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11 Attorneys for Defendant

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

9 LISA MARX,

10 Plaintiff,

11 vs.

12 TARA CONDOMINIUM ASSOCIATION,
13 an Arizona non-profit corporation; MARK
14 GOTTMANN, an individual; DENNIS
15 ANDERSON, an individual

16 Defendant.

Case No. CV2025-012980

**APPLICATION FOR ATTORNEYS'
FEES AND COSTS**

(Assigned to Honorable Randall Warner)

16 Defendant, Tara Condominiums Association, respectfully requests the Court award its
17 attorneys' fees and costs pursuant to Rules 54(f) and (g), Ariz.R.Civ.P., and the Declaration of
18 Restrictions recorded with the Maricopa County Recorder at Document No. 19700029777.

19 This Application is submitted contemporaneously with a Declaration in Support and a
20 Statement of Costs. Attached as Exhibits 1 and 2 hereto are the fees and costs the Association
21 incurred in completing and succeeding on a motion to dismiss individual Board Members,
22 Mark Gottmann and Dennis Anderson. The invoices contain the date the service was rendered,
23 the attorney rendering the service, the task completed, the amount of time spent on the task, the
24 hourly rate, and the total fee for each individual task.

1 In Arizona, “[c]ontracts for payment of attorneys' fees are enforced in accordance with
2 the terms of the contract.” *Heritage Heights Home Owners Ass'n v. Esser*, 115 Ariz. 330, 333
3 (App.1977) (quoting 25 C.J.S. Damages § 50(c)). Plaintiff is the owner of 13610 N. 111th Ave.,
4 Sun City, AZ 85351 pursuant to a Warranty Deed recorded in the official records of Maricopa
5 County on or about September 10, 2020, at recording no. 20200847158. Upon the conveyance
6 of title to the Property, Plaintiff became bound by the Declaration. *See Heritage Heights Home*
7 *Owners Association v. Esser*, 115 Ariz. 330 (App. 1977). As a result, the Declaration
8 constitutes a contract between the parties. *Arizona Biltmore Estates Association v. Tezak*, 177
9 Ariz. 447 (1993).

10 “Unlike fees awarded under A.R.S. § 12–341.01(A), the court lacks discretion to refuse
11 to award fees under [a] contractual provision.” *Chase Bank of Ariz. v. Acosta*, 179 Ariz. 563,
12 575 (App.1994). Although the Association’s Declaration does not contain an explicit provision
13 awarding attorneys’ fees in litigation, Section 12(I) of the Declaration provides the Board with
14 authority to recoup such fees in connection with enforcement actions. The Declaration
15 empowers the Association “to collect delinquent assessments by suit or otherwise, and to enjoy
16 damages from the owners of the units for violations of the covenants herein contained ... or for
17 violations of the rules hereinafter referred to.” This clause establishes the Association’s right to
18 recover the costs and damages incurred in pursuing an enforcement action. Attorneys’ fees are
19 an integral component of such damages, as they are necessarily expended in order to enforce
20 the covenants and rules through litigation.

21 Additionally, Section 12(J) of the Declaration authorizes the Association “to protect and
22 defend the property from loss and damage by suit or otherwise.” Enforcing the covenants
23 through litigation falls squarely within this protective duty, and the ability to recoup the costs
24 of such actions, including attorneys’ fees, is essential to effectuating this grant of authority.

1 Without recovery of attorneys’ fees, the burden of litigation would fall unfairly on the
2 membership at large rather than on the violator whose conduct necessitated legal action.

3 Taken together, these provisions show the Declaration’s intent to empower the
4 Association to act decisively in litigation to enforce its covenants and protect the common
5 property, including the ability to recover the attorneys’ fees expended in doing so.

6 In the case at hand, the Association is entitled to its attorneys’ fees because it was
7 required to file a motion to dismiss the claims improperly brought against two individual board
8 members. Although the amounts of attorneys’ fees and costs requested still need to be
9 “reasonable” pursuant to Arizona law, there is a presumption that all attorneys’ fees and costs
10 incurred by the Association, as supported by the Affidavit and Statement of Costs, are
11 reasonable. *See Schweiger v. China Doll Restaurant, Inc.*, 138 Ariz. 183, 187–89 (App.1983);
12 *McDowell Mountain Ranch Cmty. Ass'n, Inc. v. Simons*, 216 Ariz. 266, 270 (Ct. App. 2007);
13 *State ex rel. Corbin v. Tocco*, 173 Ariz. 587, 594 (Ct. App. 1992).

