  
10 behalf of the Association. The Association did file a Response, however, and so no default  
11 proceeding was necessary. Likewise, Plaintiff was not entitled to a default judgment against  
12 the Association because the Association properly filed a Response.  
13  
14

## 15 II. CONCLUSION.

16 As explained by the foregoing, Plaintiff is not entitled to judgment on the pleadings.  
17 Plaintiff's Complaint for Special Action hinges on his false belief that the Association did not  
18 file a Response to his ADRE Petition. Because the Association did file a Response to  
19 Plaintiff's ADRE Petition, this Special Action matter must fail. Plaintiff is not entitled to the  
20 relief requested. Rather, Plaintiff's Special Action proceeding must be dismissed. The  
21 Association also seeks recovery of its attorneys' fees and costs pursuant to the Declaration  
22 and A.R.S. §§ 12-349 and 12-341.  
23  
24

25 / / /

26 / / /

27 / / /

28

1 RESPECTFULLY SUBMITTED this 8<sup>th</sup> day of April, 2026.

2 MAXWELL & MORGAN, P.C.

3 By 

4 Chad M. Gallacher, Esq.  
5 4854 East Baseline Road, Suite 104  
6 Mesa, Arizona 85206  
7 - Attorneys for Defendant

8 ORIGINAL of the foregoing E-filed  
9 this 8<sup>th</sup> day of April, 2026, to:

10 Maricopa County Superior Court  
11 TurboCourt

12 COPY of the foregoing emailed  
13 this 8<sup>th</sup> day of April, 2026, to:

14 John F. Sullivan, Esq.  
15 1909 E. Ray Rd., Suite 9198  
16 Chandler, Arizona 85225  
info@sullivanappeals.com  
*Attorney for Plaintiff*

17 Asst. Attorney General  
18 Deanie Reh, Esq.  
19 Deanie.Reh@azag.gov  
*Attorney for AZ Dept. of Real Estate*

20 Asst. Attorney General  
21 Raya Gardner, Esq.  
22 Raya.Gardner@azag.gov  
*Attorney for AZ Dept. of Real Estate*

23 Asst. Attorney General  
24 Kara Karlson, Esq.  
25 Kara.Karlson@azag.gov  
*Attorney for Defendant Eigenheer*

26  
27 

# EXHIBIT “1”



ARIZONA DEPARTMENT OF REAL ESTATE (ADRE)

Homeowners Association Dispute Resolution

www.azre.gov

100 North 15th Avenue, Suite 201, Phoenix, Arizona 85007

KATIE HOBBS  
GOVERNOR

SUSAN NICOLSON  
COMMISSIONER

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 # 24F-H047

- 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)

Maxwell & Morgan, P.C., Chad M. Gallacher, Esq., 4854 E. Baseline Rd., #104, Mesa, AZ 85206, (480) 833-1001, Ext. 108, cgallacher@hoalaw.biz

Respondent's Name (PRINT) Paul Marena Date 5/13/2024

President of the Board of Directors for Sunland Springs Village Homeowners Association

Respondent's Signature [Signature] Date 13/05/24






# 24F-H047 Answer

Final Audit Report

2024-05-13

Created:	2024-05-13
By:	Chad Gallacher (cgallacher@hoalaw.biz)
Status:	Signed
Transaction ID:	CBJCHBCAABAABAK9WIMrWijIX_8N01Y5gwQMkMpfPvW_1

## "24F-H047 Answer" History

-  Document created by Chad Gallacher (cgallacher@hoalaw.biz)  
2024-05-13 - 6:05:08 PM GMT
-  Document emailed to Paul Marena (paulmssvhoa@gmail.com) for signature  
2024-05-13 - 6:05:12 PM GMT
-  Email viewed by Paul Marena (paulmssvhoa@gmail.com)  
2024-05-13 - 6:20:32 PM GMT
-  Document e-signed by Paul Marena (paulmssvhoa@gmail.com)  
Signature Date: 2024-05-13 - 6:21:46 PM GMT - Time Source: server
-  Agreement completed.  
2024-05-13 - 6:21:46 PM GMT

# EXHIBIT “2”

**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 12/23/25  
President of the Board of Directors for Respondent

Respondent's Signature *Paul Marena* Date 12/23/25

# EXHIBIT “3”



1 27, 2024.<sup>2</sup> Petitioner indicated the Association failed to produce all voting materials,  
2 noting that “about 1500 ballots” had not been produced.

