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

9
10 Lisa Marx
11 Plaintiff,

Case No. CV 2025-012980

12 vs.

13 Tara Condominiums Association, Inc.,

14 **PLAINTIFF'S SEPARATE**
15 **STATEMENT OF FACTS IN**
16 **SUPPORT OF MOTION FOR**
17 **PARTIAL SUMMARY JUDGMENT**
18 **(CLAIMS 26 AND 70; 27 AND 71; 28**
19 **AND 72; 29 AND 73; 43 AND 88)**

Honorable Adele Ponce

20 **PLAINTIFF'S SEPARATE STATEMENT OF FACTS**

21 Pursuant to Ariz. R. Civ. P. 56(c)(3), Plaintiff Lisa Marx submits the following separate
22 statement of material facts in support of her Motion for Partial Summary Judgment.

23 **FOUNDATION (APPLICABLE TO ALL CLAIMS)**

24 **1.** Plaintiff Lisa Marx owns Unit 5, Tract G, of Tara Condominiums, together with
an undivided 1/50th interest in the common area of Tract G. [EX A – Marx Warranty
Deed; Marx Decl. ¶ 3]

- 1 2. The Declaration of Restrictions, Establishment of Board of Management and Lien
2 Rights was recorded on February 19, 1970 at Docket 8008, Page 724, records of the
3 Maricopa County Recorder. [TARA000001-TARA000012-Declaration, (TARA000001)]
- 4 3. Declaration § 9.E states: “A majority vote of the Managers shall entitle said Board
5 to carry out actions on behalf of the owners of the units.” [TARA000004 of Declaration]
- 6 4. The Association was incorporated on March 9, 2007 as an Arizona nonprofit
7 corporation “in compliance with Arizona Revised Statutes § 10-3101, et seq.”
8 [TARA000019 - TARA000025 Articles of Incorporation, (TARA000019)]
- 9 5. Article 4 of the Articles of Incorporation states that the character of affairs the
10 Association intends to conduct is “to uphold and enforce the provisions of the
11 Declaration of Restrictions, Establishment of Board Management and Lien Rights
12 recorded at Docket number 8008, page 724, records of the Maricopa County Recorder,
13 and all amendments thereto, and to perform such other powers and duties as are
14 imposed or granted to the Corporation by the Bylaws of the Corporation.”
15 [TARA000019 - TARA000025 Articles of Incorporation, (TARA000019)]
- 16 6. Declaration ¶ 12.L states that the Board of Management has the power “[t]o
17 make reasonable rules and to amend the same from time to time, and such rules and
18 amendments shall be binding upon the owners when the owners of a majority of the
19 units have approved them in writing.” [TARA000005 of Declaration]
- 20 7. By-Law § 1.09 states: “MODIFICATIONS TO THESE BYLAWS AND RULES
21 AND REGULATIONS – A proposed change or addition to these Bylaws and Rules and
22 Regulations may be made by the Board of Management, but, such new rules, changes
23 24

1 or modifications must be approved by the simple majority (51%) of voters at the next
2 January annual meeting or a special meeting called by the Board of Management."

3 [TARA000013- TARA000018 By-Laws (TARA000014)]

4 8. By-Law § 1.08 states: "ADMINISTRATION OF REGULATIONS – It shall be the
5 duty of the Board of Management to impartially administer the regulations governing
6 the use and occupancy of the units." [TARA000014 By-Laws]

7
8 **SAC Claim 26:** On or about February 2024 – The Association moved \$5,198.69 from the
9 Homeowners Equity line to the Major Maintenance Reserve Account without open-
10 meeting approval, violating Declaration § 9.E., Restatement (Third) of Prop.: Servitudes
11 §§ 6.13–6.14.

12 **SAC Claim 70:** On or about February 2024 – The Association moved \$5,198.69 from the
13 Homeowners Equity line to the Major Maintenance Reserve Account without open-
14 meeting approval, violating A.R.S. § 33-1248. Violation of Restatement (Third) of Prop.:
15 Servitudes §§ 6.13–6.14.

16 9. On or about February 28, 2024, the Association transferred \$5,198.69 from
17 Account 301 – Homeowners Equity to Account 325 – Reserve-Major Maintenance.

