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IN THE SUPERIOR COURT OF THE STATE OF ARIZONA

IN AND FOR THE COUNTY OF MARICOPA

Lisa Marx Plaintiff, vs. Tara Condominiums Association, Inc.,	Case No. CV 2025-012980 **PLAINTIFF'S SEPARATE STATEMENT OF FACTS IN SUPPORT OF PLAINTIFF'S MOTION FOR PARTIAL SUMMARY JUDGMENT** **RE: VALIDITY OF THE 2025 DECLARATION AMENDMENT** **(Assigned to the Honorable Adele Ponce)**

Pursuant to Ariz. R. Civ. P. 56(c)(3), Plaintiff Lisa Marx submits the following Separate Statement of Facts in support of her Motion for Partial Summary Judgment regarding the validity of the 2025 amendment to the Declaration of Restrictions.

1) Plaintiff Lisa Marx owns Unit 5, Tract G, Sun City Unit Fifteen C (13610 N. 111th

Avenue, Sun City, Arizona), together with an undivided 1/50th interest in and to the common area of Tract G, by Warranty Deed dated September 4, 2020 and recorded in the Official Records of Maricopa County as Instrument No. 20200847158. **[EX A — Warranty Deed (Lisa Marx)]**

2) The Declaration of Restrictions, Establishment of Board of Management and Lien Rights for Tara Condominiums was recorded February 19, 1970, at Docket 8008, Page 724, Maricopa County Recorder. **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**]**

3) The original Declaration, at Paragraph 9, provided: "Each residential unit shall be a separately designated and legally described freehold estate consisting of a parcel and the improvements thereon, and an undivided interest in the common elements of the tract of which said parcel shall be a part." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**] (TARA000003)**

4) The original Declaration, at Paragraph 10, provided that the "common elements" included "land not otherwise specifically conveyed with individual units, community and commercial facilities, if any, swimming pools, pumps, trees, pavements, streets, pipes, wires, conduits and other public utility lines," and that "no building shall be constructed on any part of the common elements." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**] (TARA000004)**

5) The original Declaration, at Paragraph 12, subparagraph (B), provided that the Board of Management had the power "To use and expend the assessments collected to maintain, care for and preserve the common elements, buildings, grounds and improvements (other than interior of the buildings)." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**] (TARA000004)**

6) The original Declaration, at Paragraph 12, subparagraph (H), provided that the Board of Management had the power "To insure, and keep insured, all buildings and improvements on the property, and the owners thereof, against loss from fire or other casualty." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**] (TARA000005)**

7) The original Declaration, at Paragraph 12, subparagraph (J), provided that the Board of Management had the power "To protect and defend the property from loss and damage by suit or otherwise." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**] (TARA000005)**

8) As originally recorded, the Declaration did not require Residential Unit Owners to obtain individual property insurance on their units. **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**]**

9) As originally recorded, the Declaration did not use or define "Limited Common Elements." **[TARA000001 – TARA000012 —** Declaration of Restrictions, recorded February 19, 1970, Docket 8008, Page 724**]**

10) The Association's master property policy in effect when the amendments were adopted (Sierra Specialty Policy No. FCP2000009100) provided a Blanket Property Limit of $15,269,680, and the certificate describes the coverage as "Special Form. Guaranteed Replacement Cost. Wind/Hail Incl. Common Elements Incl." for the policy period August 1, 2025 to August 1, 2026. **[TARA002174 —** Certificate of Liability Insurance (master policy), 2025–2026**]**

11) The Travis Law Firm letter dated August 6, 2025, included with the declaration-change information, states that the proposed amendments would provide definitions of "Common Elements" and "Residential Units," and that, based on those definitions, the amendments "will no longer require the Association to provide property and liability insurance on the Residential Units." **[TARA006389 —** Travis Law Firm letter, August 6, 2025, ¶ 2**]**

12) The August 6, 2025 letter stated that the Association's master insurance policy "will remain in place if the Owners do not approve these proposed amendments." **[TARA006389 —** Travis Law Firm letter to owners, August 6, 2025, ¶ 4**]**