3 3. On or about May 13, 2024, Association returned its Answer to the  
4 Department wherein it denied Petitioner’s claim.<sup>3</sup>

5 4. On May 15, 2024, the Department referred this matter to the Office of  
6 Administrative Hearings (OAH), an independent state agency, for an evidentiary hearing  
7 on July 12, 2024 to determine whether a violation of ARIZ. REV. STAT. § 33-1812(A)(7)  
8 occurred.<sup>4</sup>

9 5. Association ByLaws Section 3.2 provides that the Board of Directors  
10 (Board) may be elected through paper or electronic ballots pursuant to procedures set  
11 forth in the ByLaws.<sup>5</sup> Those procedures in Section 3.3.3 require that the Board provide  
12 each member of the Association 30-day notice of the ballot, either by mail or  
13 electronically, for the election of the Directors.<sup>6</sup> Further, Section 3.3.3 requires that  
14 “[v]oting shall be by “secret ballot.”

15 6. In preparation for the February 27, 2024 election at the Annual Meeting,  
16 Association arranged with a company, *Vote HOA Now*, to conduct electronic balloting.

17 7. A paper ballot was created for members to cast in-person at the Annual  
18 Meeting or by mail (*i.e.*, in absentia).<sup>7</sup>

19 8. Association members were voting on several items: on Directors;<sup>8</sup> on a  
20 proposed amendment to the Association ByLaws;<sup>9</sup> on a resolution that the Association  
21

22  
23 <sup>2</sup> See Department’s electronic file. Petitioner’s Petition included twenty-two (22) attachments consisting of  
24 emails back and forth with Association Secretary/Treasurer Cathy Braun and with Association General  
25 Manager Kathy Fowers. These emails document not only Petitioner’s request for inspection of the  
26 documents but also Petitioner’s multiple issues with the electronic voting process, the management of the  
27 electronic voting process, and the overall receipt of documents Petitioner believed necessary to have been  
28 provided to it.

29 <sup>3</sup> See Department’s electronic file.

30 <sup>4</sup> After a continuance, the hearing was conducted on September 18, 2024.

<sup>5</sup> See Petitioner Exhibit 2.

<sup>6</sup> *Id.*

<sup>7</sup> See Association Exhibit 1.

<sup>8</sup> See Association Exhibit 7.

<sup>9</sup> See Association Exhibit 9.

1 act in accordance with an IRS Revenue Ruling regarding excess income;<sup>10</sup> and to  
2 approve the Minutes from the 2023 Annual Meeting.<sup>11</sup>

3 9. *Vote HOA Now* was given the Association's "ballot" information and the  
4 member and member property information necessary for *Vote HOA Now* to provide  
5 electronic ballots to members for the election voting. *Vote HOA Now* created the  
6 electronic ballot.

7 10. Association members received multiple email reminders regarding the  
8 upcoming election; the emails contained a link to the online voting website.<sup>12</sup> The email  
9 reminders contained specific instructions about how to vote:

10 Please CLICK HERE to go to the online voting website  
11 (your personal registration code 5494477908 will prefill)  
12 Make your choices on the electronic ballot and submit  
13 (once your vote is submitted it is final)  
14 A confirmation of your vote will appear onscreen and  
15 be sent to your email

16 11. Association also created instructions about the options: to vote  
17 electronically, and how to accomplish online voting; by submitting a paper ballot, dropping  
18 it off at the office; or in person at the meeting.<sup>13</sup>

19 12. Kathy Fowers, the General Manager of Association and the Custodian of  
20 Records, approved the "proof" of the electronic ballot created by *Vote HOA Now* after she  
21 determined that the *Vote HOA Now*-created electronic ballot matched the paper ballot.<sup>14</sup>

22 13. Eighteen (18) members cast votes at the Annual Meeting.<sup>15</sup> One hundred  
23 fifty four (155) members cast absentee ballots.<sup>16</sup> Fourteen hundred sixty-one (1,461)  
24 members cast electronic votes.

25  
26 <sup>10</sup> See Association Exhibit 7.

27 <sup>11</sup> See Association Exhibit 12.

28 <sup>12</sup> See Petitioner Exhibit 3.

29 <sup>13</sup> See Petitioner Exhibit 4.

30 <sup>14</sup> Ms. Fowers testimony.

<sup>15</sup> *Id.* See also Association Exhibits 2 and 4 (Annual Meeting sign-in sheets).

<sup>16</sup> See Association Exhibits 8 and 13.

1 14. Petitioner cast an absentee ballot.<sup>17</sup>

2 15.

3 16. After the election, Ms. Fowers received the electronic voting results from  
4 *Vote HOA Now*.

