

CLERK OF THE
SUPERIOR COURT
FILED
K. WHITSON, DEP

25 FEB 11 AM 8:47

1 **Office of Administrative Hearings**
2 **1740 West Adams, Lower Level**
3 **Phoenix, Arizona 85007**
4 **Telephone Number: 602-542-9826**
5 **E-mail: OAH@azoah.com**

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

9 **In the Matter of**

10 **AZNH Revocable Trust**
11 **Petitioner,**
12 **v.**
13 **Sunland Springs Village Homeowners**
14 **Association,**
15 **Respondent.**

LC2025-000025 - 001

**CERTIFICATION OF RECORD ON
REVIEW
RECORD OF ADMINISTRATIVE
HEARING**

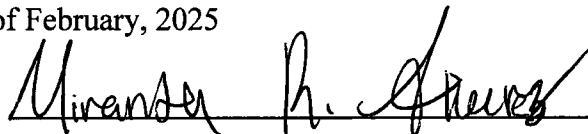
OAH No. 24F-H047-REL

16
17 **CERTIFICATION OF RECORD ON REVIEW**

18
19 I am the agency head of the Office of Administrative Hearings or duly authorized
20 representative, and I certify that:

- 21
22 1. Attached to this Certification is an index of all materials contained in the record on appeal.
23
24 2. The materials included in the record on appeal are originals or accurate copies. The
25 information provided in this Certification is true and complete.

26 DATED this 4th day of February, 2025

27 

28 **Signature of Agency Head or Duly-Authorized Representative**
29
30

Office of Administrative Hearings
1740 West Adams Street, Lower Level
Phoenix, Arizona 85007
(602) 542-9826

1 **The INDEX of RECORD on REVIEW and the complete Administrative Record on Review**
2 **in approved form were transmitted by certified mail on this 4th day of February, 2025 to:**

3 Clerk of the Court Attn: LC Specialty Desk
4 Maricopa County Superior Court
5 201 W. Jefferson (CCB)
6 Phoenix, Arizona 85003-2205

7 **A copy of the INDEX of RECORD on REVIEW and an electronic copy of the original case**
8 **documents and index of the Administrative Record on Review were transmitted by First**
9 **Class mail on this 4th day of February, 2025 to:**

10 Honorable Joseph Mikitish
11 C/O Clerk of the Court
12 Maricopa County Superior Court
13 East Court Building
14 101 West Jefferson (ECB-CCB), Suite 613
15 Phoenix, Arizona 85003-2205

16 **A copy of the INDEX of RECORD on REVIEW was e-mailed/mailed on this 4th day of**
17 **February, 2025 to:**

18 Susan Nicolson
19 Commissioner
20 Arizona Department of Real Estate
21 SNicolson@azre.gov
22 vnunez@azre.gov
23 djones@azre.gov
24 labril@azre.gov
25 mneat@azre.gov
26 lrecchia@azre.gov
27 gosborn@azre.gov

28 Chad Gallacher
29 cgallacher@hoalaw.biz
30 MAIL@HOALAW.BIZ

John F. Sullivan
info@sullivanappeals.com

By Miranda Alvarez
Legal Secretary

INDEX of RECORD on REVIEW

Superior Court No. LC2025-000025

1. Original Agency Action From Which Review is Sought: A.R.S. 12-904(B)(1)

1.	05-13-2024	2024-05-13-2024 REQHRG Date hearing requested (1177798)
2.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1178155)
3.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269993)
4.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269994)
5.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269995)
6.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269996)
7.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269997)
8.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269998)
9.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1269999)
10.	05-15-2024	2024-05-15-2024 ELECTRONIC-RECNOH received notice of hearing (1270000)

**2. Motions, Memoranda or Other Documents Submitted by the Parties to the Appeal:
A.R.S. § 12-904(B)(2)**

11.	06-12-2024	2024-06-12-2024 ELECTRONIC-RECMM Misc motion received (1188749)
12.	06-12-2024	2024-06-12-2024 ELECTRONIC-RECMM Misc motion received (1188750)
13.	06-12-2024	2024-06-12-2024 ELECTRONIC-RECMM Misc motion received (1188771)

14.	06-12-2024	2024-06-12-2024 ELECTRONIC-RECMC Misc motion received (1188772)
15.	06-13-2024	2024-06-13-2024 ELECTRONIC-RECMC Misc motion received (1188897)
16.	06-13-2024	2024-06-13-2024 ELECTRONIC-RECMC Misc motion received (1188898)
17.	06-14-2024	2024-06-14-2024 ELECTRONIC-RECMC Motion for Continuance received (1189511)
18.	06-14-2024	2024-06-14-2024 ELECTRONIC-RECMC Motion for Continuance received (1189512)
19.	06-14-2024	2024-06-14-2024 ELECTRONIC-RECSUB Received Subpoenas (1189407)
20.	06-14-2024	2024-06-14-2024 ELECTRONIC-RECSUB Received Subpoenas (1189408)
21.	06-17-2024	2024-06-17-2024 ELECTRONIC-RECMC Motion for Continuance received (1190497)
22.	06-17-2024	2024-06-17-2024 ELECTRONIC-RECMC Motion for Continuance received (1190498)
23.	06-17-2024	2024-06-17-2024 ELECTRONIC-RECRD Response to Continuance motion (1190469)
24.	06-17-2024	2024-06-17-2024 ELECTRONIC-RECRD Response to Continuance motion (1190470)
25.	07-07-2024	2024-07-07-2024 ELECTRONIC-docrec - Memo in support of contempt (1196718)
26.	07-07-2024	2024-07-07-2024 ELECTRONIC-docrec - Memo in support of contempt (1196719)
27.	07-07-2024	2024-07-07-2024 ELECTRONIC-RECMC Misc motion received - for contempt proceeding (1196716)
28.	07-07-2024	2024-07-07-2024 ELECTRONIC-RECMC Misc motion received - for contempt proceeding (1196717)
29.	07-10-2024	2024-07-10-2024 ELECTRONIC-docrec (1198081)
30.	07-10-2024	2024-07-10-2024 ELECTRONIC-docrec (1198082)
31.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECMC Misc motion received (1198051)

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32.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECMM Misc motion received (1198052)
33.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECMM Misc motion received - for SUBP (1197881)
34.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECMM Misc motion received - for SUBP (1197882)
35.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECMM Misc motion received - for SUBP (1197883)
36.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECRM Response to Misc motion (1197946)
37.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECRM Response to Misc motion (1197947)
38.	07-10-2024	2024-07-10-2024 ELECTRONIC-RECRM Response to Misc motion (1197948)
39.	07-16-2024	2024-07-16-2024 ELECTRONIC-RECRM Response to Misc motion (1200130)
40.	07-16-2024	2024-07-16-2024 ELECTRONIC-RECRM Response to Misc motion (1200131)
41.	08-16-2024	2024-08-16-2024 ELECTRONIC-RECMM Misc motion received (1212219)
42.	08-16-2024	2024-08-16-2024 ELECTRONIC-RECMM Misc motion received (1212220)
43.	09-11-2024	2024-09-11-2024 ELECTRONIC-docrec REJECT (1222733)
44.	09-11-2024	2024-09-11-2024 ELECTRONIC-docrec REJECT (1222784)
45.	09-11-2024	2024-09-11-2024 Petitioner's Correction of Typographical Error in Proposed (1270006)
46.	09-11-2024	2024-09-11-2024 Petitioner's Proposed Findings, Conclusions and Orders.docx (1270004)
47.	09-11-2024	2024-09-11-2024 Proposed ALJ Decision.docx (1270005)
48.	09-13-2024	2024-09-13-2024 ELECTRONIC-RECRM Response to Misc motion (1223480)
49.	09-13-2024	2024-09-13-2024 ELECTRONIC-RECRM Response to Misc motion (1223481)
50.	01-14-2025	2025-01-14-2025 APPEAL Appeal (1262707)
51.	01-14-2025	2025-01-14-2025 APPEAL Appeal (1262708)

3. Administrative Law Judge Orders

52.	06-19-2024	2024-06-19-2024 Minute Entry Continuance (1191244)
53.	06-19-2024	2024-06-19-2024 SUBSIG Subpoena signed (1191162)
54.	07-09-2024	2024-07-09-2024 ORDER (1197453)
55.	08-13-2024	2024-08-13-2024 ORDER (1210975)
56.	08-28-2024	2024-08-28-2024 ORDER (1217528)
57.	09-16-2024	2024-09-16-2024 Minute Entry - Document Reject (1223854)

4. Exhibits Admitted as Evidence at the Administrative Hearing: A.R.S. § 12-904(B)(3); Exhibits Offered, but not Admitted or Withdrawn

58.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222707)
59.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222708)
60.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222711)
61.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222712)
62.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222713)
63.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222714)
64.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222715)
65.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222716)
66.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222717)
67.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222718)
68.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222719)
69.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222720)

70.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222721)
71.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222722)
72.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222723)
73.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222726)
74.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222727)
75.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222728)
76.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222729)
77.	09-11-2024	2024-09-11-2024 Complainant-Petitioner-Appellant Exhibits (1222730)
78.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222688)
79.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222689)
80.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222690)
81.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222724)
82.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222725)
83.	09-11-2024	2024-09-11-2024 Respondent Exhibits (1222742)
84.	09-11-2024	2024-09-11-2024 Respondent Exhibits - (1222746)
85.	09-11-2024	2024-09-11-2024 Respondent Exhibits - (1222747)
86.	09-11-2024	2024-09-11-2024 Respondent Exhibits 1-15 (1222738)
87.	09-11-2024	2024-09-11-2024 Respondent Exhibits 1-15 (1222739)
88.	09-11-2024	2024-09-11-2024 Respondent Exhibits 1-15 (1222740)
89.	09-11-2024	2024-09-11-2024 Respondent Exhibits 1-15 (1222741)
90.	09-11-2024	2024-09-11-2024 Respondent Exhibits 1-7 (1222743)

5. Administrative Law Judge Decision and any Revisions or Modifications: A.R.S. § 12-904(B)(4)

91.	11-05-2024	2024-11-05-2024 HOA - ALJDEC decisions (1240189)
92.	01-08-2025	2025-01-08-2025 ELECTRONIC-docrec - final dept order (1260910)

6. Transcript: A.R.S. § 12-904(B)(5)

Transcript not designated as part of the record by Appellant pursuant to A.R.S. § 12-909(A), nor requested by any party pursuant to A.R.S. § 12-904(B)(5)

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CLEAR

SUBMIT



OFFICE OF ADMINISTRATIVE HEARINGS REQUEST FOR HEARING

DATE: 05/13/2024

TO: Casemanagement@azoah.com

FROM: Gabe Osborn

EMAIL (REQUIRED): gosborn@azre.gov

DOCKET NO.: 24F-H047-REL

CAPTION (REQUIRED)

In the Matter of
AZNH Revocable Trust
VS
Sunland Springs Village
Homeowners Association

Hearing Type (Appealable/Contested) *

Date of Request (if appealable) *Proposed Date/Time

* The date MUST be within 60 days of an appealable agency action hearing request, or within 60 days of this contested case hearing request UNLESS at least one of the following factors are true:

- All parties agree to a date beyond 60 days
- OAH to set case for intervening prehearing within 60 days

BY CHECKING A BOX, THE AGENCY IS CERTIFYING TO THE OAH THAT THE FACTORS ARE TRUE.

Party Contact Information

Counsel
Petitioner: John F. Sullivan 1909 E. Ray Rd. Suite 9198 Chandler, AZ 85225
Phone: (480) 818-5070
Email: info@sullivanappeals.com

Counsel
Respondent: Chad Gallacher 4854 E. Baseline Rd. #104 Mesa, AZ 85206
Phone: (480) 833-1001
Email: cgallacher@hoalaw.biz

*
Phone:
Email:

OAH USE ONLY:

Assigned ALJ: Adam Stone

ASSIGNED AS

HEARING	PREHEARING (if applicable)
DATE: 7/12/2024 <input type="checkbox"/>	DATE: <input type="checkbox"/>
TIME: 1:00	TIME: <input type="checkbox"/>
LOCATION: <input type="checkbox"/>	LOCATION: <input type="checkbox"/>

SPECIAL ADVISEMENT

FROM OAH	FROM AGENCY

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Notice of hearing
To Administrative Law Judge

Filing date: **5/15/2024**

Filed by: **Gabe Osborn**

Email address: **gosborn@azre.gov**

Telephone number: **6027717784**

Mailing address

**Arizona Department of Real Estate
HOA Dispute Process
100 N 15th Ave, suite 201
Phoenix, AZ 85007**

Pending hearing date: **7/12/2024**

Email notifications

**info@sullivanappeals.com
cgallacher@hoalaw.biz**

Other notifications

.