18 [TARA000210 - TARA000228 - 2024-02 February2024TaraFinancials (TARA000216)]

19 10. The General Ledger entry dated 2/28/2024 in Account 301 – Homeowners
20 Equity reads "Transfer to 325 - Reserve-Major Maintenance," shows a debit of
21 \$5,198.69, and shows the balance of that account reduced to \$0.00. [TARA000216]

22 11. The GL entry, 2/28/2024, in Account 325 – Reserve-Maj. Maint. reads "Transfer
23 from 301 - Homeowners Equity" and shows a credit of \$5,198.69. [TARA000217]

24 12. No notice or agenda of any open meeting of the Board contains any item for the

1 discussion, vote, or approval of the transfer of \$5,198.69 from Account 301 –
2 Homeowners Equity to Account 325 – Reserve-Major Maintenance. [TARA000039-
3 2024-01-20 Notice; TARA000042- 2024-02-17 Notice Feb172024; TARA000049-2024-03-
4 16 Notice of March Board Meeting on 3-16-24]

5 **13.** No minutes of any open meeting of the Board reflect any motion, second,
6 discussion, or majority vote of the Board approving the transfer of \$5,198.69 from
7 Account 301 – Homeowners Equity to Account 325 – Reserve-Major Maintenance.
8 [TARA000040–TARA000041- 2024-01-20 TaraBoardMeetingMinutes ; TARA000043–
9 TARA000044- 2024-02-17 Minutes; TARA000050–TARA000051- 2024-03-16 Minutes]

10 **14.** The March 16, 2024 Board meeting was the first open meeting of the Board held
11 after February 28, 2024. [TARA000049; TARA000050–TARA000051] Notice and mins.

12 **15.** No doc. the Assoc. produced in this action reflects any motion, second, discus-
13 sion, or majority vote of the Board approving the transfer of \$5,198.69. [Marx Decl. ¶ 8]

14 **SAC Claim 27:** On or about March 16, 2024 – The Association refused to allow Plaintiff
15 to read a statement correcting board meeting minutes, violating Restatement (Third) of
16 Prop.: Servitudes §§ 6.13–6.14.

17 **SAC Claim 71:** On or about March 16, 2024 – The Association refused to allow Plaintiff
18 to read a statement correcting board meeting minutes, violating Servitudes § 6.14, §
19 6.13. Violation of Restatement (Third) of Prop.: Servitudes §§ 6.13–6.14.(ARS § 33-1248)

20 **16.** On March 16, 2024, the Board held a regularly noticed open Board meeting on
21 which the agenda included approval of the Feb. 17, 2024 Board Minutes. [TARA000049;
22 2024-03-16 Notice; TARA000050–TARA000051; 2024-03-16 Tara Board Minutes]

23 **17.** At the March 16, 2024 Board meeting, after a motion was made to approve the
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1 February 17 minutes as written and dispersed, Plaintiff attempted to make a motion to
2 correct those minutes and stated she had conducted research on proper procedure. [EX
3 4 TRANSCRIPT; March 16, 2024 Board Meeting pp. 1-2, 03:07; EX 4 AUDIO; March
4 16, 2024 Meeting; EX 4 AUTHENTICATION of transcript March 16, 2024 meeting]

5 18. Brenda Spieldenner seconded Plaintiff's motion to correct the February 17, 2024
6 Board Meeting Minutes [EX 4 TRANSCRIPT; March 16, 2024 Meeting, pp. 1-2, 03:07;
7 EX 4 AUDIO; March 16, 2024 Meeting; EX 4 AUTHENTICATION of transcript]

8 19. Chairperson Gottmann responded: "there's the board makes those motions, and
9 the board seconds those motions and does the vote, and not the homeowners." [EX 4
10 TRANSCRIPT, p. 2, 03:49; EX 4 AUDIO; March 16, 2024 Meeting; EX 4 AUTH.]