14 The Association is further entitled to an award of its costs pursuant to A.R.S. § 12-341
15 because it is the “successful party” after obtaining the relief requested in the motion to dismiss
16 individual Board Members.

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An Affidavit evidencing the Association’s attorneys’ fees in the amount of \$5,957.70 and court costs in the amount of \$13.40. A Statement of Costs and proposed judgment has also been filed contemporaneously.

RESPECTFULLY SUBMITTED this 4th day of September, 2025.

CHDB LAW LLP

By: /s/ Ari A. Bowhay
Charles H. Oldham, Esq.
Ari A. Bowhay, Esq.
1400 East Southern Avenue, Suite 400
Tempe, Arizona 85282-5691
Attorneys for Defendant

ORIGINAL of the foregoing e-filed this 4th day of September, 2025.

Clerk of the Court
Maricopa County Superior Court
www.AZTurboCourt.gov

COPY of the foregoing mailed/e-mailed this 4th day of September, 2025, to:

Lisa Marx
13610 N. 111th Ave.
Sun City, AZ 85351
aimtodogood@gmail.com
Attorneys for Plaintiff

By: /s/ Vanessa Tokosch

Exhibit 1

Fee App - Time Details and Total

Date	Timekeeper	Hourly ("H")/ Flat Fee Code	Units	Rate	Value	Narrative
6/25/2025	CHO	H	.80	225.00	180.00	Begin outline for Motion to Dismiss Gottmann and Anderson pursuant to Judge's invitation to seek the dismissal of Gottmann and Anderson in his Ruling.
6/25/2025	SNH	H	.20	95.00	19.00	Review of Court ruling for identification of court ordered deadlines and next steps in litigation
6/26/2025	CHO	H	.70	225.00	157.50	Telephonic conference with Association President to discuss disclosure statement, ruling and next steps.
6/26/2025	CHO	H	.90	225.00	202.50	Review proposed statement from the Association regarding the Court's rulings on the injunction and the Motion to dismiss and make revisions and edits.
6/30/2025	CHO	H	1.80	225.00	405.00	Continue to work on draft of Motion to Dismiss Gottmann and Anderson.
7/2/2025	CHO	H	3.20	225.00	720.00	Continue with draft of Motion to Dismiss Gottmann and Anderson.
7/3/2025	CHO	H	1.70	225.00	382.50	Continue with draft of motion to dismiss the directors from Marx's complaint.
7/3/2025	SNH	H	.30	95.00	28.50	Prepare draft Motion to Dismiss Defendants Gottman and Anderson
7/7/2025	CHO	H	1.30	225.00	292.50	Continue with draft of motion to dismiss directors and inclusions of citations to Marx's 122 page complaint.
7/8/2025	CHO	H	1.70	225.00	382.50	Continue with preparation and revisions to motion to dismiss directors.
7/9/2025	CHO	H	.20	225.00	45.00	Draft, revise and send order to D. Gottmann.
7/9/2025	CHO	H	1.60	225.00	360.00	Make additional revisions to Motion to Dismiss Directors and conduct difficult review of citations to the 122 page complaint.
7/10/2025	CHO	H	.80	225.00	180.00	Conduct in-depth review of Plaintiff's complaint, application for TRO and injunction, and responses and replies to various motions for additional arguments in support of Motion to Dismiss the board members.