13) The August 6, 2025 letter further stated: "The Association will still insure the Common Elements as specified in A.R.S. §33-1253(A). The Association's Board proposes these amendments to lower the total cost that Owners will pay for insurance. While Owners may pay more for their own insurance coverage on their Units, the Association will not need to increase the Owners' monthly assessment to pay for the rapidly increasing master insurance policy." **[TARA006389 —** Travis Law Firm letter to owners, August 6, 2025, ¶ 2**]**

14) The proposed amendments transmitted with the August 6, 2025 letter modified Paragraphs 1, 10, 12(B), and 12(H), and added Paragraphs 12(Q), 18(A), and 24. **[TARA003702 —** Proposed CC&R Amendments; **EX J Action]**

15) The Association solicited owner approval of the amendments on a form titled "Action By Written Consent," which stated that it was made "Pursuant to A.R.S. §33-1227(A) and A.R.S. §10-3704." **[EX J Action —** Action By Written Consent form, ¶1**]**

16) The "Action By Written Consent" form stated: "A.R.S. §33-1227(A) requires that at least 67% of Owners must consent to the adoption of the proposed amendment."

[EX J Action — Action By Written Consent form, ¶2**]**

17) The "Action By Written Consent" form stated that "the Board of Management ("Board") requests that you sign this written consent in favor of the proposed amendments to the Declaration of Restrictions ("Declaration") as set forth below," and that "The Association's Board seeks your consent to adopt the amendments to the Declaration to benefit our community." **[EX J Action —** Action By Written Consent form, ¶1-2**]**

18) The "Action By Written Consent" form combined the amendments to Paragraphs 1, 10, 12(B), and 12(H), and the addition of Paragraph 24, into a single "YES" or "NO" consent. **[EX J Action —** Action By Written Consent form, ¶4**]**

19) The "Action By Written Consent" form directed owners to return the completed consent by mail, e-mail, or hand-delivery to the Association, c/o Stephanie Buschart, by October 15, 2025. **[EX J Action —** Action By Written Consent form, pg. 2**]**

20) On or about September 20, 2025, the Board approved the amendments to the Declaration. **[Defendant's Response to Plaintiff's 15(d) Supplemental Complaint —** filed March 30, 2026, at 2 (admission preceding ¶ 11)**]**

21) The Association distributed written-consent forms for the amendments. **[Defendant's Response to Plaintiff's 15(d) Supplemental Complaint —** filed March 30, 2026, ¶ 11**]**

22) On September 25, 2025, Plaintiff e-mailed the Board stating that a meeting was required to receive ballots rather than action by written consent, and quoting A.R.S. § 33-1250(C) and A.R.S. § 33-1227(D). **[TARA005833 —** Plaintiff's email to the Board, September 25, 2025, ¶1 and ¶10**]**

23) On September 27, 2025, the Board sent members a message stating: "The cost of maintaining the type of master insurance policy the Association has historically carried has become unsustainable. If we were to continue with the current master insurance policy, the insurance premiums would place an overwhelming burden on the Association's finances and, by extension, on each of you as homeowners." **[TARA004410 – TARA004411 —** Board communication to members, ¶ 2**]**

24) A vote was conducted, the amendments were approved, and an implementation date was provided. **[Defendant's Response to Plaintiff's 15(d) Supplemental Complaint —** filed March 30, 2026, ¶ 15**]**

25) On October 18, 2025, the Association notified owners that the members had approved items 1 and 2 to amend the CC&R's "to require the unit owners to obtain homeowners insurance on their residential unit," and that owners should plan to have expanded coverage start by November 15, 2025. **[TARA004074 - TARA004075 —** Board email announcing CC&R amendment vote results, October 18, 2025, ¶1 and 3**]**

26) The amendment was recorded October 20, 2025, in the Official Records of Maricopa County as Instrument No. 2025-0605584. **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, recorded October 20, 2025**]**