Submission and grounds

**24F-047-REL
Notice of Hearing
HOA Dispute Process**

Files submitted

Notice of Hearing File.zip



Deposit Details

Transaction No

1293391

License No

Name

John Sullivan

Transaction Date

4/23/2024 12:04:45 PM

Clerk

Online

Amount Paid

\$500.00

Change

\$0.00

Voided

No

Notes

Fees

Quantity	Item	Price	Total
1	HOA Petition Fee	\$500.00	\$500.00
			Total: \$500.00

Payments

Type	Sub Type	Reference	Amount
Credit	Visa	70846	\$500.00
			Total: \$500.00

Ok (/Lms/Licensing/Deposit/NavigateBackTo?backUrl=~%2FLicensing%2FHome)

Message Details**Message ID**

785262

Sender Type

Public

License Number**Sender**

John Sullivan

Sender Email

info@SullivanAppeals.com

Sender Phone**Date Sent**

4/23/2024 12:56:24 PM

Subject

Homeowner Association (HOA) Dispute Process

Reply Status

Not Replied

Reply Status Date**Reply Status User****Message**

Hello. I received the option to mediate. The statute at issue imposes strict, mandatory obligations upon the HOA. Compliance with the statute is not negotiable. There is nothing to be achieved in mediation. The AZNH Revocable Trust respectfully declines to participate in mediation and asks that the Petition be sent to the HOA for a response. Respectfully yours, Atty. John F. Sullivan (AZ Bar 023018) Counsel for Petitioner 1909 E. Ray Rd., Suite 9198 Chandler, AZ 85225 480-818-5070

Thank you for submitting the HOA Filing fee, before the Department moves forward with the HOA Dispute Petition Process, please respond to the Pilot Mediation Project.

Mediation Option – Pilot Project

Attached you will find information regarding the Mediation Option offered by the Department and the Mediation Request form. If you are interested in the mediation option, please complete the Request for Mediation form and it to the Department no later than 4/30/2024 (5 calendar days). You are still required to pay the filing fee, however, if your case is resolved through mediation, your filing fee will be refunded.

Conversation Details**Conversation ID**

303573

Status

Open

Subject

Homeowner Association (HOA) Dispute Process

Date Created

4/23/2024 12:37:31 PM

Assigned Employee

Lauren Abril

Issue Resolved

No

Notes

Attachments

10 records per page

Q

Description	Name	Size (KB)	Date Added
No data available in table			

Showing 0 to 0 of 0 entries

← Previous 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
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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
10937756	John Sullivan	4/23/2024 12:56:24 PM	Create new reply to Message ID 785249 from John Sullivan to Department in Conversation ID 303573.

Showing 1 to 1 of 1 entries

← Previous 1 Next →

Ok (/Lms/MessageCenter/Message/NavigateBackTo?backUrl=~%2FMessageCenter%2FMessage%2FViewMessages)

1 **BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS**

2 In the Matter of:

3 **AZNH Revocable Trust,**

4 Petitioner

5 vs.

6 **Sunland Springs Village Homeowners**
7 **Association,**

8 Respondent

File No.: 24F-047

Docket No.: 24F-H047-REL

NOTICE OF HEARING

(Assigned to ALJ Adam Stone)

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

12 **Date of Hearing:**
13 **July 12, 2024 at 01:00 p.m.**

14 **Location:**
15 **Office of Administrative Hearings**
16 **1740 W. Adams St.**
17 **Lower Level**
18 **Phoenix, Arizona 85007**

19 Any person affected by this action must appear in person and can be represented by
20 counsel. Parties or witnesses wishing to appear by video conference or telephone may, not later
21 than 7 calendar days prior to the hearing date, request that the assigned Administrative Law
22 Judge permit them to appear by video conference or by telephone. This must be done by
23 contacting the Office of Administrative Hearings directly. Parties must be present during the
24 giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence, to
25 examine witnesses, to present evidence and argument on all relevant issues, and 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
calling their offices at (602) 542-9826.

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

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

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

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

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

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

19 Under the Americans with Disabilities Act (ADA), the Office of Administrative Hearings
20 endeavors to ensure the accessibility of its hearings to all persons with disabilities. Persons with
21 disabilities may request reasonable accommodations such as interpreters, alternative formats, or
22 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.

DISPUTE

23 Petitioner alleged the Respondent of violating the following:

24 "On February 28, 2024, AZNH Revocable Trust submitted a written request, pursuant to A.R.S
25 33-1812, A, 7, to inspect all ballots, envelopes, related materials and sign-in sheets related to an

1 HOA election concluding on February 27, 2024, and the HOA has repeatedly failed or refused
2 to produce all such materials (about 1500 ballots have not been produced).”

3 QUESTIONS

4 Any and all questions regarding the referenced case matter should be directed to OAH.
5 For any and all general inquiries, please email oah@azoah.com. Their hours of operation are
6 8:00am - 5:00pm pm Monday through Friday.

7 DATED this 15th day of May, 2024.

8 *Daniel Y. Jones*

9 **DANIEL Y JONES**
10 Division Manager
11 Arizona Department of Real Estate


12 **E-FILE** of the foregoing this
13 15 day of May, 2024, to:

14 ALJ Adam Stone
15 Office of Administrative Hearings

16 **COPY** mailed by First Class and
17 Certified Mail on the 15 day of
18 May, 2024, Return Receipts Requested
19 (Receipt No. 9489 0090 0027 6611 8570 84) to:

20 9489 0090 0027 6611 8570 84
21 John F. Sullivan
22 1909 E. Ray Rd Suite 9198
23 Chandler, AZ 85225
24 Email: info@sullivanappeals.com
25 *Attorney for Petitioner*

26 Chad M. Gallacher 9489 0090 0027 6611 8570 91
27 Maxwell & Morgan, P.C.
28 4854 E. Baseline Rd # 104
29 Mesa, AZ 85206
30 Email: cgallacher@hoalaw.biz
31 *Attorney for Respondent*

32 
33 _____
34 10290603



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

HOMEOWNERS ASSOCIATION (HOA) DISPUTE PROCESS PETITION

PETITIONER: (YOUR NAME AND ADDRESS) The person or association completing this form is the Petitioner.

Homeowner (Last, First & M.I.) or Association Name: AZNH Revocable Trust (John & Susan Sullivan, Trustees - Real Parties in Interest) - Homeowner				
Address: 336 Intervale Rd., Unit B1		City: Gilford	State: NH	Zip Code: 03249
Phone Number: 480-603-8775		Email address: mynew4x4@yahoo.com		

If an attorney represents you, complete the following section.

Does an attorney represent you in this matter? Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>		Has a lawsuit been filed regarding this matter? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>			
Attorney Name: John F. Sullivan		Law Firm:			
Address: 1909 E. Ray Rd.		Suite: 9198	City: Chandler	State: AZ	Zip Code: 85225
Office Phone: 480-818-5070	Fax: 480-210-8328		Email address: info@SullivanAppeals.com		

INVOLVED PARTIES: (An owner's petition (complaint) must be about a dispute between the owner and the association. An association's petition (complaint) must be about a dispute between the association and the owner.)

PETITIONER IS A (you are a): <input checked="" type="checkbox"/> Homeowner <input type="checkbox"/> Condominium/Community Association <input type="checkbox"/> Planned Community Association	RESPONDENT IS A (check one): <input type="checkbox"/> Homeowner <input type="checkbox"/> Condominium/Community Association <input checked="" type="checkbox"/> Planned Community Association
--	--

RESPONDENT INFORMATION: (Who are you filing against?) The Respondent is the association or homeowner, if you are an association, against whom you are filing the petition. See Page 2 of the instructions, the Respondent cannot be a management company but the petition against an HOA can be addressed in-care-of a management company.)

Homeowner (Last, First & M.I.) or Association Name: Sunland Springs Village Homeowners Association				
Address: 11214 E. Laguna Azul Circle		City: Mesa	State: AZ	Zip Code: 85209
Best Phone Contact: 480-354-8758			Email address: hoaboard@ssvhoa.com	

ADDRESS OF SUBJECT PROPERTY (If different than the Petitioner's mailing address)

Address: 11360 E. Keats Ave., Unit 90		City: Mesa	State: AZ	Zip Code: 85209
--	--	---------------	--------------	--------------------

Arizona Department of Real Estate (ADRE)

COMPLAINT (DO NOT LEAVE THIS SECTION BLANK)

This complaint is a violation of: (Check box and provide the reference of the alleged violation/s. **THIS MUST BE COMPLETED.**)

- Condominium Statutes (example. A.R.S. § 33-1243): _____
- Planned Community Statutes (example. A.R.S. § 33-1809(A)(1)): A.R.S. § 33-1812, A, 7
- Bylaws (Example: Article 4.1(a)): _____
- CC&Rs (Example: Article 4, Sec. 4.1): _____

NUMBER OF ISSUES CLAIMED IN THIS PETITION

- 1 \$500
- 2 \$1,000
- 3 \$1,500
- 4 \$2,000

RELIEF REQUESTED (What are you asking for?)

Other than ordering Respondent to pay to the Petitioner the filing fee required by A.R.S § 32-2199.01, if the Petitioner prevails, Petitioner requests that the following relief be awarded regarding the act, omission, or condition described in this Petition.

- Order a party to abide by the Arizona statute specified in the complaint section.
- Order a party to abide by the section(s) of the condominium/planned community document(s) specified.
- Impose a civil penalty based on the violation specified. (Penalties, if granted, are awarded to the state, not the Petitioner.)

WITNESSES (Please list any witnesses below. If there are more witnesses, please list in the narrative statement below.)

Name: SEE BELOW			
Address:	City:	State:	Zip Code:
Phone:	Email address:		

ALLEGED VIOLATION DESCRIPTION - NARRATIVE STATEMENT

*Use the space below to provide a one-sentence statement of the violation/s for each issue claimed. Include with the statement a description, the specific factual basis of, the nature of, and the date and time of the alleged violation/s. (If you require more room write "See Attached" below and attach the document with your submission of this Petition.)

On February 28, 2024, AZNH Revocable Trust submitted a written request, pursuant to A.R.S. 33-1812, A, 7, to inspect all ballots, envelopes, related materials and sign-in sheets related to an HOA election concluding on February 27, 2024, and the HOA has repeatedly failed or refused to produce all such materials (about 1500 ballots have not been produced).

Witnesses:

Cathy Braun (HOA Secretary) 11437 E. Pampa Ave., Mesa, AZ 85212

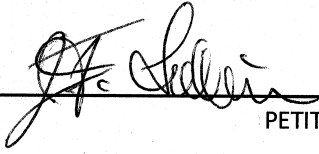
Susan Sullivan (Trustee, AZNH Revocable Trust - Homeowner)
336 Intervale Rd., Unit B1, Gilford, NH 03249

John Traylor (HOA Community Member) 11032 E. Nichols Ave., Mesa, AZ 85209

Arizona Department of Real Estate (ADRE)

PETITION CERTIFICATION (MUST BE SIGNED AND DATED)

Under penalty of perjury, I swear that this complaint, consisting of 67 pages, is true and accurate to the best of my knowledge.



PETITIONER SIGNATURE

04/20/2024

DATE

Atty. John F. Sullivan (Bar # 023018)

PETITIONER NAME (PRINT)

REMINDER: check each box and ensure:

- I have completed **all** sections of the petition.
- I have included ONE COPY of the condominium or planned community **documents that are at issue** in this matter;
- The CORRECT filing fee will be paid on-line through a secure link sent by ADRE once the completed petition is received;
- I have signed and dated the Petition;
- I have read the information provided on the ADRE's **Homeowners Association Dispute Process** webpage and understand this form.

Submit the Petition and supporting documents through the ADRE Message Center at www.azre.gov Petitions.

Americans with Disabilities Act

The Department of Real Estate complies with American Disabilities Act. Persons with disabilities may request reasonable accommodations such as interpreters, alternative formats or assistance with physical disability. Requests for accommodations must be made with 72 hours prior notice. If you require special accommodations, please contact the Department at (602) 771-7766. Questions regarding this communication can be sent to Chandni Bhakta, ADRE Ombudsman, at 602-771-7766 or online through the ADRE Message Center.

Petitioner
Attachment
1

AZNH Revocable Trust

February 28, 2024

HAND-DELIVERED ONLY

Ms. Cathy Braun, Secretary/Treasurer
Sunland Springs Village Homeowners Assoc.
11214 E. Laguna Azul Cir.
Mesa, AZ 85209

Re.: Ballots & Election Materials

Dear Secretary Braun:

Your records shall show that AZNH Revocable Trust holds title to an SSV property and is a member of the SSV HOA. I am a Trustee. The SSV property address is 11360 E. Keats Ave., Unit 90.

Pursuant to A.R.S. § 33-1812, 7, and with respect to the Annual Meeting of Members & election concluding on February 27, 2024, the Trust requests that you either: (1) make available for inspection all ballots, envelopes, related materials and sign-in sheets related to the aforesaid meeting and election; or, (2) produce the aforesaid ballots, envelopes, related materials and sign-in sheets in electronic form.

If you choose to make the above-referenced materials available for inspection, rather than produce them in electronic form, please ensure that you make a private room available for such inspection, and make that room available continuously for all days and time needed to make the inspection.

If you have some, but not all, of the above-referenced materials in electronic form, please produce your electronic materials in electronic form only.

If you need more than ten (10) business days to produce the above-referenced materials, please let me know and I shall allow you a reasonable to time to do so. If you choose to make them available in electronic form, please use this email address as needed for production or communication:
mynew4x4@yahoo.com.

Respectfully yours,

John F. Sullivan, Trustee

Petitioner
Attachment
2

Ballots & Election Materials

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Cc: kathy.fowers@fsresidential.com

Date: Thursday, February 29, 2024 at 01:08 PM MST

Dear Mr. Sullivan,

Pursuant to your request for ballot and election materials, I would be happy to provide for your inspection the original ballots, envelopes and sign-in sheets from the February 27, 2024 election.

You are free to contact Kathy Fowers, at your convenience, to set up a time and a location to review said materials, and I will make myself available as well, if you so desire.

Please be advised that the electronic ballots are not seen by the HOA, merely the totals, and lists of who did or did not vote electronically. You are welcome to review this as well.