5 17. *Vote HOA Now* provided the following documents to Association:

- 6 a. A tally report of the votes for Directors, for the Revenue Ruling, for approval  
7 of the 20213 Minutes, and for the ByLaws amendment.<sup>18</sup>  
8 b. A listing verification of the homeowners (with property addresses) who  
9 voted electronically.<sup>19</sup>  
10 c. A listing of the member votes cast for Directors.<sup>20</sup>  
11 d. A listing of the member votes for the ByLaws amendment.<sup>21</sup>  
12 e. A listing of the member votes for the Revenue Ruling.<sup>22</sup>  
13 f. A listing of the member votes for the 2023 Minutes.<sup>23</sup>

14 18. Association retained the following:

- 15 a. Two sign-in sheets used at the Annual Meeting.<sup>24</sup>  
16 b. Ballots cast in person at the Annual Meeting.<sup>25</sup>  
17 c. Envelopes which contained the absentee ballots received.<sup>26</sup>

18 <sup>17</sup> Mr. Sullivan testimony at hearing; see also Association Exhibit 5 at SSV00171. While Petitioner voted  
19 an absentee ballot, Petitioner hand delivered its inspection request on February 28, 2024, the day after  
20 the Annual Meeting. See Petitioner Exhibit 5.

21 <sup>18</sup> See Association Exhibit 10.

22 <sup>19</sup> See Association Exhibit 11. This document contains the following: a member name; the member's  
23 property address; the [Vote HOA Now] registration number and account number; an IP address for the  
24 member; the date and time the vote was cast; and, the indication that one vote was cast for each listed  
25 member.

26 <sup>20</sup> See Association Exhibit 3. This document contains the following: the [Vote HOA Now] registration  
27 number and account number; the IP address for each single vote; and, the date and time the one vote  
28 was cast.

29 <sup>21</sup> See Association Exhibit 15. This document contains the following: the election item (the ByLaws  
30 amendment); whether the vote was to approve or disapprove; the indication that one vote was cast; the  
IP address for each single vote; and, the date and time the one vote was cast.

<sup>22</sup> See Association Exhibit 14. This document contains the following: the two elections (the 2023 Minutes  
and the IRS Revenue Ruling); whether the vote was to approve or disapprove; the indication that one  
vote was cast; the IP address for the single vote; and, the date and time the one vote was cast.

<sup>23</sup> *Id.*

<sup>24</sup> See Association Exhibits 2 and 4.

<sup>25</sup> See Association Exhibit 1.

<sup>26</sup> See Association Exhibit 5.



1           1.     This matter lies within the Department's jurisdiction pursuant to ARIZ. REV.  
2 STAT. §§ 32-2102 and 32-2199 et seq., regarding a dispute between an owner and a  
3 planned community association. An owner or an association may petition the department  
4 for a hearing concerning violations of community documents or violations of the statutes  
5 that regulate planned communities as long as the petitioner has filed a petition with the  
6 department and paid a filing fee as outlined in ARIZ. REV. STAT. § 32-2199.05.

7           2.     Pursuant to ARIZ. REV. STAT. §§ 32-2199(2), 32-2199.01(A), 32-2199.01(D),  
8 32-2199.02, and 41-1092 et seq. OAH has the authority to hear and decide the contested  
9 case at bar. OAH has the authority to interpret the contract between the parties.<sup>30</sup>

10          3.     In this proceeding, Petitioner bears the burden of proving by a  
11 preponderance of the evidence that Respondent violated ARIZ. REV. STAT. § 33-  
12 1812(A)(7).<sup>31</sup> Respondent bears the burden of establishing any affirmative defenses by  
13 the same evidentiary burden.<sup>32</sup>

14          4.     "A preponderance of the evidence is such proof as convinces the trier of fact  
15 that the contention is more probably true than not."<sup>33</sup> A preponderance of the evidence is  
16 "[t]he greater weight of the evidence, not necessarily established by the greater number of  
17 witnesses testifying to a fact but by evidence that has the most convincing force; superior  
18 evidentiary weight that, though not sufficient to free the mind wholly from all reasonable  
19 doubt, is still sufficient to incline a fair and impartial mind to one side of the issue rather than  
20 the other."<sup>34</sup>

21          5.     In Arizona, when construing statutes, we look first to a statute's language  
22 as the best and most reliable index of its meaning. If the statute's language is clear and  
23 unambiguous, we give effect to that language and apply it without using other means of  
24 statutory construction, unless applying the literal language would lead to an absurd result.  
25 Words should be given "their natural, obvious, and ordinary meaning."<sup>35</sup>

26  
27 <sup>30</sup> See *Tierra Ranchos Homeowners Ass'n v. Kitchukov*, 216 Ariz. 195, 165 P.3d 173 (App. 2007).