Fee App - Time Details and Total

Date	Timekeeper	Hourly ("H")/ Flat Fee Code	Units	Rate	Value	Narrative
7/11/2025	AAB	H	.30	200.00	60.00	Review partner drafted motion to dismiss individual Defendant Board Members.
7/11/2025	CHO	H	.50	225.00	112.50	Make additional revisions to Motion to Dismiss the Directors. Make additional revisions to Motion to Dismiss Gottman and Anderson and analyze potential exhibits to same.
7/14/2025	CHO	H	.70	225.00	157.50	Reviewed partner drafted motion to dismiss individual plaintiffs.
7/15/2025	AAB	H	.40	200.00	80.00	Finalize and prepare Motion to Dismiss Directors for submission to the court.
7/15/2025	CHO	H	.60	225.00	135.00	Conclude revisions of Motion to Dismiss Defendants Mark Gottman and Dennis Anderson for submission with clerk of court and copy to Plaintiff Marx.
7/15/2025	SNH	H	.20	95.00	19.00	Revise Motion to Dismiss Defendants Gottman and Anderson.
7/25/2025	CHO	H	.80	225.00	180.00	Begin review of Reply In Support of Motion to Dismiss and identify additional arguments.
7/28/2025	CHO	H	.50	225.00	112.50	Make revisions to the latest draft of Reply in support of Motion to Dismiss Directors.
7/28/2025	CHO	H	.80	225.00	180.00	Review and analyze Reply in support of Motion to Dismiss Directors and analyze cited case law and statutes to ensure accuracy.
7/29/2025	SNH	H	.30	95.00	28.50	Conclude revisions to Defendant's Reply to Plaintiffs Response to Motion to Dismiss Defendants Mark Gottman and Dennis Anderson for submission with Clerk of Court
8/5/2025	CHO	H	.20	225.00	45.00	Review and analyze ruling from Court on the Motion to Dismiss Gottmann and Anderson.
8/5/2025	CHO	H	.30	225.00	67.50	Review and analyze Court's ruling on Motion to Dismiss directors and begin review of attorneys' fees incurred pursuant to Court's invitation to submit a fee application.

Fee App - Time Details and Total

Date	Timekeeper	Hourly ("H")/ Flat Fee Code	Units	Rate	Value	Narrative
8/5/2025	SNH	H	.20	95.00	19.00	Review of Minute Entry granting Motion to Dismiss Directors to update case docket and entry of deadlines for Application for Attorneys fees pursuant to Court Order
8/12/2025	CHO	H	.30	225.00	67.50	Forward Marx's Motion for Reconsideration to Association President with analysis. Begin review of invoices to determine which apply to work on the Motion to Dismiss Anderson and Gottmann in support of application for fees.
8/13/2025	CHO	H	1.30	225.00	292.50	Review and analyze court order denying Marx's Motion for Reconsideration
8/14/2025	CHO	H	.20	225.00	45.00	Conduct analysis of propriety of leaving and amending claims against Gottmann and Anderson when they were previously dismissed from case but no formal order given.
8/18/2025	CHO	H	.70	225.00	157.20	Drafted application for attorneys fees following favorable ruling on motion to dismiss individual Board members
8/25/2025	AAB		1.50	200.00	300.00	Reviewed fee report regarding the motion to dismiss in anticipation of drafting fee application after successful motion to dismiss individual defendants from the action.
8/27/2025	AAB	H	.50	200.00	100.00	Drafted proposed order for attorney fees and costs.
8/27/2025	AAB	H	.50	200.00	100.00	Draft affidavit in support of application for attorneys fees.
8/28/2025	AAB	H	.50	200.00	100.00	Review latest draft of Application and Affidavit in support of attorneys' fees.
9/4/2025	CHO	H	.40	225.00	90.00	Make revisions to Application and Affidavit of fees.
9/4/2025	CHO	H	.60	225.00	135.00	
Total					5,957.70	

Exhibit 2

Cost Report

Billed and Unbilled

American Family Litigation / Lisa Marx v Tara Condominiums Associatio (AFL-TARACND.01)

Date	SM/T ask	Service Code	Description	Attorney	Orig Qty	Orig Amt	Rev Qty	Rev Amt	Vendor	Narrative	Posted
07/15/2025	E112	1FF	Filing Fee	COST	0.00	6.70	0.00	6.70	TurboCourt	Filing Fee, TurboCourt, 07/15/2025, 11882735	7/2025
07/29/2025	E112	1FF	Filing Fee	COST	0.00	6.70	0.00	6.70	TurboCourt	Filing Fee, TurboCourt, 07/29/2025, 11946441	7/2025
					0.00	13.40	0.00	13.40			