27) The recorded amendment recites that, pursuant to A.R.S. § 33-1227(A), the Declaration may be amended by "affirmative vote or written consent of least sixty-seven percent (67%) of the Members," and that "at least sixty-seven percent (67%) of the Members consented to the adoption of these amendments." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 5 and 6**]**

28) The recorded amendment amends Paragraph 1 to provide: "Only multi-family residential dwellings, storage buildings and carports for the use in connection with such dwellings shall be constructed, maintained or permitted on the tracts. A multi-family residential dwelling shall consist of two or more single-family Residential Units. 'Residential Unit' shall mean a structure designated for separate ownership and occupancy." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 9**]**

29) The recorded amendment amends Paragraph 10 to define "Common Elements" as "all portions of the land which is not the Residential Units," and adds a definition of "Limited Common Elements." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶10**]**

30) The recorded amendment amends Paragraph 12(B) to provide that assessments are used "to maintain, insure, care for and preserve the Common Elements, including the improvements other than the Residential Units and Limited Common Elements." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 11**]**

31) The recorded amendment amends Paragraph 12(H) to provide: "i) To insure, to the extent reasonably available, the Common Elements in an amount equal to the maximum insurable replacement value of the Common Elements, as determined by the Board of Management; provided, however, that the total amount of insurance after application of any deductibles shall not be less than eighty percent (80%) of the actual cash value of the insured property. ii) In the event that the insurance proceeds are insufficient to repair or replace the loss of or damage, the Board of Management may levy an additional assessment in proportional amounts to each Residential Unit Owner to cover the deficiency. iii) To obtain, to the extent reasonably available, liability insurance on the Common Elements. iv) If an insurance claim is made on Tara Condominium's insurance policy for damage to the Common Elements caused by a Residential Unit Owner, guest of Residential Unit Owner, or Invitee of a Residential Unit Owner, that Residential Unit Owner is personally responsible for the payment of Tara Condominium's insurance deductible." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 12**]**

32) The recorded amendment adds Paragraph 12(Q), providing: "To levy against each Residential Unit, in any fiscal year, a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair or replacement of an improvement upon the Common Elements, paying insurance premiums, painting, and for any other lawful purpose, provided that any special assessment shall have the approval of sixty percent (60%) of the Residential Unit Owners who are voting in person or by absentee ballot at a meeting called for such purpose." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 13**]**

33) The recorded amendment adds Paragraph 24, providing: "The Residential Unit Owners shall obtain property insurance on their Residential Unit and improvements and betterments installed in their Residential Unit. Each Residential Unit Owner shall provide written proof of such insurance to Tara Condominium within thirty (30) days of (1) becoming an Owner, (2) adoption of this amendment and/or (3) the Residential Unit Owner's annual renewal date of their insurance whichever occurs first. The Board of Management may impose a monetary penalty as set forth in the Rules against a Residential Unit Owner who fails to provide Tara Condominium with proof of such insurance as set forth above." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584, ¶ 14**]**

34) The recorded amendment was executed by Mark Gottmann as Chairperson on October 17, 2025, and certifies that the amendment "has been approved as required by A.R.S. §33-1227(A)." **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584**]**

35) The recorded amendment applies to the real property described as "Lots 1 thru 50 inclusive of Tracts G, R and U, SUN CITY UNIT 15-C," which includes Plaintiff's Unit 5, Tract G. **[TARA003909 – TARA003911 —** Recorded Amendment to Declaration, Instr. No. 2025-0605584**]**

36) In the Association's 2025 Chairperson Annual Report, the Association stated: "The biggest issue we faced in 2025 is the large increase in our Master Policy Insurance premium. The large increase this year from $52,000 to $86,000 was unsustainable. This forced us to change the way we insure our buildings. It has become cheaper for our unit owners to insure their unit inside and out rather that the Association insure the outside of the buildings. As a result, we successfully amended our CC&R's to require the unit owners to insure their units with a homeowner's policy." **[TARA002288 —** 2025 Chairperson Annual Report, ¶ 6**]**