28 <sup>31</sup> See Arizona Administrative Code (ARIZ. ADMIN. CODE) R2-19-119.

29 <sup>32</sup> *Id.*

30 <sup>33</sup> MORRIS K. UDALL, ARIZONA LAW OF EVIDENCE § 5 (1960).

<sup>34</sup> BLACK'S LAW DICTIONARY 1220 (8<sup>th</sup> ed. 1999).

<sup>35</sup> *Arpaio v. Steinle*, 201 Ariz. 353, 355 ¶ 5, 35 P.3d 114, 116 (App. 2001) (footnotes and citations omitted).

1           6. Statutes should be interpreted to provide a fair and sensible result.  
2 *Gutierrez v. Industrial Commission of Arizona*; see also *State v. McFall*, 103 Ariz. 234,  
3 238, 439 P.2d 805, 809 (1968) ("Courts will not place an absurd and unreasonable  
4 construction on statutes.").

5           7. When the legislature uses a word or words in one section of a statute, but  
6 not another, the tribunal may not read those words into the section where the legislature  
7 did not include them.<sup>36</sup> Unless defined by the legislature, words in statutes are given their  
8 ordinary meanings.<sup>37</sup>

9           8. Each word, phrase, clause, and sentence of a statute or rule must be given  
10 meaning so that no part will be void, inert, redundant, or trivial.<sup>38</sup>

11           9. ARIZ. REV. STAT. § 10-3708(F), Action by written ballot; online voting  
12 provides that if a vote is to be conducted by electronic means, *the written ballot may be*  
13 *delivered through an online voting system that does all of the following:*

- 14           a. Authenticates the member's identity;
- 15           b. Authenticates the validity of each electronic vote to ensure that the vote  
16 is not altered in transit;
- 17           c. Transmits a receipt to each member who casts an electronic vote; and
- 18           d. *Stores electronic votes for recount, inspection and review purposes.*

19 Emphasis added here.

20           10. ARIZ. REV. STAT. § 33-1812, Proxies; absentee ballots; definition  
21 provides, in relevant parts, as follows:

22           A. Notwithstanding any provision in the community documents, after  
23 termination of the period of declarant control, votes allocated to a unit may  
24 not be cast pursuant to a proxy. *The association shall provide for votes to*  
25 *be cast in person and by absentee ballot and, in addition, the association*  
26 *may provide for voting by some other form of delivery, including the use of*  
27 *e-mail and fax delivery.* Notwithstanding section 10-3708 or the provisions  
28 of the community documents, any action taken at an annual, regular or  
29 special meeting of the members shall comply with all of the following if  
30

<sup>36</sup> See *U.S. Parking v. City of Phoenix*, 160 Ariz. 210, 772 P.2d 33 (App. 1989).

<sup>37</sup> *Id.*

<sup>38</sup> See *Deer Valley, v. Houser*, 214 Ariz. 293, 296, 152 P.3d 490, 493 (2007).

1 absentee ballots or ballots provided by some other form of delivery are  
2 used:

3 .....

4 6. The completed ballot shall contain the name, address and  
5 signature of the person voting, except that if the community documents  
6 permit secret ballots, only the envelope shall contain the name, address and  
signature of the voter.

7 7. Ballots, envelopes and related materials, including sign-in sheets  
8 if used, *shall be retained in electronic or paper format* and made available  
for member inspection for at least one year after completion of the election.

9 Emphasis added here.

10 11. ARIZ. REV. STAT § 33-1258 provides, in pertinent part, as follows:

11  
12 A. Except as provided in subsection B of this section, all financial and  
13 other records of the association shall be made reasonably available for  
14 examination by any member or any person designated by the member in  
writing as the member's representative.

15 12. In the instant case, the Association has provided to Petitioner  
16 electronic or paper copies of all of the *Vote HOA Now* records it received regarding  
17 the electronic voting process as well as the Association meeting sign-in sheets,  
18 the paper ballots received in absentia and at the meeting, the envelopes for the  
19 absentee ballots received, and the association created tally sheet and election  
20 results affidavit.