As you will be in possession of original documents, either myself or Kathy Fowers will need to be present as you review said documents.

Please reach out if you have any further questions.

Respectfully,

Cathy Braun

Secretary/Treasurer

SSV HOA

Petitioner
Attachment
3

Re: Ballots & Election Materials

From: john sullivan (mynew4x4@yahoo.com)

To: cathybraunssv@gmail.com

Date: Friday, March 1, 2024 at 08:48 AM MST

Hello, Ms. Braun.

Thank you for your prompt and courteous reply.

Arizona law allows SSV HOA to conduct electronic voting as follows:

F. After providing notice that complies with subsection G of this section to members that a vote shall be conducted by electronic means, a written ballot may be delivered through an online voting system that does all of the following:

1. Authenticates the member's identity.
2. Authenticates the validity of each electronic vote to ensure that the vote is not altered in transit.
3. Transmits a receipt to each member who casts an electronic vote.
4. **Stores electronic votes for recount, inspection and review purposes.**

G. The notice prescribed by subsection F of this section shall include a reasonable procedure by which a member may obtain and cast a ballot through some other form of delivery, including United States mail delivery and fax transmission.

Ariz. Rev. Stat. § 10-3708 (bold and underscore added).

When you stated, "that the electronic ballots are not seen by the HOA," does that mean that electronic votes were not stored for "recount, inspection and review"?

Also, if you wish to have someone from FirstService present during inspection, it can be **anyone but Kathy Fowers**.

Lastly, I also wish to inspect the current contract between SSV HOA and FirstService. This contract is undoubtedly stored by SSV HOA in electronic form. Just sending it to me electronically seems like the most efficient method.

Thank you for your kind attention, and I remain;

Respectfully yours,
John F. Sullivan, Trustee

Petitioner
Attachment
4

Re: Ballots & Election Materials

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Cc: Kathy.Fowers@fsresidential.com

Date: Monday, March 4, 2024 at 10:18 AM MST

Dear Mr. Sullivan,

I apologize for the delay in getting back to you. I have forwarded your request to Management and someone will be reaching out to you to arrange a time for you to review the requested documents, and answer any questions, before the state mandated deadline.

Respectfully,

Cathy Braun

Secretary/Treasurer

SSV Board of Directors

On Fri, Mar 1, 2024 at 8:48 AM john sullivan <mynew4x4@yahoo.com> wrote:

Hello, Ms. Braun:

Thank you for your prompt and courteous reply.

Arizona law allows SSV HOA to conduct electronic voting as follows:

~~F. After providing notice that complies with subsection G of this section to members that a vote shall be conducted by electronic means, a written ballot may be delivered through an online voting system that does all of the following:~~

- ~~1. Authenticates the member's identity.~~**
- ~~2. Authenticates the validity of each electronic vote to ensure that the vote is not altered in transit.~~**
- ~~3. Transmits a receipt to each member who casts an electronic vote.~~**
- ~~4. Stores electronic votes for recount, inspection and review purposes.~~**

~~G. The notice prescribed by subsection F of this section shall include a reasonable procedure by which a member may obtain and cast a ballot through some other form of delivery, including United States mail delivery and fax transmission.~~

Ariz. Rev. Stat. § 10-3708 (bold and underscore added):

When you stated, "that the electronic ballots are not seen by the HOA," does that mean that electronic votes were not stored for "recount, inspection and review"?

Also, if you wish to have someone from FirstService present during inspection, it can be anyone but Kathy Fowers.

Petitioner
Attachment
5

Records request

From: Kathy Fowers (kathy.fowers@fsresidential.com)

To: mynew4x4@yahoo.com

Date: Monday, March 11, 2024 at 12:47 PM MST

Hi Mr. Sullivan,

I have been notified that you submitted a records request to review the 2024 election materials. Please plan for Wednesday, March 13th at 10 AM in the Superstition Room.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager

Sunland Springs Village
11214 E Laguna Azul Cir | Mesa, AZ 85209
Direct 480.354.8758
Property Fax: 480.354.8761
Email kathy.fowers@fsresidential.com
SSVHOA.com

24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)

Petitioner
Attachment
6

Fw: Records request

From: john sullivan (mynew4x4@yahoo.com)
To: cathybraunssv@gmail.com
Bcc: mynew4x4@yahoo.com
Date: Tuesday, March 12, 2024 at 11:48 AM MST

Dear Secretary Braun:

I am unable to conduct a full inspection of records tomorrow. But, for tomorrow, I think it would be useful to look at what materials you have so I can assess what time is needed to complete a full inspection, and arrange a mutually convenient schedule for that purpose.

Also, please remember that I wish to see the current contract between SSV & FirstService Residential; tomorrow should work for that.

Please let me know how you wish to proceed.

Thank you,
John Sullivan

----- Forwarded Message -----

From: Kathy Fowers <kathy.fowers@fsresidential.com>
To: mynew4x4@yahoo.com <mynew4x4@yahoo.com>
Sent: Monday, March 11, 2024 at 12:47:51 PM MST
Subject: Records request

Hi Mr. Sullivan,

I have been notified that you submitted a records request to review the 2024 election materials. Please plan for Wednesday, March 13th at 10 AM in the Superstition Room.

Kindly,
Kathy



KATHY FOWERS, GMCA, AMS
General Manager

Sunland Springs Village
44214 E Laguna Azul Cir | Mesa, AZ 85209
Direct 480.354.8758
Property Fax: 480.354.8764
Email kathy.fowers@fsresidential.com
SSVHOA.com

24/7 Customer Care Center: 855.333.5149
Website | Facebook | LinkedIn | YouTube

Petitioner
Attachment
7

Re: Records request

From: Kathy Fowers (kathy.fowers@fsresidential.com)

To: mynew4x4@yahoo.com

Date: Tuesday, March 12, 2024 at 01:03 PM MST

Hi John,

Thank you for your follow up email. We will see you at 10 AM tomorrow morning.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager
Direct 480.354.8758



From: Kathy Fowers <Kathy.Fowers@fsresidential.com>
Sent: Monday, March 11, 2024 12:47 PM
To: mynew4x4@yahoo.com <mynew4x4@yahoo.com>
Subject: Records request

Hi Mr. Sullivan,

I have been notified that you submitted a records request to review the 2024 election materials. Please plan for Wednesday, March 13th at 10 AM in the Superstition Room.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager
Sunland Springs Village
11214 E. Laguna Azul Cir | Mesa, AZ 85209
Direct 480.354.8758
Property Fax: 480.354.8761
Email kathy.fowers@fsresidential.com
SSVHQA.com



24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)

Petitioner
Attachment
8

Electronic Transmission of Election Data

From: john sullivan (mynew4x4@yahoo.com)

To: cathybraunssv@gmail.com

Date: Monday, March 25, 2024 at 05:52 PM MST

Dear Secretary Braun:

As you know, I conducted a partial inspection of SSV election data and materials on Friday, March 22, 2024.

Near the conclusion of that partial inspection, Ms. Fowers (the FirstService Residential on-site representative) agreed that she would send me an electronic copy of all voter verification lists.

I have not received same, and I have not heard from Ms. Fowers.

Please advise as to when I shall receive the materials.

Thank you,
John Sullivan, Trustee
AZNH Revocable Trust

Petitioner
Attachment
9

Re: Electronic Transmission of Election Data

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Monday, March 25, 2024 at 06:38 PM MST

Dear Mr. Sullivan,
I will look into this and get back to you.
Sincerely,
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Mon, Mar 25, 2024, 5:52 PM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:

As you know, I conducted a partial inspection of SSV election data and materials on Friday, March 22, 2024.

Near the conclusion of that partial inspection, Ms. Fowers (the FirstService Residential on-site representative) agreed that she would send me an electronic copy of all voter verification lists.

I have not received same, and I have not heard from Ms. Fowers.

Please advise as to when I shall receive the materials.

Thank you,
John Sullivan, Trustee
AZNH Revocable Trust

Petitioner
Attachment
10

Re: Electronic Transmission of Election Data

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Tuesday, March 26, 2024 at 12:43 PM MST

Dear Mr. Sullivan,

I have spoken with Ms. Fowers about your request and she assures me that she will have the requested materials sent to you by the state mandated 10 day deadline, which would be no later than 4/1/24.

Respectfully,

Cathy Braun

Secretary/Treasurer

SSV Board of Directors

On Mon, Mar 25, 2024 at 5:52 PM John Sullivan <mynew4x4@yahoo.com> wrote:

~~Dear Secretary Braun:~~

~~As you know, I conducted a partial inspection of SSV election data and materials on Friday, March 22, 2024.~~

~~Near the conclusion of that partial inspection, Ms. Fowers (the First Service Residential on-site representative) agreed that she would send me an electronic copy of all voter verification lists.~~

~~I have not received same, and I have not heard from Ms. Fowers.~~

~~Please advise as to when I shall receive the materials.~~

Thank you;

John Sullivan, Trustee

AZNH Revocable Trust

Petitioner
Attachment

11

Records request

From: Kathy Fowers (kathy.fowers@fsresidential.com)
To: mynew4x4@yahoo.com
Date: Monday, April 1, 2024 at 04:16 PM MST

Hi Mr. Sullivan,

Please see the requested documents attached.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager

Sunland Springs Village
11214 E Laguna Azul Cir | Mesa, AZ 85209
Direct 480.354.8758
Property Fax: 480.354.8761
Email kathy.fowers@fsresidential.com
SSVHOA.com

24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)



2024DirectorsElection - Absentee ballots.pdf
71.7kB



50013-who_didnt_vote-2024DirectorsElection.pdf
249.4kB



50013-who_voted-2024DirectorsElection.pdf
379.1kB

**Email Attachments Omitted
(Too Many Pages)**

Petitioner
Attachment
12

Election Memorandum

From: john sullivan (mynew4x4@yahoo.com)
To: cathybraunssv@gmail.com
Cc: jtboise@gmail.com
Date: Monday, April 8, 2024 at 10:42 PM MST

Dear Secretary Braun:

I have attached a link (below) to an 8 page memorandum which I plan to publish to the homeowners on Wednesday, April 10th.

It may be easier to read if you download it rather than read it in the cloud application.

Please let me know if there is anything in the memorandum which you believe is inaccurate or if there is anything else you want me to consider before publication.

Please let me know by the end of the day tomorrow (Tuesday, April 9th). If you need more time, please let me know.

Respectfully,
John Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

Link:

<https://www.dropbox.com/scl/fi/h46hs5q7mnw5otnmnc9rm/Election-Report-All-Sections-Ballot.pdf?rlkey=e7218wzvjgor2q438rukurd9&dl=0>

Hello folks.

In March and April, pursuant to A.R.S. § 33-1805 & § 33-1812, I examined the SSV election materials from the 2024 election to analyze and evaluate the election process. Atty. John Traylor collaborated with me in this examination.

Any member of the Association may examine these materials, and **no record is kept which allows anyone to see how a particular homeowner voted.**

You shall read below that there were some minor anomalies and concerns. But there is one major concern: the electronic voting was not conducted as required by A.R.S. § 10-3708 and therefore, **all the electronic votes for 2024 are invalid.** You'll also read below about A.R.S. § 33-1812. Both of these laws are intended to protect homeowners and the integrity of SSV elections.

I do not suggest any action to invalidate the 2024 election. It is much more important that our future election process be improved. Atty. John Traylor and I have formulated some suggestions for improvement – you'll see them in the ending paragraphs.

I. Invalid Electronic Voting

A.R.S. § 10-3708 controls electronic voting and has two important requirements: (1) a written ballot must be delivered electronically; and, (2) electronic votes must be stored for “for recount, inspection and review purposes.” Based upon my examination of election materials, and conversation with the community manager, I found that none of the electronic votes were stored for such purpose and, consequently, the electronic votes are invalid.

The electronic voting vendor¹ provided a record to SSV of who voted electronically and there is a tabulation (count) of the electronic votes, but there are no votes for “recount, inspection and review.” Therefore, the actual votes of the homeowners cannot be confirmed and there is no way to ensure the electronic voting system was reliable and worked correctly.

When voting electronically, a voter has an electronic ballot appear on their computer screen and the voter casts their vote based upon available selections. It is the electronic voting

¹ The vendor does business as VOTE HOA NOW with a Website: votehoanow.com. According to information at that Website, the vendor is owned by Strateja-XL, and further research reveals Strateja-XL is an Oregon corporation headquartered in Sherwood, OR. Under Arizona law, corporations from other states are required to register with, *and meet the requirements of*, the Arizona Corporation Commission prior to transacting business in Arizona. I cannot find any such registration. It appears that neither Strateja-XL nor VOTE HOA NOW is lawfully authorized to transact business in Arizona.

selections on each ballot (without voter identity) which must be stored for “recount, inspection and review” just as there would be with a paper ballot.

Because the electronic votes are invalid, the remaining paper ballots are too few to establish a quorum and, consequently, the entire election is invalid.

II. FirstService Residential – Improprieties

Bylaw Article 3.3 (Ballot Election Procedures) apparently gives an “Election Committee” exclusive authority for organizing and conducting the annual election. There is nothing in that Article or any other part of our Bylaws which authorizes any FirstService Residential (“FSR”) employee to be involved, in any way, with the election process.

A. Vendor Selection & Communications

Either the Board of Directors or the Election Committee should select the vendor to provide electronic voting services. Unlike past elections, FSR should not be involved in selecting or communicating with the vendor. This is the first, necessary step in removing FSR from any involvement in the election. And, of course, the selected vendor must be lawfully authorized to transact business in Arizona, and the vendor must obey A.R.S. § 10-3708 to ensure our elections are lawful and reliable.