37) On November 13, 2025, the Board notified its insurance broker: "This message is to inform you of our decision to cancel our Arden Property Insurance Package as of December 1, 2025," and that "The common areas liability, D&O, crime, and umbrella policies will continue." **[TARA004000 —** Board email to insurance broker, November 13, 2025**]**

38) On November 22, 2025, the Board notified owners that they needed updated property insurance in place "prior to our current building insurance expiring on

December 1, 2025." **[TARA003800 —** Board email regarding building insurance expiring December 1, 2025, ¶3**]**

39) On December 8, 2025, the Association, by Mark Gottmann, executed a Cancellation Request / Policy Release canceling its property insurance policy (Sierra Specialty Insurance Company, Policy No. FCP2000009100), effective December 8, 2025; the request states the method of cancellation as "REQUESTED BY INSURED" and lists the policy term as August 1, 2025 to August 1, 2026. **[TARA006296 —** Cancellation Request / Policy Release, Property Policy FCP2000009100**]**

40) The Association's master insurance policy expired. **[Defendant's Response to Plaintiff's 15(d) Supplemental Complaint —** filed March 30, 2026, ¶ 16**]**

41) Plaintiff has not obtained, and has declined to obtain, the property insurance on her Residential Unit that the amended Paragraph 24 requires. **[Declaration of Lisa Marx —** ¶ 5**]**

42) On December 12, 2025, the Association, by Mark Gottmann, executed a Cancellation Request / Policy Release for its general liability policy (Great Divide Insurance Company, Policy No. GC1412934), effective December 1, 2025, marked "REQUESTED BY INSURED." **[TARA002192 -** 2025-12-12 Great Divide Cancellation Request**]**

43) On December 12, 2025, the Association, by Mark Gottmann, executed a Cancellation Request / Policy Release for its directors and officers liability policy (Cincinnati Insurance Company, Policy No. EMO0754152), effective December 1, 2025, marked "REQUESTED BY INSURED." **[TARA002175 -** 2025-12 Cancellation Request CIC**]**

44) Effective December 1, 2025, the Association obtained replacement coverage through American Family Brokerage, Inc., consisting of a Commercial General Liability policy and a Directors and Officers Liability coverage part (Policy No. NPP1654158), a Commercial Umbrella policy (Policy No. CUP1583829), and a Commercial Crime policy (Policy No. CR1556732**). [TARA002176 - TARA002177** - 2025-12-01- 2026-12-01 AFICS Certificate of Liability Insurance**; TARA002186 - TARA002191 -** 2025-12-01- 2026-12-01 NPP1654158_DecPage Tara Condominiums GL, D&O**; TARA002182 - TARA002185 -**2025-12-01- 2026-12-01 CUP1583829_DecPage Tara Condominiums Umbrella**; TARA002178 - TARA002181 -** 2025-12-01- 2026-12-01 CR 1556732_DecPage Tara Condominiums Crime**]**

45) The replacement coverage obtained through American Family Brokerage contains no property or building coverage part; its coverage parts, as stated in the declarations, are commercial general liability, directors and officers liability, commercial umbrella, and commercial crime. **[TARA002176 - TARA002177** - 2025-12-01- 2026-12-01 AFICS Certificate of Liability Insurance**; TARA002186 - TARA002191 -** 2025-12-01- 2026-12-01 NPP1654158_DecPage Tara Condominiums GL, D&O**; TARA002182 - TARA002185 -** 2025-12-01- 2026-12-01 CUP1583829_DecPage Tara Condominiums Umbrella**; TARA002178 - TARA002181 -** 2025-12-01- 2026-12-01 CR 1556732_DecPage Tara Condominiums Crime**]**

RESPECTFULLY SUBMITTED this 5th day of July, 2026.
/s/ Lisa Marx

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CERTIFICATE OF SERVICE

I certify that on July 5, 2026, a true copy of the foregoing was served via e-file to the Court and Defendant's Counsel and by email on counsel for Defendant:

Chuck Oldham — Chuck.Oldham@chdblaw.com

Ari Bowhay — Ari.Bowhay@chdblaw.com

/s/ Lisa Marx

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