21 13. Petitioner's argument that the Association must provide an image of  
22 each "electronic ballot", as was voted by each member, is not well supported by  
23 ARIZ. REV. STAT. § 10-3708(F). ARIZ. REV. STAT. § 10-3708(F)(4) requires an online  
24 voting system to perform certain actions, one of which is that the online voting  
25 system "*stores electronic votes* for recount, inspection and review purposes."<sup>39</sup>  
26 There is no evidence that *Vote HOA Now* either retains or "*stores electronic votes*"  
27 in any form other than the data list format that was received by the Association,  
28

29 <sup>39</sup> Emphasis added here.

1 specifically as was documented in Association Exhibits 3, 14 and 15. Those *Vote*  
2 *HOA Now* data lists, taken as a whole, document each vote for each member for  
3 each election item, in identifiable ways. ARIZ. REV. STAT. § 10-3708(F)(4) requires  
4 storage of “electronic votes” not electronic ballots.

5 14. Petitioner’s argument fails that without seeing an image of each  
6 electronic ballot, it was not possible to determine whether the election results were  
7 accurate. The online voting system allowed only one vote per election item per  
8 personal registration number, and the *Vote HOA Now* data lists demonstrate that,  
9 per each IP addresses and the personal registration number, only one electronic  
10 vote per election item was cast by that member.

11 15. Based on the foregoing, the Administrative Law Judge concludes  
12 that Association is in compliance with ARIZ. REV. STAT. § 33-1812(7) by retaining  
13 the *Vote HOA Now* data lists which demonstrate the electronic ballots “in electronic  
14 ... format.” Further, that Petitioner has received from Association, pursuant to his  
15 February 28, 2024 request, “all ballots, envelopes, related materials and sign-in  
16 sheets.”

17 16. Based on the foregoing, the Administrative Law Judge concludes  
18 that Petitioner did not sustain the burden of proof that the Association committed  
19 a violation of ARIZ. REV. STAT. § 33-1812(A)(7) and, therefore, the Petition must be  
20 denied.

### 21 FINAL ORDER

22 Based on the foregoing,

23 **IT IS ORDERED** that Petitioner’s petition is denied.

### 24 NOTICE

25 Pursuant to A.R.S. §32-2199.02(B), this Order is binding on the parties  
26 unless a rehearing is granted pursuant to A.R.S. § 32-  
27 2199.04. Pursuant to A.R.S. § 41-1092.09, a request for rehearing in  
28 this matter must be filed with the Commissioner of the Department of  
Real Estate within 30 days of the service of this Order upon the parties.

29 Done this day, November 5, 2024

/s/ Kay A. Abramsohn  
Administrative Law Judge

Transmitted electronically November 5, 2024 to:

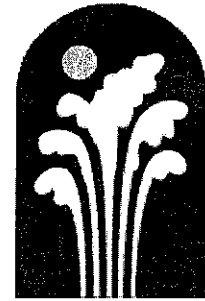
Susan Nicolson, Commissioner  
Arizona Department of Real Estate

Chad Gallacher  
cgallacher@hoalaw.biz

John F. Sullivan  
info@sullivanappeals.com

By: OAH Staff

# EXHIBIT “4”



# SUNLAND SPRINGS VILLAGE

## Board of Directors Meeting

August 16, 2024 1:30 PM  
Superstition Room  
11214 E Laguna Azul Cir  
Mesa, AZ 85209

### MINUTES

#### Directors Present

- Monica Stein - Member
- Dale Miller - Vice President
- Terry Garrett TTE - Member
- Eric Loeffler - Member
- Cathy Braun - Secretary/Treasurer
- Paul Marenda - President
- Brian Crowe - Member

#### Directors Absent

None

#### Additional Attendees

- Kathy Fowers, General Manager
- Margaret Santarossa, Lifestyle Director
- Melissa Ashby, Assistant General Manager

### I. CALL TO ORDER

Quorum was met and Paul Marenda called the meeting to order at 1:30pm.

#### A. PLEDGE OF ALLEGIANCE

#### B. RESIDENT COMMENTS ARE LIMITED TO THE AGENDA TOPIC, AND MADE AFTER BOARD DISCUSSION.

#### C. RESIDENT COMMENTS ARE LIMITED TO 2 MINUTES PER PERSON AND 3 COMMENTS ON EITHER SIDE OF AN ISSUE.

#### D. RESIDENTS MAY ONLY SPEAK ONCE ON EACH AGENDA TOPIC.

#### E. COMMENTS ON ITEMS NOT ON THE AGENDA WILL BE HEARD DURING OPEN FORUM.

### II. CONSENT AGENDA ITEMS

#### A. MINUTES

Resolved

To approve the minutes from the July 19, 2024 Board Meeting.