B. FSR Unlawfully Combined Two Issues into One Vote

Pursuant to A.R.S. § 33-1812, a ballot must describe each proposed action separately and provide an opportunity to vote for or against each action. This law ensures that everyone understands precisely what action is being authorized (or not authorized) by the homeowners.

FSR created a ballot which gave homeowners a choice to vote ‘yes’ or ‘no’ to “approve the Amendment to the Bylaws” without describing the actual amendments. Also, there were actually two amendments to be considered, not one.

Thus, the ballot FSR prepared did not comply with Arizona law, and all affirmative votes are invalid. I have attached a blank ballot at the end of this section for your convenient review.

C. Homeowner Ballots Did Not Get Equal Treatment

As used herein, the “**outer envelope**” is the envelope showing the name, address and signature of the voter, and the “**inner envelope**” is the envelope inside the outer envelope and it contains the actual ballot. Thus, when the outer envelope is opened and the inner envelope is removed, the inner envelope and the ballot no longer show the voter’s identity. The outer envelopes and inner envelopes are all separated *before* inner envelopes are opened and ballots counted. This two-envelope system meets the requirements of A.R.S. § 33-1812, A, 6.

Important: Under a two-envelope system, Arizona law requires the outer envelope show the name, address and signature of the voter (the property owner). If there is no outer envelope

or if any of the required information is missing on the outer envelope, the inner envelope is not opened and **the ballot cannot be counted.**

One outer envelope was submitted with a name which was similar to, *but did not precisely match*, the HOA record as being the owner at the address. Under Arizona law, this ballot cannot be counted because the outer envelope does not contain the name of the property owner. A FirstService employee called the owner of the property to confirm that the owner submitted the envelope and ballot. ***That ballot was counted when, as a matter of law, it was invalid.***

Other owners were not called by FSR (or anyone else) and were treated differently:

- (1) One outer envelope was submitted without an owner name, but had an address and signature. ***That ballot was NOT counted.*** Thus, this property owner was treated differently, but correctly under the law.
- (2) Three other outer envelopes were submitted with name, address and signature, but the ballots were rejected because the name appearing on the outer envelope did not match the HOA record as being the owner at the address appearing on the outer envelope. ***Those ballots were NOT counted.*** Thus, the owners of these properties were treated differently, but correctly under the law.

SUNLAND SPRINGS VILLAGE HOMEOWNERS ASSOCIATION
2024 ANNUAL MEMBERSHIP MEETING NOTICE
TUESDAY, FEBRUARY 27, 2024
DOORS OPEN 6:00 PM / MEETING 6:30 PM
Sunland Springs Village Auditorium

Please complete and return this ballot for the election of **two (2)** Director Positions with **three (3)** year terms, approval of the last annual membership meeting minutes, approval of IRS Ruling 70-604 so the association may carry over surplus income to offset deficits to avoid additional taxes, and approval of changes to the bylaws regarding election timeline and the Code of Conduct for Board Members becoming part of the qualifications to serve on the board. This ballot does not authorize any owner to vote on behalf of any other owner. The Bylaws do not permit cumulative voting. This ballot is valid for this election, establishing quorum and is irrevocable once submitted. Sent to All Owners of Record as of 1/18/2024.

Number of Homes: **2847**, Quorum: **10%**, Ballots Required for Quorum: **285**

- Please make up to two (2) selections from the candidates listed.

- Do not vote for more than two (2) candidates - or this ballot will be void.

VOTE	CANDIDATE NAMES (Biographies attached)
<input type="checkbox"/>	Crowe, Brian
<input type="checkbox"/>	Dahlen, Michael
<input type="checkbox"/>	Garrett, Terry
<input type="checkbox"/>	I do not wish to vote for any candidates; please use my ballot for quorum purposes only.

Number of Homes: **2847**, Quorum required for proposed actions: **10%**, Ballots Required for Quorum: **285**

Percentage of approval required for proposed actions: **more than 50% of those that participate in the vote**

VOTE	PROPOSED ACTIONS
<input type="checkbox"/>	Yes - I approve the minutes of the last annual membership meeting.
<input type="checkbox"/>	No - I do not approve the minutes of the last annual membership meeting.
<input type="checkbox"/>	Yes - I approve the IRS Ruling 70-604 Election to apply excess income to next year.
<input type="checkbox"/>	No - I do not approve the IRS Ruling 70-604 Election to apply excess income to next year.
<input type="checkbox"/>	Yes - I approve the Amendment to the Bylaws
<input type="checkbox"/>	No - I do not approve the Amendment to the Bylaws

Make Your Vote Count!

Place this SECRET BALLOT in an envelope marked "SECRET," and insert in a return envelope.

Ensure that the return envelope includes your name, property address and signature.

Mail to Sunland Springs Village HOA 11214 E Laguna Azul Cir, Mesa, AZ 85209 so that it is received before 3 PM on MONDAY, FEBRUARY 26, 2024 - or this ballot will be void.

III. Vote Counting Error

An outer envelope submitted by a homeowner (in-person) at the annual meeting lacked a name, address and signature. That envelope was mistakenly opened by an election committee member. The inner envelope (the ballot) was removed and then commingled with other ballots. *That ballot was counted when, as a matter of law, it was invalid.* This type of mistake can happen but, with standardized procedures (as recommended below) mistakes can be reduced or eliminated.

IV. Other Anomalies

- Seven (7) inner envelopes were submitted without an outer envelope with the name, address and signature of the voter. *Those ballots were not counted.*
- Four (4) homeowners voted by paper and electronically. *Those ballots were not counted.*
- Four (4) outer envelopes were submitted without the name, address and signature. *Those ballots were not counted.*
- A ballot was marked both 'yes' and 'no' with respect to amending the bylaws. That ballot was counted as a vote on that issue, but there is no record of whether that vote was tallied as 'yes' or 'no.'
- A ballot was marked in such a way that it was not clear whether the vote was 'yes' or 'no' with respect to the IRS question. That ballot was counted as a vote on that issue, but there is no record of whether that vote was tallied as 'yes' or 'no.' The ballot check-boxes were so close together that it appears the homeowner marked both boxes inadvertently.

V. Improvement of Future Elections

1. FirstService Residential must be completely removed as a participant in all election-related matters. This includes staying away from Election Committee meetings, and not rendering comments, advice or suggestions to the Committee (or any of its members) in any way at any time.
 - a. The SSV list of qualified, homeowner voters should be made available to the Election Committee for the Committee (and only the Committee) to ensure that information on the outer envelope matches a qualified voter.
 - b. The Committee should be given all information which enables them (and only the Committee) to determine whether candidates are qualified to stand for election.
2. The Bylaws should be amended (in general terms):
 - a. to require that the election be conducted in accordance with all applicable laws;
 - b. to delete the annual appointment of all Election Committee members and make committee membership an annualized term with 5 members and 2 alternates serving staggered terms so that no more than 3 members need be appointed (or reappointed) annually on September 1st (this gives the Committee much more time to do its work);
 - c. to disqualify (and replace as needed) any committee member from the committee where such person is an owner of, or occupant in, the same home as an existing Board member or a candidate for the Board;
 - d. to require that candidates submit a notice of candidacy to the Committee during the period of October 1st to December 15th of each year;
 - e. to require that ballots be written in no less than 13 point, Times New Roman font and that each ballot page has a one-inch margin on all sides;
 - f. to require that all ballot instructions appear on the ballot sequentially before the candidates or the proposed actions appear for voting/selection by the voter. Such instructions shall be introduced in bold, 15-point Times New Roman font (or larger) by the phrase:

“Important!! Read and follow all instructions. Failure to follow all instructions may invalidate your ballot.”;
 - g. to require that boxes or circles available for voters to mark their selection be separated, above and below, by no less than 0.25 inches; and,

- h. to require that each action or proposal for homeowner approval be a separate item on the ballot.
3. The Election Committee should have a written manual (in addition to the Bylaws) with clear instructions about all election-related issues and all the necessary procedures which ensure election integrity. That manual should (in general terms):
- a. be approved, and amended as necessary, by the Board;
 - b. be drafted by a committee composed of the five (5) homeowners with an invitation to the two most recent Election Committee chairs to participate;²
 - c. establish clear, standardized procedures for ballot counting and ballot rejection (or vote rejection) by the Election Committee;
 - d. set a standardized format and procedures for two (2) meet the candidates events between January 8th and February 8th; and,
 - e. ask the Election Committee to submit a written report (within 45 days after each election) listing any concerns or recommendations for change in the operations manual or the election process.

-----END-----

² Atty. John Traylor and I are willing to assist by drafting policy language for the committee's consideration. Atty. Traylor also has time to serve on the committee.

Petitioner
Attachment
13

Re: Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Tuesday, April 9, 2024 at 12:56 PM MST

Dear Mr. Sullivan,

Thank you for reaching out to me. I have read your memorandum in its entirety, and would like to respectfully ask for a bit more time to research some of the allegations that you have made, particularly as they relate to VOTE HOA NOW.

I'm certain that you would not wish to publish incorrect information to our community members, and to that end, I would like to actually verify: 1. That VOTE HOA NOW does not, in fact, have the electronic votes for "recount, inspection and review." and 2. Whether or not they are "lawfully authorized to transact business in Arizona. "

These are some serious allegations, in my opinion, and while I am certainly not a lawyer, it would seem prudent to have hard facts, rather than the "appearance" of impropriety.

I would respectfully ask for a minimum of one more week to delve into this, before you publish your memorandum. Please let me know your intentions.

Sincerely,
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Mon, Apr 8, 2024, 10:42 PM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:

I have attached a link (below) to an 8 page memorandum which I plan to publish to the homeowners on Wednesday, April 10th.

It may be easier to read if you download it rather than read it in the cloud application.

Please let me know if there is anything in the memorandum which you believe is inaccurate or if there is anything else you want me to consider before publication.

Please let me know by the end of the day tomorrow (Tuesday, April 9th). If you need more time, please let me know.

Respectfully,
John Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

Link:

<https://www.dropbox.com/s/5/n46hs5q7mnw5otmmnc9m/Election-Report-All-Sections-Ballot.pdf?rlkey=c7218wzvjgor2q438rukurxd9&dl=0>

Petitioner
Attachment
14

Re: Election Memorandum

From: John Sullivan (mynew4x4@yahoo.com)

To: cathybraunssv@gmail.com

Cc: jtboise@gmail.com

Date: Tuesday, April 9, 2024 at 03:37 PM MST

Ms. Braun:

Thank you for your reply.

I think it is quite reasonable to give you time to investigate.

Let's give it 10 days. I'm confident you'll be able to get back to me soon. If it turns out that you need more time, please let me know.

If the vendor does, in fact, have records for recount, inspection or review, please make those records available to me without delay.

Thank you again, and I remain;

Respectfully yours,
John Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

Sent from iPhone

On Apr 9, 2024, at 12:56, Cathy Braun <cathybraunssv@gmail.com> wrote:

Dear Mr. Sullivan,

Thank you for reaching out to me. I have read your memorandum in its entirety, and would like to respectfully ask for a bit more time to research some of the allegations that you have made, particularly as they relate to VOTE HOA NOW.

I'm certain that you would not wish to publish incorrect information to our community members, and to that end, I would like to actually verify: 1. That VOTE HOA NOW does not, in fact, have the electronic votes for "recount, inspection and review." and 2. Whether or not they are "lawfully authorized to transact business in Arizona."

These are some serious allegations, in my opinion, and while I am certainly not a lawyer, it would seem prudent to have hard facts, rather than the "appearance" of impropriety.

I would respectfully ask for a minimum of one more week to delve into this, before you publish your memorandum. Please let me know your intentions.

Sincerely,
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Mon, Apr 8, 2024, 10:42 PM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:

Petitioner
Attachment
15

Re: Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Tuesday, April 9, 2024 at 04:00 PM MST

Dear Mr. Sullivan,
Thank you. I will get back to you as soon as possible.
Sincerely,
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Tue, Apr 9, 2024, 3:37 PM John Sullivan <mynew4x4@yahoo.com> wrote:

Ms. Braun:

Thank you for your reply.

I think it is quite reasonable to give you time to investigate.

Let's give it 10 days. I'm confident you'll be able to get back to me soon. If it turns out that you need more time, please let me know.

If the vendor does, in fact, have records for recount, inspection or review, please make those records available to me without delay.

Thank you again, and I remain;

Respectfully yours,
John Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

Sent from iPhone

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Dear Mr. Sullivan,
Thank you for reaching out to me. I have read your memorandum in its entirety, and would like to respectfully ask for a bit more time to research some of the allegations that you have made, particularly as they relate to VOTE HOA NOW.

I'm certain that you would not wish to publish incorrect information to our community members, and to that end, I would like to actually verify: 1. That VOTE HOA NOW does not, in fact, have the electronic votes for "recount, inspection and review," and 2. Whether or not they are "lawfully authorized to transact business in Arizona."

These are some serious allegations, in my opinion, and while I am certainly not a lawyer, it would seem prudent to have hard facts, rather than the "appearance" of impropriety.

I would respectfully ask for a minimum of one more week to delve into this, before you publish your memorandum. Please let me know your intentions.

Sincerely,

Petitioner
Attachment
16

Response to Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Thursday, April 18, 2024 at 10:15 AM MST

Mr. Sullivan,

Please see my attached response to your election memorandum. If you have further questions, please let me know.