11 20. When Plaintiff sought to explain the corrections, Chairperson Gottmann
12 repeatedly cut her off with the single word "No." [EX 4 TRANSCRIPT; March 16, 2024
13 Meeting, 04:03, 04:06; EX 4 AUDIO; 3-16-24 Meeting; EX 4 AUTHENTICATION]

14 21. Plaintiff asked: "So you're not going to allow there to be a statement about the
15 corrections that need to be made?" [EX 4 TRANSCRIPT; 3-16-24, p. 2, 04:10; EX 4
16 AUDIO; EX 4 AUTHENTICATION of transcript]

17 22. Gottmann responded: "No. The corrections that need to be made to the minutes
18 are technically, from board members. It's open for the board members to do that." [EX
19 4 TRANSCRIPT p. 2, 04:10-04:16; EX 4 AUDIO 3-16-24 Meeting; EX 4 AUTH.]

20 23. Chairperson Gottmann then called the question and the Board voted to approve
21 the February 17, 2024 minutes as written, three in favor, none opposed, one abstention.
22 [EX 4 TRANSCRIPT pp. 2-3, 04:53-05:09, EX 4 AUDIO, EX 4 AUTHENTICATION;
23 TARA000050-TARA000051- 2024-03-16 TaraBoardMeetingMinutes]

1 **24.** Gottmann ruled that only Board members could make or second such motions
2 and proceeded to a vote without permitting any further comment or Plaintiff's
3 statement. [EX 4 TRANSCRIPT, pp. 1-3, 03:07-05:09, EX 4 AUDIO, EX 4 AUTH.]

4 **25.** The March 16, 2024 Board Meeting Minutes contain no reference to Plaintiff's
5 attempt to correct the February 17, 2024 minutes or to Chairperson Gottmann's refusal.
6 [TARA000050-TARA000051- 2024-03-16 TaraBoardMeetingMinutes]

7 **26.** No motion was made, no second was offered, and no vote was taken by the
8 Board adopting any rule that corrections to Board meeting minutes may be proposed
9 only by Board members. [EX 4 TRANSCRIPT, 3-16-24 Meeting, pp. 1-3, 03:07-05:09;
10 EX 4 AUDIO; EX 4 AUTH.; TARA000050-TARA000051 - 2024-03-16 Meeting Minutes]

11 **27.** No document the Association produced in this action reflects that the owners of
12 a majority of the units approved in writing any rule that corrections to Board meeting
13 minutes may be proposed only by Board members. [Marx Decl. ¶ 9]

14 **SAC Claim 28:** On or about March 16, 2024 – The Association announced a “Workers
15 Comp If Any” policy without open-meeting approval, violating Declaration § 9.E,
16 Restatement (Third) of Prop.: Servitudes §§ 6.13-6.14.

17 **SAC Claim 72:** On or about March 16, 2024 – The Association announced a “Workers
18 Comp If Any” policy without open-meeting approval, violating A.R.S. § 33-1248.
19 Violation of Restatement (Third) of Prop.: Servitudes §§ 6.13-6.14.

20 **28.** Declaration § 12 states: “The Board of Management shall have the following
21 rights and powers:” [TARA000001- TARA000012 Declaration (TARA000004)]

22 **29.** Declaration § 12.D states that the Board of Management has the power “[t]o pay
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1 for water, insurance, sewerage and other utilities and expenses as shall be designated
2 by the Board.” [TARA000001- TARA000012 Declaration (TARA000004)]

3 30. Declaration § 12.H states that the Board of Management has the power “[t]o
4 insure, and keep insured, all buildings and improvements on the property, and the
5 owners thereof, against loss from fire or other casualty, and to purchase same and such
6 other insurance as the Board may deem advisable.” [TARA000005 Declaration]

7 31. Declaration § 12.K states that the Board of Management has the power “[t]o
8 employ and dismiss workmen, maids, janitors, gardeners, lawyers, accountants and
9 any others necessary to carry out the rights and powers herein granted and to purchase
10 supplies and equipment, to enter into contracts.” [TARA000005 Declaration]

11 32. On March 13, 2024, the Association held a Special Insurance Meeting limited to a
12 presentation by Casey Bell of American Family Insurance. [TARA000046; Notice of
13 Special Meeting; TARA000047-TARA000048; Minutes for Special Insurance Meeting]

14 33. The notice and the minutes of the March 13, 2024 Special Insurance Meeting
15 contain no reference to a Workers Compensation policy. [TARA000046 - 2024-03-13
16 Not. of Ins Special Meeting 03 13 24; TARA000047-TARA000048 - 2024-03-13 Minutes]

17 34. The notice and agenda for the March 16, 2024 Board meeting contain no item for
18 the discussion, vote, or approval of a Workers Compensation policy. [TARA000049]