## **B. FINANCIALS**

July financial summary for the Board:

### Overall

- The balance of all Association funds at the beginning of July was \$4,829,262
- Expenses paid from all Association accounts for the month totaled \$167,130
- The balance of all Association funds at the end of July was \$4,634,281

Unpaid assessments were \$9,032 as of July 31, 2024.

### Operating Fund

July's operating receipts were primarily from assessments (\$1,750), interest income (\$13,851), and fees and fines (-\$315). Total net operating receipts for June were \$15,287.

July's operating expenses were \$10,462 over budget due to moderately increased spending in all categories, with the exception of Utilities.

The Activity Account had a balance of \$96,429 as of July 31, 2024.

Activity Account Income for July: \$9,158

Activity Account Expenses for July: \$6,945

The Community Development Fund (CDF) had a balance of \$673,484 as of July 31, 2024.

CDF Income for July: \$0

CDF Expenses for July : \$800

### Reserve Fund

July's reserve income was primarily from resale transfer fees (\$11,948) and interest income (\$2,933). Total Reserve income for July was \$14,881.

Reserve expenses for the month of July totaled \$59,432 to include \$39,051 for synthetic turf at the San Tan Center and the new irrigation lines in the Springwood median between Baseline and Medina, \$15,590 in deposits for the vinyl plank in the Superstition Room and Auditorium back rooms, along with \$4,791 for a new saw, sander and drill press.

Total Reserve funds as of July 31, 2024 were \$2,676,684.

The Association remains in a strong financial position.

Respectfully submitted, Cathy Braun Secretary/Treasurer

### **Resolved**

To acknowledge that the Board has fulfilled their duty to review the financial statements for the periods ending July 31, 2024, including the reconciliation of the operating and reserve accounts, the actual revenues and expenses for the operating and reserve accounts compared to this year's budget.

## **C. ARCHITECTURAL REVIEW COMMITTEE REPORT**

MONTH OF AUGUST 2024: 14 Items APPROVED; 1 Item DENIED; 3 CONSENT Items by Administration. All committee members attended the 1 meeting in August.

### **Resolved**

To acknowledge receipt of the Architectural Review Committee report.

## **D. LANDSCAPE COMMITTEE REPORT**

The landscape committee met in August to review the rental draft, granite color, and tree trimming proposal.

**Resolved**

To acknowledge receipt of the Landscape Committee report.

**E. RECREATION FACILITIES COMMITTEE REPORT**

The recreation facilities committee met in August to review the rental draft and softball projects. The committee meetings will move to the 3rd Monday at 10 AM in the conference room beginning in September.

**Resolved**

To acknowledge receipt of the Recreation Facilities Committee report.

**F. STRATEGIC PLANNING COMMITTEE REPORT**

Strategic planning met in August to continue reviewing and generating options for addressing future needs.

**Resolved**

To acknowledge receipt of the Strategic Planning Committee report.

**G. COMPLIANCE REPORT**

Since the last meeting on July 19, 2024, management has sent out 33 new violation notices. There are currently 25 open violations: 16 landscaping, 5 parking, 2 bird feeders, 1 reflective material in garage windows, 1 gate.

**Resolved**

To acknowledge receipt of the Compliance Report.

**H. CONTINUE AGREEMENTS, 2025 PRICES: VOTEHOANOW, KEI WINDOW CLEANING, GYMDOCAZ, & AZ HARDWOOD FLOOR**

**Resolved**

To approve continuing agreements with VoteHOANow as the electronic voting vendor at a rate of \$1775 for the annual election ballot, Kei Window Cleaning as the window washing vendor at a rate of \$395 per month, GymDocAZ for fitness equipment preventative maintenance at a rate of \$950 per quarter, Arizona Hardwood Floor as the auditorium annual floor maintenance vendor at a rate of \$11,366.75; and to cause the 2025 operating budget to reflect costs for these services.

All members consented.

**III. MANAGEMENT ADMINISTRATIVE/MAINTENANCE REPORT**

**IV. PRESIDENT'S REPORT**

**V. OLD BUSINESS**

**A. 2025 BUDGET PLANNING - 3-YEAR TREE TRIMMING CONTRACT**

**Resolved**

To budget \$38,442 for annual trimming, plus a calculation based off of historical trending for additional trimming and removal, for the 2025 budget's tree trimming and removal line item.