Thanks,

Cathy Braun



Response to John Sullivan.doc
24.5kB

Dear Mr. Sullivan,

Thank you for giving me additional time to look into the claims you made and to provide a response before publishing your comments to the community. As a Board, we want to follow the law and operate correctly. After reviewing your claims and suggestions, I have some questions of my own that I think you should consider.

You claim that the 2024 election was invalid because you were unable to see how homeowners voted based on the materials provided by Vote HOA Now. A.R.S. § 10-3708(F) provides that electronic voting systems must accomplish four objectives: (1) authenticate the member's identity; (2) authenticate the validity of each electronic vote to ensure the vote is not altered in transit; (3) transmit a receipt to each member who casts an electronic vote; and (4) store electronic votes for recount, inspection and review purposes.

It appears that you do not have any issues with the first three requirements, but that because the material you reviewed did not allow you to see which homeowners voted for which candidates nor conduct your own tabulation, you asserted that the electronic voting system did not meet the fourth requirement. However, I am not sure you are correct. You submitted a document request to the Association to review the Association's records related to the election. The Association only received from Vote HOA Now the results as you saw them. However, after contacting Ruth Ingoldsby from Vote HOA Now, she assured me that they do indeed store the electronic votes in such a manner that they are available for "recount, inspection and review purposes". If you were to inspect the records in such a manner as you are asking to, the secrecy of the ballot would no longer be preserved.

In a records request, the Association can only provide for review, records that it has. In this instance, the Association only received from Vote HOA Now the documents that it produced for your review. Please keep in mind that Section 3.3.3 of the Bylaws requires the voting process to be secret. So, even if additional documents were obtained from Vote HOA Now, the Bylaws prevent you from seeing how particular homeowners voted.

Additionally, I have been informed by Ms. Ingoldsby, that online companies typically only register their corporation in the state they are located in and she provided me with a copy of their W9 which verifies all of the information that you uncovered on them. As numerous other HOA's in the valley and state-wide use Vote HOA Now for their election processing, I find it hard to believe that all of their elections are invalid as well. I believe that you are incorrect in your assumption that Vote HOA Now, as a web-based business, is operating illegally in Arizona. If you would like to speak with Ms. Ingoldsby directly, I would be happy to provide you with her information.

With respect to your claims regarding FirstService's involvement with the election process:

- 1.) I disagree with your statement that Bylaw Article 3.3.1 gives an "Election Committee" "exclusive authority" for organizing and conducting the annual election. I was on the Bylaws Ad Hoc Committee, and I can assure you, that was not the meaning intended in that Article. I can understand that, as a lawyer, you may tend to look at everything in strictly "black and white", but the Association can only rely on the advice of its own lawyers, and the document was approved, as written, by the Association attorney and the Association members.
- 2.) FirstService is allowed to perform any function delegated to it to help the Board and the Election Committee fulfill their responsibilities. While you claim that you do not want FirstService involved in the election at all, I think you should be more concerned if FirstService had no involvement. If FirstService had no involvement, the Election Committee would have to research public records to find out the identity and addresses of the members, write out the address of every homeowner on an envelope, send the ballot and notice of meeting, receive the voted ballots returned by the members, and hold the voted ballots until the election. The opportunities for errors in the notice and election would be enormous, and the risk that ballots could get lost or misplaced would be huge. The Association hires management to help with these types of administrative duties such as: maintaining member lists,

sending out mailings and collecting ballots returned by mail. There is nothing I am aware of that makes it illegal for the Association to delegate these tasks to management. Bylaw Article 3.12 gives the Board authority to delegate tasks to the Managing Agent. If you do have factual legal basis to suggest that the Association cannot delegate administrative tasks to management related to the election process, please provide it.

With respect to combining two issues into one vote, the Association did provide the opportunity for each homeowner to vote for or against the proposed items. While, in hindsight, I myself agree that it would have been more advantageous to separate the issues, we can only learn from our mistakes and try not to repeat them in the future. I do feel compelled, however, to point out that in 2023, the homeowners voted to approve a complete set of amended and restated bylaws. It would have been completely unreasonable to make the homeowners vote separately on every section that was changed by the amendment. There are 85 separate paragraphs and sub-paragraphs in the Amended and Restated Bylaws. It would have been unreasonable to prepare a ballot that included 85 action items that the members had to vote on in order to approve the Amended and Restated Bylaws. Rather, all the proposed changes were incorporated into one document, and the homeowners voted in a single action item to approve the Amended and Restated Bylaws. In the same manner, while there were two sections of the Amended and Restated Bylaws that would have been changed if the amendment had passed, it was not altogether improper for the Association to combine both of those changes into a single amendment document and allow the homeowners to vote to adopt the amendment. I have spoken with Association Atty. Chad Gallacher about all these issues, and he states that he is not aware of any legal precedent that requires an amendment to be split into multiple sub-parts.

With respect to your position regarding vote counting errors and treating homeowners differently, I think the examples you provided illustrate that the Association was trying to be as careful and correct as possible in relation to the vote tabulation. Unfortunately, there is always the possibility for human error. If you would like to participate in the decision on those judgment calls where the voting instructions were not followed perfectly, you may want to consider serving on the Election Committee yourself next year. I'm certain the committee could benefit from your expertise.

I appreciate your suggestions for possible ways to improve our elections. The Board definitely wants the election process to be as effective as possible and to fully comply with the requirements of Arizona law. I don't mind suggesting to the Board that they consider your recommendations. All that being said, I would like to humbly request that you consider not posting your letter to the community. I believe there are assumptions and misinformation in that letter that will only cause confusion and harm the community, rather than help us be better. That is, of course, ultimately your decision.

If you require any further information regarding Vote HOA Now or have any further questions or concerns, please feel free to reach out to me.

Respectfully,
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

Petitioner
Attachment
17

Re: Response to Election Memorandum

From: john sullivan (mynew4x4@yahoo.com)

To: cathybraunssv@gmail.com

Cc: jtboise@gmail.com

Date: Thursday, April 18, 2024, at 09:37 PM MST

Dear Secretary Braun:

Please see attached memorandum which is self-explanatory.

Thank you for your attention to the matter.

Respectfully,
John Sullivan, Trustee
AZNH Revocable Trust
Member SSV HOA

On Thursday, April 18, 2024 at 10:15:46 AM MST, Cathy Braun <cathybraunssv@gmail.com> wrote:

Mr. Sullivan,

Please see my attached response to your election memorandum. If you have further questions, please let me know.

Thanks,

Cathy Braun



240418 Memo to Ms. Braun.pdf

127.6kB

Dear Secretary Braun:

Thank you for your courteous perspective on the issues you address.

I write herein to clarify misinterpretations you have drawn from my memo.

I too would like the Board "to follow the law and operate correctly." My writing is intended to illuminate the processes which do not operate correctly and/or do not comply with the law. As I stated, "It is much more important that our future election process be improved."

I. No Violation of Secrecy

I wrote the following to you:

When voting electronically, a voter has an electronic ballot appear on their computer screen and the voter casts their vote based upon available selections. It is the electronic voting selections on each ballot (without voter identity) which must be stored for "recount, inspection and review" **just as there would be with a paper ballot.** (Bold and underscore added.)

See, also, A.R.S. § 33-1812, A (Notwithstanding A.R.S. § 10-3708, ballots and related materials "shall be retained in electronic or paper format and made available for member inspection for at least one year after completion of the election.")

It is not true (and a misrepresentation of my writing) to say that I found the electronic voting invalid "because the material [I] reviewed did not allow [me] to see which homeowners voted for which candidates."

I also wrote:

A.R.S. § 10-3708 controls electronic voting and has two important requirements: (1) a written ballot must be delivered electronically; and, (2) electronic votes must be stored for "for recount, inspection and review purposes." Based upon my examination of election materials, and conversation with the community manager, I found that none of the electronic votes were stored for such purpose and, consequently, the electronic votes are invalid.

The electronic voting vendor provided a record to SSV of who voted electronically and there is a tabulation (count) of the electronic votes, but there are no votes for "recount, inspection and review." Therefore, the

actual votes of the homeowners cannot be confirmed and there is no way to ensure the electronic voting system was reliable and worked correctly.

The “recount, inspection and review” of electronic votes is no different than paper ballots under A.R.S. § 33-1812, 7. That statutory clause states:

Ballots, envelopes and related materials, including sign-in sheets 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.

By its own specific language, all the requirements of A.R.S. § 33-1812 apply with equal force to electronic voting under A.R.S. § 10-3708.

II. Compliance with “recount, inspection and review”

In order to comply with the “recount, inspection and review” requirements of A.R.S. § 10-3708, SSV must produce the electronic ballot for each voter (without voter identification) for “recount, inspection and review” by any SSV homeowner.

Please remember that the statute only allows valid electronic voting when SSV complies with all statutory requirements including, but not limited to, the following:

“a written ballot may be delivered through an online voting system that does all of the following: . . . 4. Stores electronic votes for recount, inspection and review purposes.” A.R.S. § 10-3708.

I suspect that the vendor chosen by SSV to fulfill SSV’s statutory obligations did not comply with the statute. If SSV cannot produce the votes for “recount, inspection and review purposes”, all those electronic votes are invalid. And, because the remaining paper ballots are insufficient to establish a quorum, the entire election is invalid.

But, if the vendor selected to conduct the electronic voting for SSV has records which allow “recount, inspection and review”, then SSV must produce those records.

It is no defense to say that “*the Association can only provide for review, records that it has.*” Although SSV hired a vendor for the association’s electronic voting, the legal duty to comply with all statutory requirements for electronic voting remains with SSV (including compliance with the “recount, inspection and review” required by A.R.S. § 10-3708). Succinctly stated: hiring a vendor does not relieve SSV of its statutory obligations or excuse non-compliance.

//

III. Out of State Corporation Not Authorized to Transact Business in Arizona

I neither wrote nor implied that the SSV election was invalid because Strateja-XL (d/b/a Vote HOA Now) failed to register with, *and meet the requirements of*, the Arizona Corporation Commission prior to transacting business in Arizona. The unauthorized transaction of business does not invalidate the election, but it does have other significant consequences for Strateja-XL under Arizona law.

The applicable statute, A.R.S. § 10-1501, states that an out of state corporation “shall not transact business in this state until it is granted authority to transact business in this state” by the Arizona Corporation Commission.

You have confirmed what I already knew from existing records (not an assumption); Strateja-XL is not authorized to transact business in Arizona. The fact that they use the internet as part of their business, and that they have been repeatedly transacting business in Arizona for years, does not relieve them from compliance with A.R.S. § 10-1501.

The Arizona Supreme court has established that the statute applies when a corporation is engaged in an enterprise of some permanence and durability, and must transact within the state some substantial part of its ordinary business, and not merely a single act.” *National Union Indem. Co. v. Bruce Bros*, 44 Ariz. 454, 462 (Ariz. 1934). This legal principle has been recited by Arizona courts numerous times for almost a century.

As you stated yourself (and as shown by other records) “*numerous other HOA’s in the valley and state-wide use Vote HOA Now for their election processing.*” Thus Strateja-XL is engaged in an enterprise of some permanence and durability, and is transacting business within Arizona which is some substantial part of its ordinary business, and not merely a single act. You can see how prevalent their business is in Arizona at this link:

<https://www.dropbox.com/scl/fi/qfpygqu05cbh6ayj5cr6j/Online-Voting-for-HOA-Board-Elections-and-Ballot-Measures-testimonials.pdf?rlkey=9cxj67h8aidna5xwmtlqcnylt&st=cs90edk7&dl=0>

I know about Ms. Ingoldsby and that she holds herself out as a Gilbert, AZ. based “Director of Operations and Business Development at Vote HOA Now” which, as you now know, is a d/b/a for Strateja-XL.

(See: <https://www.linkedin.com/in/ruthingoldsby>.)

Here’s two rhetorical questions for you as someone who wants to see the Board “follow the law and operate correctly”:

1. Why would the Board want to remain complicit in unlawful corporate activity?
2. Why would the Board continue to use a vendor who exposes SSV to invalid electronic elections by failure to comply with electronic voting requirements.

IV. Election Committee

Here is an accurate and correct quote from my memo to you:

Bylaw Article 3.3 (Ballot Election Procedures) apparently gives an “Election Committee” exclusive authority for organizing and conducting the annual election.

I stated, “apparently” because there is nothing else in the Bylaws assigning any election processes to anyone else, and the Bylaws do not confine the Election Committee to any specific procedure or process. Thus, the Bylaws “apparently” give exclusive authority for organizing and conducting the annual election to the Election Committee. This highlights one of many flaws in the Bylaws that a competent and experienced lawyer could and should identify.

You are somewhat correct that the Board may delegate some functions to assist the Board, but not functions which, by law, are the exclusive responsibility of the SSV Board or its officers. For example, A.R.S. § 33-1804, A, requires the Board, acting as a group, to identify certain matters, and that requirement cannot be delegated to anyone.

It is my position, as a matter of policy, that the community manager (or the community manager company) should not be involved in any aspect of elections. Whatever election-related duties the community manager is performing, can easily be performed by an Election Committee. There is no need to search public records – SSV has all the records necessary to confirm voter identity and qualifications.

My memo to you does not assert or imply that it is unlawful for the community manager to undertake duties assigned by the Board in relation to elections. The current practices, however, are not in the best interest of the SSV homeowners.

V. Ballot Propositions

Here is an accurate and correct quote from my memo to you:

Pursuant to A.R.S. § 33-1812, a ballot must describe each proposed action separately and provide an opportunity to vote for or against each action. This law ensures that everyone understands precisely what action is being authorized (or not authorized) by the homeowners.