19 35. The March 16, 2024 Board Meeting Minutes state the agenda as: "Introduction of
20 volunteer 'Workers Comp - If Any' policy for the community. Approval of the
21 February 17, 2024 Tara Board Meeting Minutes, Presentation of the plan for Bermuda
22 grass seeding in April." [TARA000050 - TARA000051 - 2024-03-16 Board Minutes]

23 36. Workers Compensation and Employers Liability Insurance Policy No. 202401-15-
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1 21-09-5Y identifies "TARA CONDO ASSOCIATION" as the Named Insured, for a
2 policy period from March 15, 2024 to March 15, 2025. [TARA002111-TARA002136
3 (TARA002117)]

4 37. The policy bears a printed date of March 14, 2024, a date of issue of March 14,
5 2024, and a transaction type of "New Business Issue." [TARA002111}

6 38. At the March 16, 2024 Board meeting, Chairperson Gottmann stated: "The first
7 thing we've got here is a little bit of an announcement here that the board has secured a
8 workers comp, if any, insurance policy." [EX 4 TRANSCRIPT, p. 1, 01:02, EX 4 Audio,
9 EX 4 AUTHORIZATION]

10 39. Chairperson Gottmann further stated that "the premium for that first year of this
11 policy has been donated through the generosity of an anonymous donor." [EX 4
12 TRANSCRIPT, EX 4 Audio, EX 4 AUTHENTICATION p. 1, 01:02; TARA000050 -
13 TARA000051 - 2024-03-16 TaraBoardMeetingMinutes

14 40. No motion was made, no second was offered, no discussion was held, and no
15 vote was taken on the Workers Compensation policy at the March 16, 2024 Board
16 meeting. [EX 4 TRANSCRIPT p. 1, 01:02-02:37, EX 4 AUDIO and EX 4 AUTH.;
17 TARA000050 - TARA000051 - 2024-03-16 TaraBoardMeetingMinutes]

18 41. The March 16, 2024 Board Meeting Minutes contain no motion, second,
19 discussion, or majority vote of the Board approving the Workers Compensation policy.
20 [TARA000050-TARA000051]

21 42. On July 26, 2024, the Association's insurance agent wrote to Mark Gottmann:
22 "The Work Comp policy will be a direct bill in the spring. If you all want to continue
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1 with that policy, just pay when you get the invoice.” [TARA002295]

2 **SAC Claim 29:** Multiple times during 2024 – Association announced and paid for
3 Bermuda grass plan without open meeting or approval, violating Declaration § 9.E.,
4 Restatement (Third) of Prop.: Servitudes §§ 6.13–6.14.

5 **SAC Claim 73:** Multiple times during 2024 – Association announced and paid for
6 Bermuda grass plan without open meeting or approval, violating A.R.S. § 33-1248.
7 Violation of Restatement (Third) of Prop.: Servitudes §§ 6.13–6.14.

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9 **43.** The March 13, 2024 notice announcing the March 16, 2024 Board meeting stated:
10 “Presentation of plan to spread fertilizer and plant Bermuda grass seed late April.”

11 [TARA000049 - 2024-03-16 Notice of March Board Meeting on 3-16-24]

12 **44.** The notice and agenda for the March 16, 2024 Board meeting contain no item for
13 any proposed vote, cost, contractor, or decision regarding the Bermuda grass plan.

14 [TARA000049; 2024-03-16 Notice; EX 14; Revised March 2024 meeting notice]

15 **45.** The March 14, 2024 email from Mark Gottmann adding items to the March
16 agenda contains no proposed vote, cost, contractor, or decision regarding the Bermuda
17 grass plan. [EX 13, 3-14-24 email from Gottmann with additions to the March agenda]

18 **46.** At the March 16, 2024 Board meeting, no motion was made, no second was
19 offered, no discussion was held, and no vote was taken on the Bermuda grass plan. [EX
20 4 TRANSCRIPT, 3-16-24 Meeting, p. 6; EX 4 AUDIO; EX 4 AUTHENTICATION of
21 TRANSCRIPT; TARA000050–TARA000051 - 2024-03-16 TaraBoardMeetingMinutes]