**Motion:** Terry Garrett TTE

**Second:** Brian Crowe

► **Resolved**  
*The motion passed unanimously*

## VI. NEW BUSINESS

### A. TECHNOLOGY PROPOSAL TO TRANSITION TO ONLINE TICKET SALES FOR EVENTS AND ACTIVITIES

#### Resolved

To approve transitioning all association and club fundraiser event ticket sales to occur through TicketTailor effective immediately, directing management to account for processing fees when setting ticket prices effective immediately, and to increase the club fundraiser accounting fee to \$100 effective for all events occurring on or after September 20, 2024.

**Motion:** Monica Stein

**Second:** Eric Loeffler

- ▶ *Resolved*  
*The motion passed unanimously*

### B. TECHNOLOGY PROPOSAL ADDITION OF TV ON EAST WALL OF SUPERSTITION ROOM

#### Resolved

To approve the estimate from AV Experts to add an 86" TV to the east wall of the Superstition room, integrating it into existing audio visual equipment, for \$5,257 to be funded from CDF minus any contributions from any sub-associations, clubs, groups or individuals, and to direct management to contact sub-associations asking for contributions.

**Motion:** Eric Loeffler

**Second:** Dale Miller

- ▶ *Resolved*  
*The motion passed unanimously*

### C. LANDSCAPING PROPOSAL TO ALLOW YAVAPAI CORAL AS SUBSTITUTE FOR COMMON AREA GRANITE

#### Resolved

To approve allowing 1" Yavapai Coral as a substitute for common area granite replenishment when 1" Rainbow Mist is not available.

**Motion:** Terry Garrett TTE

**Second:** Brian Crowe

- ▶ *Resolved*  
*The motion passed unanimously*

### D. SOFTBALL PROPOSAL TO LEVEL INFIELD AND OUTFIELD

#### Resolved

To approve the proposal for leveling of the infield and outfield, conditional upon a \$3,200 contribution from the softball club, with the remaining costs funded from operating.

**Motion:** Brian Crowe

**Second:** Eric Loeffler

- ▶ *Resolved*  
*The motion passed unanimously*

### E. SOFTBALL PROPOSAL TO REPLACE INFIELD MAINTENANCE TRACTOR

**Resolved**

To approve the proposal to replace the infield tractor at the softball field with a used ABI Force z23 tractor from Great Western Sport Fields for \$19,494 to be funded from reserves, contingent upon a successful demo and inspection at the softball field.

**Motion:** Brian Crowe

**Second:** Eric Loeffler

**AYEs:** Brian Crowe, Cathy Braun, Paul Marendia, Terry Garrett TTE, Monica Stein, Eric Loeffler

**NAYs:** Dale Miller

- ▶ *Resolved*  
*The motion passed*

**F. PROPOSAL TO ALTER FENCING AND ADD SECURED ACCESS TO PICKLEBALL COURTS**

**Resolved**

To table this until the next meeting.

**Motion:** Brian Crowe

**Second:** Eric Loeffler

- ▶ *Resolved*  
*The motion passed unanimously*

**G. CHRISTMAS DECORATING PROPOSAL TO INSTALL EAVE LIGHTS ON AUDITORIUM & SAN TAN CENTER**

**Resolved**

To table this item until the September meeting, directing the committee to provide bids and samples of the lights with warranties and longevities provided.

**Motion:** Brian Crowe

**Second:** Eric Loeffler

- ▶ *Resolved*  
*The motion passed unanimously*

**VII. 2025 BUDGET PLANNING**

**A. PROJECT - RESURFACE 4 BOCCE BALL COURTS**

**Resolved**

To omit this project from the 2025 operating budget and review proposals in 2025 with the project being funded from reserves.

**Motion:** Cathy Braun

**Second:** Terry Garrett TTE

- ▶ *Resolved*  
*The motion passed unanimously*

**B. PROJECT - IRRIGATION REPLACEMENT IN COMMON AREAS SURROUNDING SOFTBALL FIELD**

**Resolved**

To budget \$18,822 into the 2025 operating budget for irrigation replacement in the common area around the perimeter of the softball field.

**Motion:** Cathy Braun  
**Second:** Monica Stein

▶ *Resolved*  
*The motion passed unanimously*

**C. PROJECT - FINAL 1/3 OF IRRIGATION REPLACEMENT IN SPRINGWOOD MEDIAN BETWEEN NAVARRO AND OCASO**

**Resolved**

To budget \$12,560 into the 2025 operating budget for Springwood median irrigation replacement between Navarro and Ocaso.