The above correctly states the statutory requirement that a ballot must describe each proposed action separately and provide an opportunity to vote for or against each action.

That does not mean, for example, that changes to the Bylaws require individual approval or every word, clause or sentence. The ballot must describe each proposed action.

So, with changes to the Bylaws, for example, multiple Bylaws can be amended or revoked by a description of what is to be amended or revoked, and allow the voter to vote “yes” or “no” to the proposed action. A voter can vote for or against the change of single word or entire sections of the Bylaws with a single vote provided that the proposed action has been fully and properly described on the ballot. The same is true for any other type of proposed action.

The most recent ballot did not even come close to that requirement. It read: “I approve the amendment to the Bylaws.” There was no description – that’s the problem. No one, not even the voter, knows what the amendment is. Remember, the ballot is a legal document which may need to be scrutinized by others, like a court, and the ballot needs to be clear about what action is being approved or rejected. This is precisely why A.R.S. § 33-1812 requires a ballot to “set forth” (describe) each proposed action.

VI. Conclusion

There are no assumptions or misinformation in the prior memo I sent you.

1. For a valid electronic election, SSV is required to store electronic votes for “for recount, inspection and review purposes.”
2. Because SSV (or its selected vendor) has not stored electronic votes for “for recount, inspection and review purposes”, all electronic votes are invalid.
3. Because the electronic votes are invalid, and there are insufficient paper ballots to establish a quorum, the entire election is invalid.
4. Strateja-XL (d/b/a Vote HOA Now) failed to register with, *and meet the requirements of*, the Arizona Corporation Commission prior to transacting business in Arizona, and, therefore, is not lawfully authorized to transact business in Arizona.
5. As a matter of good policy, the community manager (and the community manager company) should be eliminated from any role in the election process – there is no real impediment to Election Committee performing all necessary duties.

6. A ballot must describe each action sufficiently to inform everyone who might see the ballot of the precise action which is to be approved or rejected.

At the moment, it is my understanding that Strateja-XL (d/b/a Vote HOA Now) assures you (through Ms. Ingoldsby) that “they do indeed store the electronic votes in such a manner that they are available for ‘recount, inspection and review purposes’.” Those records have not been produced for inspection (A.R.S. § 33-1812, A, 7) or “recount, inspection and review purposes” (A.R.S. § 10-3708). Given what I know, I do not believe Ms. Ingoldsby and there is no corroboration of her assurances.

Nonetheless, you have reasserted to me, *Ms. Ingoldsby assurances to you*, that the records do in fact, exist. I respectfully suggest that you make those records available for “recount, inspection and review purposes.”

At the moment, because of your statements to me that the records do in fact exist, I must proceed under the belief that you are refusing to allow “recount, inspection and review” of those records.

I shall allow you until Tuesday, April 23, 2024, to either assure me that the records shall be available for inspection or to confirm to me that the records do not exist.

It’s truly my desire to promote improved election procedures, but a refusal to produce records is a *horse of a different color*.

Once again, thank you for your attention to this matter, and I remain;

Respectfully yours,

/s/ John F. Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

Petitioner
Attachment
18

Electronic voting for review

From: Kathy Fowers (kathy.fowers@fsresidential.com)

To: mynew4x4@yahoo.com

Date: Friday, April 19, 2024 at 07:35 AM MST

Hi Mr. Sullivan,

I received a message that your request for "who voted electronically" did not satisfy your request, and you now desire to review the electronic votes stored by the vendor. Please see the attached electronic responses.

Kindly,
Kathy



KATHY FOWERS, CMCA, AMS
General Manager

Sunland Springs Village
11214 E Laguna Azul Cir | Mesa, AZ 85209
Direct 480.354.8758
Property Fax: 480.354.8761
Email kathy.fowers@fsresidential.com
SSVHOA.com

24/7 Customer Care Center: 855.333.5149
[Website](#) | [Facebook](#) | [LinkedIn](#) | [YouTube](#)



Sunland Springs Village Election-Results-Export-04032024093043.pdf
369.1kB

**Email Attachments Omitted
(Too Many Pages)**

Petitioner
Attachment
19

Re: Response to Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Friday, April 19, 2024 at 09:47 AM MST

Mr. Sullivan,

It was never my intention to imply that we were refusing to provide you with the records you requested. I am following up to see if the records Ms. Fowers provided to you this morning are what you are asking for? Thanking you in advance for a response to this matter.

Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Thu, Apr 18, 2024, 9:37 PM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:

Please see attached memorandum which is self-explanatory.

Thank you for your attention to the matter.

Respectfully,
John Sullivan, Trustee
AZNH Revocable Trust
Member SSV HOA

On Thursday, April 18, 2024 at 10:15:46 AM MST, Cathy Braun <cathybraunssv@gmail.com> wrote:

Mr. Sullivan,
Please see my attached response to your election memorandum. If you have further questions, please let me know.

Thanks,
Cathy Braun

Petitioner
Attachment
20

Re: Response to Election Memorandum

From: john sullivan (mynew4x4@yahoo.com)

To: cathybraunssv@gmail.com

Cc: jtboise@gmail.com

Date: Friday, April 19, 2024 at 11:41 AM MST

Dear Secretary Braun:

I appreciate your follow-up. Thank you.

Ms. Fowers email and attachment do not comply with the law.

I truly believe you want to comply with the “recount, inspection and review purposes” of the law, but perhaps you don’t understand what is required. A further explanation might be helpful.

I have attached a blank ballot from the recent election. You shall see that the voter has a choice of three (3) candidates for Director, but may only vote for two (2) per the instructions. You shall also see that the voter may also choose not to vote for any candidate and cast a vote for quorum purposes only. The ballot also provides an opportunity to vote “yes” or “no” on three other proposals.

When you or I view a voter-completed paper ballot, we can see what selections were offered and what selections an unidentified voter has chosen on the ballot. For example, we can see that the voter was offered three (3) candidates for Director and chose not more than two (2) candidates to serve as Director. We can also see other proposed actions and see how that same voter voted (or did not vote) on those proposed actions.

Thus, the paper ballot allows you and I to recount, inspect and review the voter selections on every ballot for every voter.

Please recall that under the electronic voting statute “a written ballot may be delivered through an online voting system” which, among other things, “[s]tores electronic votes for recount, inspection and review purposes.” A.R.S. § 10-3708, F.

Please also recall that in addition to the electronic voting statute, ballots and related materials “shall be retained in electronic or paper format and made available for member inspection.” A.R.S. § 33-1812, A.

So, to comply with the “recount, inspection and review purposes” of the electronic voting law, SSV must produce electronic voting records which present the same information for each unidentified voter as is available on a completed paper ballot.

If these records exist, they must be produced for inspection. If they do not exist, you need to say so.

If they don't exist, that just needs to be fixed for the next election.

Once again, thank you, and I remain;

Respectfully yours,
/s/ John F. Sullivan, Trustee
AZNH Revocable Trust
Member of SSV HOA

On Friday, April 19, 2024 at 09:47:36 AM MST, Cathy Braun <cathybraunssv@gmail.com> wrote:


Mr. Sullivan,
It was never my intention to imply that we were refusing to provide you with the records you requested. I am following up to see if the records Ms. Fowers provided to you this morning are what you are asking for? Thanking you in advance for a response to this matter.
Cathy Braun
Secretary/Treasurer
SSV Board of Directors

On Thu, Apr 18, 2024, 9:37 PM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:
Please see attached memorandum which is self-explanatory.
Thank you for your attention to the matter.
Respectfully,
John Sullivan, Trustee
AZNH Revocable Trust
Member SSV HOA

On Thursday, April 18, 2024 at 10:15:46 AM MST, Cathy Braun <cathybraunssv@gmail.com> wrote:

Mr. Sullivan,
Please see my attached response to your election memorandum. If you have further questions, please let me know.
Thanks,
Cathy Braun

 2024 SSV Ballot.pdf
496.1kB

SUNLAND SPRINGS VILLAGE HOMEOWNERS ASSOCIATION
2024 ANNUAL MEMBERSHIP MEETING NOTICE
TUESDAY, FEBRUARY 27, 2024
DOORS OPEN 6:00 PM / MEETING 6:30 PM
Sunland Springs Village Auditorium

Please complete and return this ballot for the election of **two (2)** Director Positions with **three (3)** year terms, approval of the last annual membership meeting minutes, approval of IRS Ruling 70-604 so the association may carry over surplus income to offset deficits to avoid additional taxes, and approval of changes to the bylaws regarding election timeline and the Code of Conduct for Board Members becoming part of the qualifications to serve on the board. This ballot does not authorize any owner to vote on behalf of any other owner. The Bylaws do not permit cumulative voting. This ballot is valid for this election, establishing quorum and is irrevocable once submitted. Sent to All Owners of Record as of 1/18/2024.

Number of Homes: **2847**, Quorum: **10%**, Ballots Required for Quorum: **285**

- Please make up to two (2) selections from the candidates listed.

- Do not vote for more than two (2) candidates - or this ballot will be void.

VOTE	CANDIDATE NAMES (Biographies attached)
<input type="checkbox"/>	Crowe, Brian
<input type="checkbox"/>	Dahlen, Michael
<input type="checkbox"/>	Garrett, Terry
<input type="checkbox"/>	I do not wish to vote for any candidates; please use my ballot for quorum purposes only.

Number of Homes: **2847**, Quorum required for proposed actions: **10%**, Ballots Required for Quorum: **285**

Percentage of approval required for proposed actions: **more than 50% of those that participate in the vote**

VOTE	PROPOSED ACTIONS
<input type="checkbox"/>	Yes - I approve the minutes of the last annual membership meeting.
<input type="checkbox"/>	No - I do not approve the minutes of the last annual membership meeting.
<input type="checkbox"/>	Yes - I approve the IRS Ruling 70-604 Election to apply excess income to next year.
<input type="checkbox"/>	No - I do not approve the IRS Ruling 70-604 Election to apply excess income to next year.
<input type="checkbox"/>	Yes - I approve the Amendment to the Bylaws
<input type="checkbox"/>	No - I do not approve the Amendment to the Bylaws

Make Your Vote Count!

Place this SECRET BALLOT in an envelope marked "SECRET," and insert in a return envelope.

Ensure that the return envelope includes your name, property address and signature.

Mail to Sunland Springs Village HOA 11214 E Laguna Azul Cir, Mesa, AZ 85209 so that it is received before 3 PM on MONDAY, FEBRUARY 26, 2024 - or this ballot will be void.

Petitioner
Attachment
21

Re: Response to Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Friday, April 19, 2024 at 11:58 AM MST

Dear Mr. Sullivan,

Thank you for your quick response and the more detailed explanation. I do admit that never having anyone question electronic voting methods before, I was in a quandary as to what you were actually expecting to see.

I will reach out to Ms. Ingoldsby one last time to see if she can produce the records as you are asking for them, and if she cannot we will need to make changes. I honestly don't know if they exist as you are requesting them or not.

I will try and get back to you by Tuesday.

Thanks again,

Cathy Braun

Secretary/Treasurer

SSV Board of Directors

On Fri, Apr 19, 2024, 11:41 AM john sullivan <mynew4x4@yahoo.com> wrote:

Dear Secretary Braun:

I appreciate your follow-up. Thank you.

Ms. Fowers email and attachment do not comply with the law.

I truly believe you want to comply with the "recount, inspection and review purposes" of the law, but perhaps you don't understand what is required. A further explanation might be helpful.

I have attached a blank ballot from the recent election. You shall see that the voter has a choice of three (3) candidates for Director, but may only vote for two (2) per the instructions. You shall also see that the voter may also choose not to vote for any candidate and cast a vote for quorum purposes only. The ballot also provides an opportunity to vote "yes" or "no" on three other proposals.

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Thus, the paper ballot allows you and I to recount, inspect and review the voter selections on every ballot for every voter.

Please recall that under the electronic voting statute "a written ballot may be delivered through an online voting system" which, among other things, "[s]tores electronic votes for recount, inspection and review purposes." A.R.S. § 10-3708, F.

Petitioner
Attachment
22

Re: Response to Election Memorandum

From: Cathy Braun (cathybraunssv@gmail.com)

To: mynew4x4@yahoo.com

Date: Friday, April 19, 2024 at 04:18 PM MST

Dear Mr. Sullivan,

I just spoke with Ms. Ingoldsby and after a rather long conversation she confirmed that the records exist, however, not in the format of a paper ballot, as you seem to be requesting (forgive me if I am still not understanding you correctly, I have no first-hand knowledge of electronic voting processes). She told me that if they turn off the secrecy, they could redact the names and what you would see is an IP address for each vote with a date and time stamp, and the names of the two candidates they voted for. Of course, a request of this nature comes with a price tag of \$100.00.

I believe that Ms. Fowers can show you a copy of the ballot as it appeared on the website. I am referring you to Management with any further requests that you have, as I am merely a volunteer Board member from the community and not equipped to fully deal with issues of this nature.

This letter will conclude my communication with you on this matter, and I am truly sorry if it was not to your satisfaction.