22 **47.** The Association paid \$1,125.99 for Bermuda grass plan materials and services
23 including seed, gypsum and soil topper. [EX 35; Lopez June 4, 2024 Bermuda Seed
24 Invoice Voucher; EX 36; Gottmann June 4, 2024 voucher]

1 **48.** The June 2024 financial records confirm the \$1,125.99 payment charged to
2 Account 533 – Grass Seed/Fertilizer at TARA000292. [**TARA000284–TARA000303**;
3 2024-06 Tara Financials June 2024]

4 **49.** The notice and agenda for the June 15, 2024 Board meeting contain no item for
5 any vote or approval of the Bermuda grass plan or any related payment.[**TARA000052**]

6 **50.** The June 15, 2024 Board Meeting Minutes contain no motion, second, discussion,
7 or majority vote of the Board authorizing the Bermuda grass plan or any related
8 payment. [**TARA000053–TARA000054- 2024-06-15 Tara Minutes**]

9 **51.** No minutes of any open meeting of the Board reflect any motion, second,
10 discussion, or majority vote of the Board approving the Bermuda grass plan or the
11 payments totaling \$1,125.99. [**TARA000050–TARA000051- 2024-03-16 Minutes**;
12 **TARA000053–TARA000054 - 2024-06-15 Tara Minutes**]

13 **SAC Claim 43:** Upon information and belief, on or about Fall of 2024 – The
14 Association spent Association funds on lighting without an open meeting notice, vote
15 or approval, violating Declaration § 9.E., Restatement (Third) of Prop.: Servitudes §§
16 6.13–6.14.
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18 **SAC Claim 88:** Upon information and belief, on or about Fall of 2024 – The
19 Association spent Association funds on lighting without an open meeting notice, vote
20 or approval, violating A.R.S. § 33-1248. Violation of Restatement (Third) of Prop.:
21 Servitudes §§ 6.13–6.14.
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23 **52.** On or about September 18, 2024, Chairperson Mark Gottmann personally placed
24 an Amazon order for two Sunco 6-Pack LED Bug Light Bulbs for use on Association

1 property. [EX 71 - M. Gottmann Expense Voucher, November 6, 2024]

2 53. On Nov. 6, 2024, Gottmann submitted expense voucher EX 71 seeking
3 reimbursement of \$49.50 from Association operating funds for the LED light bulb
4 purchase, charging the amount to the Repairs and Maintenance account. [EX 71 - M.
5 Gottmann Expense Voucher, November 6, 2024]

6 54. Directors Anderson and Buschart signed the expense voucher authorizing
7 reimbursement of \$49.50 to Gottmann. [EX 71 - Gottmann Expense Voucher, 11-6-2024]

8 55. The July 27, 2024 Board meeting minutes contain no agenda item, no discussion,
9 no motion, and no vote concerning the purchase of lighting or any lighting
10 expenditure. [TARA000065-TARA000067 - 2024-07-27 TaraBoardMeetingMinutes]

11 56. The September 21, 2024 Board meeting minutes contain no agenda item, no
12 discussion, no motion, and no vote concerning the purchase of lighting or any lighting
13 expenditure. [TARA000069-TARA000070 - 2024-09-21 TaraBoardMeetingMinutes]

14 57. The October 27, 2024 Board meeting minutes contain no agenda item, no
15 discussion, no motion, and no vote concerning the purchase of lighting or any lighting
16 expenditure. [TARA000074-TARA000075 - 2024-10-27 TaraBoardMeetingMinutes]

17 58. The November 2024 Association financial statements, Account 544, reflect a debit
18 to operating funds for the \$49.50 lighting reimbursement with no supporting Board
19 action documented. [TARA000410-TARA000431 - 2024-11 Financials (TARA000418)]

20 59. No document the Association produced in this action reflects any motion,
21 second, discussion, or majority vote of the Board approving the purchase of lighting or
22 the \$49.50 reimbursement. [Marx Decl. ¶ 10]

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24 **Respectfully Submitted July 16, 2026, /s/Lisa Marx, Lisa Marx Representing Self**

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CERTIFICATE OF SERVICE

I certify that on July 16, 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@chdblawn.com

Ari Bowhay – Ari.Bowhay@chdblawn.com

/s/ Lisa Marx

Lisa Marx, Plaintiff Pro Se

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