**Motion:** Cathy Braun  
**Second:** Monica Stein  
**AYEs:** Monica Stein, Dale Miller, Paul Marena, Cathy Braun, Brian Crowe, Terry Garrett TTE  
**NAYs:** Eric Loeffler

▶ *Resolved*  
*The motion passed*

**D. PROJECT - FINAL 1/3 OF MEDIAN LANDSCAPE LIGHTING REPLACEMENT FROM NAVARRO TO OCASO**

**Resolved**

To budget \$68,200 into the 2025 operating budget for landscape lighting replacement in the Springwood median between Navarro and Ocaso, and along the north side of Guadalupe's diagonal walls at Springwood.

**Motion:** Cathy Braun  
**Second:** Terry Garrett TTE

▶ *Resolved*  
*The motion passed unanimously*

**VIII. HOMEOWNER FORUM**

**IX. SCHEDULING OF NEXT BOARD MEETING**

The next meeting is scheduled for September 20, 2024 at 1:30 PM in the Superstition Room.

**X. ADJOURNMENT**

**Resolved**

With no further business to come before the Board, to adjourn at 3:05pm.

**Motion:** Monica Stein  
**Second:** Eric Loeffler

▶ *Resolved*  
*The motion passed unanimously*

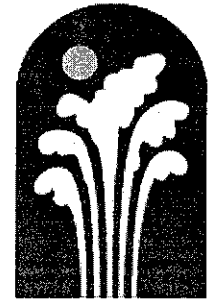
---

APPROVED

---

DATE

# EXHIBIT “5”



**SUNLAND SPRINGS VILLAGE**  
**Board of Directors Executive Session Meeting**

March 6, 2026 10:30 AM  
 Conference Room  
 11214 E Laguna Azul Cir  
 Mesa, AZ 85209

**MINUTES**

**Directors Present**

Monica Stein - Vice President  
 Terry Garrett TTE - Member  
 Ronald Willig - Member  
 Lawrence Mueller - Member  
 Randy Kruger - Member  
 Brian Crowe - President

**Directors Absent**

Mike Dahlen - Secretary/Treasurer

**Additional Attendees**

Kathy Fowers - General Manager, FirstService Residential  
 Melissa Ashby - Assistant General Manager, FirstService Residential  
 Chad Gallacher - Attorney, Maxwell & Morgan

**I. CALL TO ORDER**

B. Crowe called the meeting to order at 10:30 AM.

**II. MINUTES**

**III. § 33-1804/33-1248 A.2 - PENDING OR CONTEMPLATED LITIGATION**

Affirm the filed response is the official response.

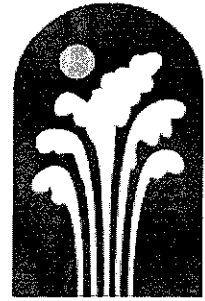
Affirm the Board President is authorized to sign on behalf of the Board.

**IV. ADJOURNMENT**

The meeting adjourned at 11:29 AM.

\_\_\_\_\_  
**APPROVED**

\_\_\_\_\_  
**DATE**



# SUNLAND SPRINGS VILLAGE

## Board of Directors Meeting - Open Session

March 6, 2026 11:30 AM  
Conference Room  
Mesa, AZ

### MINUTES

#### Directors Present

Monica Stein - Vice President  
Terry Garrett TTE - Member  
Ronald Willig - Member  
Lawrence Mueller - Member  
Randy Kruger - Member  
Brian Crowe - President

#### Directors Absent

Mike Dahlen - Secretary/Treasurer

#### Additional Attendees

Kathy Fowers - General Manager, FirstService Residential  
Melissa Ashby - Assistant General Manager, FirstService Residential  
Chad Gallacher - Attorney, Maxwell & Morgan

### I. CALL TO ORDER

B. Crowe called the meeting to order at 11:30 AM.

### II. MINUTES

### III. FINANCIALS

### IV. REPORTS

### V. OLD BUSINESS

### VI. NEW BUSINESS

#### A. EXECUTIVE SESSION ITEM 1

**Resolved**

To approve Executive Session Item 1 from the March 6, 2026 Executive Session Meeting.

**Motion:** Brian Crowe

**Second:** Lawrence Mueller

▶ *Resolved*

*The motion passed unanimously*

**VII. SCHEDULING OF NEXT BOARD MEETING**

**VIII. HOMEOWNER FORUM**

**IX. ADJOURNMENT**

**Resolved**

To adjourn at 11:33 AM.

**Motion:** Brian Crowe

**Second:** Terry Garrett TTE

▶ *Resolved*  
*The motion passed unanimously*

---

**APPROVED**

---

**DATE**