Sincerely,

Cathy Braun

Secretary/Treasurer

SSV Board of Directors

On Thu, Apr 18, 2024 at 9:37 PM john sullivan <mynew4x4@yahoo.com> wrote:

~~Dear Secretary Braun:~~

~~Please see attached memorandum which is self explanatory.~~

~~Thank you for your attention to the matter.~~

~~Respectfully,~~

~~John Sullivan, Trustee~~

~~AZNH Revocable Trust~~

~~Member SSV HOA~~

On Thursday, April 18, 2024 at 10:15:46 AM MST, Cathy Braun <cathybraunssv@gmail.com> wrote:

~~Mr. Sullivan,~~

~~Please see my attached response to your election memorandum. If you have further questions, please let me know.~~

~~Thanks,~~

~~Cathy Braun~~



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 Marenda Date 5/13/2024

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

Respondent's Signature  Date 13/05/24

ENTITY INFORMATION

Search Date and Time: 4/23/2024 11:37:15 AM

Entity Details

SUNLAND SPRINGS VILLAGE HOMEOWNERS ASSOCIATION	Entity Name:
08179010	Entity ID:
Domestic Nonprofit Corporation	Entity Type:
Active	Entity Status:
9/5/1997	Formation Date:
In Good Standing	Reason for Status:
9/5/1997	Approval Date:
5/7/2021	Status Date:
9/5/1997	Original Incorporation Date:
Perpetual	Life Period:
Other - Other - HOMEOWNERS ASSOCIATION	Business Type:
2024	Last Annual Report Filed:
Arizona	Domicile State:
5/5/2025	Annual Report Due Date:

Years Due:

Privacy Policy (<http://azcc.gov/privacy-policy>) | Contact Us (<http://azcc.gov/corporations/corporation-contacts>)

Original Publish Date:

10/20/1997

Statutory Agent Information

Name:

Shane Gillaspie

Appointed Status:

Active 4/3/2024

Attention:

Address:

9000 E. Pima Center Parkway, #300, SCOTTSDALE, AZ 85258, USA

Agent Last Updated:

4/3/2024

E-mail:

Attention:

Mailing Address:

County:

Maricopa

Principal Information

Title	Name	Attention	Address	Date of Taking Office	Last Updated
President	Paul Marena		9000 E. Pima Center Pky, 300, Scottsdale, AZ, 85258, Maricopa County, USA		4/3/2024
Vice-President	Dale Miller		9000 E. Pima Center Pky, 300, Scottsdale, AZ, 85258, Maricopa County, USA		4/3/2024
Secretary	Cathy Braun		9000 E. Pima Center Pky, 300, Scottsdale, AZ, 85258, Maricopa County, USA		4/3/2024
Treasurer	Cathy Braun		9000 E. Pima Center Pky, 300, Scottsdale, AZ, 85258, Maricopa County, USA		4/3/2024

Privacy Policy (<http://azcc.gov/privacy-policy>) | Contact Us (<http://azcc.gov/corporations/corporation-contacts>)

Title	Name	Attention	Address	Date of Taking Office	Last Updated
Director	Monica Stein		9000 E PIMA CENTER PARKWAY, SUITE 300, SCOTTSDALE, AZ, 85258, Maricopa County, USA	2/23/2022	4/3/2024

Page 1 of 2, records 1 to 5 of 8

Address 

Attention: FIRSTSERVICE RESIDENTIAL ARIZONA, LLC

Address: 9000 E PIMA CENTER PARKWAY, SUITE 300, SCOTTSDALE, AZ, 85258, USA

County: Maricopa

Last Updated: 4/3/2024

Entity Principal Office Address

Attention:

Address:

County:

Last Updated:

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Miscellaneous motion (not listed)
To Administrative Law Judge

Filing date: **6/12/2024**

Filed by: **Atty. John F. Sullivan**

Email address: **info@SullivanAppeals.com**

Telephone number: **4808185070**

Mailing address

1909 E. Ray Rd., Suite 9198 Chandler, Arizona 85225

Pending hearing date: **07/12/2024**

Email notifications

hoaboard@ssvhoa.com

Other notifications

Sunland Springs Village Homeowners Association, by email only to: hoaboard@ssvhoa.com.

Mailing address: 11214 E. Laguna Azul Circle, Mesa, AZ. 85209, Tel. #: 480-354-8758 (Fax # unknown). Petitioner Sent Notification by email only.

Submission and grounds

Petitioner's Motion for Summary Disposition -- the Respondent HOA has failed to file a Response, or otherwise appear or defend.

Files submitted

Motion for Summary Disposition.pdf



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

**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

Petitioner

v.

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Respondent

No. 24F-H047-REL

**PETITIONER'S MOTION FOR
SUMMARY DISPOSITION**

Assigned to: Honorable Adam Stone

1 NOW COMES THE PETITIONER in the above-captioned matter and requests SUMMARY
2 DISPOSITION against the RESPONDENT, Sunland Springs Village Homeowners Association.

3 **I. Introduction**

4 Petitioner, AZNH Revocable Trust (“Homeowner”) holds title to a home in Mesa, AZ.
5 within the Planned Community entitled Sunland Springs Village.

6 Respondent, Sunland Springs Village Homeowners Association (“HOA”) is the nonprofit
7 corporation created pursuant to a declaration to manage the Planned Community. A.R.S. § 33-
8 1802. Therefore, the Arizona Planned Communities Act (A.R.S. §§ 33-1801 to 1820) applies to

1 Sunland Springs Village and the HOA. See A.R.S. § 33-1801, A (the Act applies to all Planned
2 Communities).

3 When a Planned Community holds an election, “Ballots, envelopes and related materials,
4 including sign-in sheets if used, shall be retained in electronic or paper format and made
5 available for member inspection for at least one year after completion of the election.” A.R.S. §
6 33-1812, A, 7. The HOA is required to comply with all provisions of A.R.S. § 33-1812, A, 1-7,
7 when using electronic ballots. A.R.S. § 33-1812, A.

8 In February, 2024, the HOA conducted an annual election using written and electronic
9 ballots. Immediately after the election, the Homeowner submitted a written request to the HOA
10 to conduct the inspection described in A.R.S. § 33-1812, A, 7. The HOA produced the written
11 ballots, but has repeatedly failed or refused to produce nearly 1500 electronic ballots.

12 After many unproductive communications and interactions between the parties, a Petition was
13 filed with ADRE on April 20, 2024, alleging the HOA’s noncompliance with the retention and
14 inspection requirements. The HOA has failed to respond in any way to the Petition.

15 “Failure of the respondent to answer is deemed an admission of the allegations made in the
16 petition.” A.R.S. § 32-2199.01. Pursuant to A.R.S. § 32-2199, an administrative law judge has
17 jurisdiction to adjudicate complaints and ensure compliance with the Arizona Planned
18 Communities Act, Title 33, ch. 16 (A.R.S. §§ 33-1801 to 1820).

19 **II. Additional Pertinent Facts**

20 After numerous email exchanges between the Homeowner and the HOA Secretary about
21 retention and inspection of electronic ballots, the Secretary wrote that the vendor selected by the
22 HOA to conduct electronic voting does not have the electronic ballots for inspection. The
23 Secretary further stated, “This letter will conclude my communication with you on this matter,
24 and I am truly sorry if it was not to your satisfaction.” See, e.g., Petition Attachments 20 & 22.

25 The HOA had chosen an out-of-state vendor who is not authorized to transact business in
26 Arizona. That vendor tabulated votes and kept a record of the qualified voters (HOA Members),

1 but did not retain any of the electronic ballots “in electronic or paper format” as required by
2 A.R.S. § 33-1812, A, 7.

3 The Homeowners communications with the HOA Secretary show that the Homeowner
4 wanted to work with the HOA to insure that future elections were compliant. Shortly before the
5 Secretary’s final letter to the Homeowner, the President spoke publicly at an HOA Board
6 meeting about the Homeowner’s communications and clearly indicated that no change in vendor
7 or procedure would be made for future elections. Thus, this Petition was filed to prosecute the
8 existing violation and ensure that the HOA complies with the law, prospectively.

9 **III. Requested Relief**

10 Because the HOA has failed to submit a Response to the Petition, or otherwise appear, the
11 Homeowner respectfully requests that the hearing scheduled for July 12, 2024, be vacated and a
12 summary decision be issued by the assigned Administrative Law Judge.

13 The Homeowner respectfully requests that the Administrative Law Judge further ORDER
14 that:

- 15 A. Sunland Springs Village Homeowners Association must comply with all provisions of
16 A.R.S. § 33-1812, including, but not limited to, retaining, in electronic or paper form, all
17 ballots (including electronic ballots), envelopes and related materials, including sign-in
18 sheets if used, and make them available for association member inspection for at least
19 one year after completion of any election or voting by association members;
- 20 B. For association member voting, Sunland Springs Village Homeowners Association is
21 prohibited from using any voting system or method, including electronic voting, which
22 does not retain ballots for inspection as required by applicable state law;
- 23 C. Sunland Springs Village Homeowners Association shall, within forty-five (45) days after
24 the date of this Order, pay a civil penalty of two hundred dollars (\$200.00) to be
25 deposited in the condominium and planned community hearing office fund established by
26 A.R.S. § 32-2199.05;

1 D. Sunland Springs Village Homeowners Association shall, within fifteen (15) business
2 days after the date of this Order, pursuant to A.R.S. § 32-2199.02, A, pay to AZNH
3 Revocable Trust the filing fee (required by A.R.S. § 32-2199.01) of five hundred dollars
4 \$500.00; and,

5 E. This ORDER may be enforced through contempt of court proceedings and is subject to
6 judicial review as prescribed by A.R.S. § 41-1092.08.

7 The Petitioner has submitted, herewith, proposed findings of fact and conclusions of law
8 (Exhibit A). A.R.S. § 33-1812 accompanies Exhibit A.

9 Dated: June 12, 2024

/s/ *John F. Sullivan*

10 John F. Sullivan, Esq. (Bar # 023018)
11 Attorney for Petitioner
12 1909 E. Ray Rd. Suite 9198
13 Chandler, AZ. 85225
14 480-818-5070
15 email: Info@SullivanAppeals.com

16
17 **CERTIFICATE OF SERVICE**

18
19 A copy hereof was served this date upon Respondent via email to hoaboard@ssvhoa.com.
20

21 /s/ *John F. Sullivan*

22 John F. Sullivan, Esq. (Bar # 023018)
23 Attorney for Petitioner
24

EXHIBIT A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

After consideration of the Petition and its attachments, and consideration of the Petitioner's Motion for Summary Disposition, this Administrative Law Judge finds as follows:

- A. The Petition states a claim for relief under Title 32, ch. 20, art. 11;
- B. This Administrative Law Judge has jurisdiction to adjudicate the claim pursuant to A.R.S. § 32-2199, 2;
- C. Respondent, Sunland Springs Village Homeowners Association ("HOA") has failed to file a Response or otherwise appear;
- D. Because the HOA has failed to file a Response, and pursuant to A.R.S. § 32-2199.01, E, "Failure of the respondent to answer is deemed an admission of the allegations made in the petition."
- E. In February, 2024, the HOA conducted an election by association members through a combination of paper and electronic ballots;
- F. The HOA utilized a vendor to conduct the electronic voting;
- G. Neither the vendor nor the HOA retained the electronic ballots in electronic or paper form for inspection as required by A.R.S. § 33-1812;
- H. The HOA has failed to comply with A.R.S. § 33-1812; and,
- I. The HOA has expressed an intention to continue electronic voting without retaining the ballots in electronic or paper form for inspection as required by A.R.S. § 33-1812.

A.R.S. § 33-1812

(Current through L. 2024, ch. 200)

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

1. The ballot shall set forth each proposed action.
2. The ballot shall provide an opportunity to vote for or against each proposed action.
3. The ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
4. The ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted ballot to the member.
5. The ballot does not authorize another person to cast votes on behalf of the member.
6. The completed ballot shall contain the name, address and signature of the person voting, except that if the community documents permit secret ballots, only the envelope shall contain the name, address and signature of the voter.
7. Ballots, envelopes and related materials, including sign-in sheets 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.

B. Votes cast by absentee ballot or other form of delivery, including the use of e-mail and fax delivery, are valid for the purpose of establishing a quorum.

C. Notwithstanding subsection A of this section, an association for a timeshare plan as defined in section 32-2197 may permit votes by a proxy that is duly executed by a unit owner.

D. For the purposes of this section, "period of declarant control" means the time during which the declarant or persons designated by the declarant may elect or appoint the members of the board of directors pursuant to the community documents or by virtue of superior voting power.

Amended by L. 2017, ch. 217, s. 7, eff. 8/9/2017.
Amended by L. 2016, ch. 172, s. 4, eff. 8/5/2016.
Amended by L. 2014, ch. 83, s. 17, eff. 7/24/2014.
Amended by L. 2013, ch. 254, s. 20, eff. 9/13/2013.
See L. 2014, ch. 83, s. 16.
See L. 2014, ch. 83, s. 16.

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Miscellaneous motion (not listed)
To Administrative Law Judge

Filing date: **6/13/2024**

Filed by: **Atty. John F. Sullivan**

Email address: **info@SullivanAppeals.com**

Telephone number: **4808185070**

Mailing address

1909 E. Ray Rd., Suite 9198, Chandler, AZ. 85225

Pending hearing date: **07/12/2024**

Email notifications

hoaboard@ssvhoa.com

Other notifications

**Sunland Springs Village Homeowners Association, by email only to: hoaboard@ssvhoa.com.
Mailing address: 11214 E. Laguna Azul Circle, Mesa, AZ. 85209, Tel. #: 480-354-8758 (Fax #
unknown). Petitioner Sent Notification by email only.**

Submission and grounds

**Petitioner's Motion for Summary Disposition -- the Respondent HOA has failed to file a Response,
or otherwise appear or defend. - Revised to correct error in caption**

Files submitted

Motion for Summary Disposition----.pdf



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

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF ARIZONA**

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

Petitioner

v.

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Respondent

No. 24F-H047-REL

**PETITIONER'S MOTION FOR
SUMMARY DISPOSITION**

Assigned to: Honorable Adam Stone

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19 **II. Additional Pertinent Facts**

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22 HOA to conduct electronic voting does not have the electronic ballots for inspection. The
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7 or procedure would be made for future elections. Thus, this Petition was filed to prosecute the
8 existing violation and ensure that the HOA complies with the law, prospectively.

9 **III. Requested Relief**

10 Because the HOA has failed to submit a Response to the Petition, or otherwise appear, the
11 Homeowner respectfully requests that the hearing scheduled for July 12, 2024, be vacated and a
12 summary decision be issued by the assigned Administrative Law Judge.

13 The Homeowner respectfully requests that the Administrative Law Judge further ORDER
14 that:

- 15 A. Sunland Springs Village Homeowners Association must comply with all provisions of
16 A.R.S. § 33-1812, including, but not limited to, retaining, in electronic or paper form, all
17 ballots (including electronic ballots), envelopes and related materials, including sign-in
18 sheets if used, and make them available for association member inspection for at least
19 one year after completion of any election or voting by association members;
- 20 B. For association member voting, Sunland Springs Village Homeowners Association is
21 prohibited from using any voting system or method, including electronic voting, which
22 does not retain ballots for inspection as required by applicable state law;
- 23 C. Sunland Springs Village Homeowners Association shall, within forty-five (45) days after
24 the date of this Order, pay a civil penalty of two hundred dollars (\$200.00) to be
25 deposited in the condominium and planned community hearing office fund established by
26 A.R.S. § 32-2199.05;

1 D. Sunland Springs Village Homeowners Association shall, within fifteen (15) business
2 days after the date of this Order, pursuant to A.R.S. § 32-2199.02, A, pay to AZNH
3 Revocable Trust the filing fee (required by A.R.S. § 32-2199.01) of five hundred dollars
4 \$500.00; and,

5 E. This ORDER may be enforced through contempt of court proceedings and is subject to
6 judicial review as prescribed by A.R.S. § 41-1092.08.

7 The Petitioner has submitted, herewith, proposed findings of fact and conclusions of law
8 (Exhibit A). A.R.S. § 33-1812 accompanies Exhibit A.

9 Dated: June 12, 2024

/s/ *John F. Sullivan*

10 John F. Sullivan, Esq. (Bar # 023018)
11 Attorney for Petitioner
12 1909 E. Ray Rd. Suite 9198
13 Chandler, AZ. 85225
14 480-818-5070
15 email: Info@SullivanAppeals.com

16
17 **CERTIFICATE OF SERVICE**

18
19 A copy hereof was served this date upon Respondent via email to hoaboard@ssvhoa.com.
20

21 /s/ *John F. Sullivan*

22 John F. Sullivan, Esq. (Bar # 023018)
23 Attorney for Petitioner
24

EXHIBIT A

PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

After consideration of the Petition and its attachments, and consideration of the Petitioner's Motion for Summary Disposition, this Administrative Law Judge finds as follows:

- A. The Petition states a claim for relief under Title 32, ch. 20, art. 11;
- B. This Administrative Law Judge has jurisdiction to adjudicate the claim pursuant to A.R.S. § 32-2199, 2;
- C. Respondent, Sunland Springs Village Homeowners Association ("HOA") has failed to file a Response or otherwise appear;
- D. Because the HOA has failed to file a Response, and pursuant to A.R.S. § 32-2199.01, E, "Failure of the respondent to answer is deemed an admission of the allegations made in the petition."
- E. In February, 2024, the HOA conducted an election by association members through a combination of paper and electronic ballots;
- F. The HOA utilized a vendor to conduct the electronic voting;
- G. Neither the vendor nor the HOA retained the electronic ballots in electronic or paper form for inspection as required by A.R.S. § 33-1812;
- H. The HOA has failed to comply with A.R.S. § 33-1812; and,
- I. The HOA has expressed an intention to continue electronic voting without retaining the ballots in electronic or paper form for inspection as required by A.R.S. § 33-1812.

A.R.S. § 33-1812

(Current through L. 2024, ch. 200)

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

1. The ballot shall set forth each proposed action.
2. The ballot shall provide an opportunity to vote for or against each proposed action.
3. The ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
4. The ballot specifies the time and date by which the ballot must be delivered to the board of directors in order to be counted, which shall be at least seven days after the date that the board delivers the unvoted ballot to the member.
5. The ballot does not authorize another person to cast votes on behalf of the member.
6. The completed ballot shall contain the name, address and signature of the person voting, except that if the community documents permit secret ballots, only the envelope shall contain the name, address and signature of the voter.
7. Ballots, envelopes and related materials, including sign-in sheets 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.

B. Votes cast by absentee ballot or other form of delivery, including the use of e-mail and fax delivery, are valid for the purpose of establishing a quorum.

C. Notwithstanding subsection A of this section, an association for a timeshare plan as defined in section 32-2197 may permit votes by a proxy that is duly executed by a unit owner.

D. For the purposes of this section, "period of declarant control" means the time during which the declarant or persons designated by the declarant may elect or appoint the members of the board of directors pursuant to the community documents or by virtue of superior voting power.

Amended by L. 2017, ch. 217, s. 7, eff. 8/9/2017.
Amended by L. 2016, ch. 172, s. 4, eff. 8/5/2016.
Amended by L. 2014, ch. 83, s. 17, eff. 7/24/2014.
Amended by L. 2013, ch. 254, s. 20, eff. 9/13/2013.
See L. 2014, ch. 83, s. 16.
See L. 2014, ch. 83, s. 16.

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Miscellaneous motion (not listed)
To Administrative Law Judge

Filing date: **6/13/2024**

Filed by: **Atty. John F. Sullivan**

Email address: **info@SullivanAppeals.com**

Telephone number: **4808185070**

Mailing address

1909 E. Ray Rd., Suite 9198

Pending hearing date: **7/12/2024**

Email notifications

cgallacher@hoalaw.biz

Other notifications

Atty. Chad Gallacher via Fax to: 480-969-8267.

Submission and grounds

Petitioner's Withdrawal of Motion for Summary Disposition. Respondent reports having filed a Response to the Petition.

Files submitted

Withdrawal of Motion for Summary Disposition .pdf



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

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF ARIZONA**

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

Petitioner

v.

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Respondent

No. 24F-H047-REL

**PETITIONER'S WITHDRAWAL
OF
MOTION FOR SUMMARY
DISPOSITION
(As filed on June 12, 2024)**

Assigned to: Honorable Adam Stone

1 NOW COMES THE PETITIONER in the above-captioned matter and hereby withdraws its
2 MOTION for SUMMARY DISPOSITION against the RESPONDENT electronically filed on
3 June 12, 2024.

4 As reasons therefore:

5 The Petitioner ("Homeowner") filed the Motion because the Homeowner had not received a
6 Response to the Petition from the Respondent ("HOA") or anyone else.

7 An email exchange with the OAH (Exhibit A) revealed that no Response had been filed.

1 Today, HOA’s counsel (Chad Gallacher) notified the Homeowner’s counsel that a Response
2 had been filed and provided a copy thereof.

3 Wherefore, Petitioner withdraws its Motion for Summary Disposition filed on June 12, 2024.
4

5 Dated: June 13, 2024

/s/ *John F. Sullivan*

6 John F. Sullivan, Esq. (Bar # 023018)

7 Attorney for Petitioner

8 1909 E. Ray Rd. Suite 9198

9 Chandler, AZ. 85225

10 480-818-5070

11 email: Info@SullivanAppeals.com
12

13 **CERTIFICATE OF SERVICE**

14
15 A copy hereof was served this date upon Respondent’s counsel via email to
16 cgallacher@hoalaw.biz and by facsimile to 480-969-8267.
17

18 /s/ *John F. Sullivan*

19 John F. Sullivan, Esq. (Bar # 023018)

20 Attorney for Petitioner
21

EXHIBIT A



**Re: AZNH Revocable Trust v. Sunland Springs Village Homeowners Assoc.
(Docket# 24F-H047-REL)**

1 message

OAH - HGA <oah@azoah.com>
To: OAH - HGA <oah@azoah.com>
Cc: John Sullivan <info@sullivanappeals.com>

Wed, Jun 12, 2024 at 12:50 PM

Good Afternoon,
A response has not been filed as of yet. Thank you.

On Tuesday, June 11, 2024 at 8:50:11 PM UTC-7 John Sullivan wrote:

Hello.

I represent the Petitioner (AZNH Revocable Trust) in this HOA dispute.

The above-referenced matter is set for a hearing in July.

I have not received a Response from the Respondent (Sunland Springs Village HOA).

Has a Response been filed?

If so, would you please forward the Response to me via email or facsimile.

Thank you.

Respectfully,
John F. Sullivan
Attorney at Law
[1909 East Ray Road, Suite 9198](#)
[Chandler, AZ 85225](#)
[480-818-5070](#)
Fax [480-210-8328](#)

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Motion to continue/postpone hearing
To Administrative Law Judge

Filing date: **6/14/2024**

Filed by: **Atty. John F. Sullivan**

Email address: **info@SullivanAppeals.com**

Telephone number: **480-818-5070**

Mailing address

1909 E. Ray Rd., Suite 9198, Chandler, AZ 85225

Pending hearing date: **7/12/2024**

Email notifications

cgallacher@hoalaw.biz

Other notifications

Respondent's counsel, Atty. Chad Gallacher, 4854 E. Baseline Rd., Suite 104, Mesa AZ 85206 via email only by agreement of counsel at cgallacher@hoalaw.biz

Submission and grounds

Petitioner unavailable for current hearing date. On June 21, 2024 (or sooner), Petitioner shall Motion for new hearing date - likely in September - see explanation in current Motion.

Files submitted

Motion to Vacate.pdf



SID 079008

Atty. John F. Sullivan
1909 E. Ray Rd., Suite 9198
Chandler, Arizona 85225
(480) 818-5070
Bar No. 023018
Attorney for Petitioner

**BEFORE THE OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF ARIZONA**

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

Petitioner

v.

SUNLAND SPRINGS VILLAGE
HOMEOWNERS ASSOCIATION,

Respondent

No. 24F-H047-REL

**PETITIONER’S MOTION TO
VACATE AND RESCHEDULE
HEARINHG**

Current Hearing Date: July 12, 2024

Assigned to: Honorable Adam Stone

1 NOW COMES THE PETITIONER (“Homeowner”) in the above-captioned matter and
2 requests that the current hearing date (July 12, 2024) be vacated and ORDER that Petitioner file
3 a Motion, no later than June 21, 2024, to Reschedule the Hearing

4 As reasons therefore:

5 The Respondent HOA did not deliver a Response to Petitioner by the due date of May 15,
6 2024, and Respondent’s counsel failed to answer a June 3rd email inquiring about the matter.

7 The OAH reported to Petitioner on June 12, 2024, that no Response had been filed.

1 Later, on June 12th, the HOA attorney delivered a Response to Petitioner’s counsel. That
2 Response is a general denial of the sole allegation of the Petition without further explanation,
3 and claims intent to call two, unidentified witnesses. No summary of their expected testimony
4 was provided.

5 The Homeowner intends to conduct discovery and, as part of that discovery, has today asked
6 the assigned ALJ to issue a Subpoena Duces Tecum for relevant documents.

7 In addition, Petitioner’s counsel is unavailable to attend the currently scheduled hearing on
8 July 12, 2024.

9 The HOA attorney has indicated a willingness to continue the matter into September, but
10 cannot currently confirm his client and witnesses available dates.

11 Because the currently scheduled hearing is only four (4) weeks away, Petitioner’s counsel
12 does not want to wait any longer to notify the ALJ of the need to reschedule. Therefore,
13 Petitioner asks that the July 12, 2024, hearing be VACATED and that the ALJ issue an Order
14 that Petitioner file a Motion no later than June 21, 2024, with a date to Reschedule the Hearing.
15

16 Dated: June 14, 2024

/s/ *John F. Sullivan*

17 John F. Sullivan, Esq. (Bar # 023018)
18 Attorney for Petitioner
19 1909 E. Ray Rd. Suite 9198
20 Chandler, AZ. 85225
21 480-818-5070
22 email: Info@SullivanAppeals.com
23

24 **CERTIFICATE OF SERVICE**
25

26 A copy hereof was served this date upon Respondent’s counsel via email at
27 cgallacher@hoalaw.biz under an agreement between counsel to accept filings and other
28 correspondence by email.
29

30 /s/ *John F. Sullivan*

31 John F. Sullivan, Esq. (Bar # 023018)
32 Attorney for Petitioner

Office of Administrative Hearings

Electronic submission for docket **24F-H047-REL**
Subpoenas
To Administrative Law Judge

Filing date: **6/14/2024**

Filed by: **Atty. John F. Sullivan**

Email address: **info@SullivanAppeals.com**

Telephone number: **480-818-5070**

Mailing address

1909 E. Ray Rd., Suite 9198, Chandler, AZ 85225

Pending hearing date: **7/12/2024**

Email notifications

cgallacher@hoalaw.biz

Other notifications

Respondent's counsel, Atty. Chad Gallacher, 4854 E. Baseline Rd., Suite 104, Mesa AZ 85206 via email only by agreement of counsel at cgallacher@hoalaw.biz

Submission and grounds

This is a Motion for a Subpoena Duces Tecum. Reasoning is shown in the Motion.

Files submitted

Motion for Subpoena.pdf

