

1. PLAINTIFF'S MOTION FOR PRELIMINARY INJ - Copy

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6 Representing self

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 MOTION FOR**
15 **PRELIMINARY INJUNCTION,**
16 **AND PERMANENT INJUNCTION**

Honorable Randall H. Warner

17 Plaintiff Lisa Marx, pro se, moves this Court for a Preliminary Injunction, and
18 Permanent Injunction pursuant to Arizona Rule of Civil Procedure 65 and A.R.S. § 33-
19 1242, to enjoin Defendants from proceeding with, counting votes on, implementing, or
20 recording the proposed amendments to the Declaration of Restrictions, Establishment
21 of Board of Management and Lien Rights ("Declaration"). This motion is supported by
22 the attached Memorandum of Points and Authorities, Affidavit of Lisa Marx, Exhibits
23 A-T, and the record in this case, including Plaintiff's pending Motion for Leave to File
24 Third Amended Complaint (filed September 22, 2025).

1 Plaintiff requests a Preliminary Injunction and a Permanent Injunction due to imminent
2 irreparable harm, with a hearing on the preliminary injunction to follow. A proposed
3 order is attached.

4 MEMORANDUM OF POINTS AND AUTHORITIES

5 I. INTRODUCTION

6 Defendants are conducting an invalid voting process using "Action By Written
7 Consent" forms (Exhibit J) to amend the Declaration, shifting insurance and
8 maintenance burdens from the Association to individual owners without statutory
9 compliance. This violates the Arizona Condominium Act (A.R.S. Title 33, Chapter 9),
10 including requirements for proper ballots and meetings (A.R.S. § 33-1250(C)),
11 unanimous consent for boundary changes (A.R.S. § 33-1227(D)), and proof of insurance
12 **unavailability**¹ (A.R.S. § 33-1253(C)). The process, initiated after board approval on
13 September 20, 2025 (Exhibit I), is ongoing and will cause irreparable harm to Plaintiff,
14 including altered property rights conflicting with her warranty deed (Exhibit A),
15 increased costs, and title/resale issues. Arizona courts can intervene early in
16 HOA/condo disputes if the process is invalid and poses imminent harm, as the
17 "democratic process" must first comply with statutory mandates to be protected –
18 invalid procedures undermine true democracy and warrant judicial enforcement of the
19 law under A.R.S. § 33-1250(C) (requiring compliant ballots and meetings) , § 33-1248(A)
20 (requiring open meetings) and ARCP 65 (authorizing injunctions for irreparable
21 injury). See *Kalway v. Calabria Ranch HOA, LLC*, 252 Ariz. 532, 506 P.3d 1 (2022)
22 (courts invalidate non-compliant amendments to prevent unforeseeable burdens)

23
24 ¹ Emphasis added

1 Relief is ripe now to halt the invalid process, as the claim involves an actual
2 controversy with imminent harm; even if the vote fails, the defects are capable of
3 repetition yet evading review. This is the second ballot vote in less than a year in which
4 the board under Gottmann's leadership has refused to allow votes to be cast in person
5 as required by (A.R.S. § 33-1250(C)) and after being requested to do so, demonstrating a
6 pattern of disregard for the statutory rights of Plaintiff. The illegal budget vote in 2024
7 led to a \$50 increase in dues yet denied Plaintiff her statutory rights. (Exhibits P, Q, R,
8 S.) See *Kalway v. Calabria Ranch HOA, LLC*, 252 Ariz. 532, 506 P.3d 1 (2022)
9 (invalidating unforeseeable amendments without unanimous consent).

11 II. FACTUAL BACKGROUND

- 12 1. Plaintiff owns Unit 5, Tract G, Tara Condominiums, as evidenced by her
13 Warranty Deed (Exhibit A), which conveys a freehold estate with an undivided
14 1/50th interest in common areas.
- 15 2. The Declaration (1970, Exhibit B) requires the Association to maintain and insure
16 buildings and common elements (Paragraphs 12(B), (H), (J)).
- 17 3. The Association's current master insurance policy, effective 8/1/2025 to
18 8/1/2026 (Exhibit N, Certificate of Insurance), provides blanket property
19 coverage up to \$15,269,680 with a \$25,000 deductible (\$100,000 for wiring issues),
20 special form, guaranteed replacement cost, and exclusions (e.g., wear/tear,
21 mold). An accompanying letter (Exhibit O) advises owners to obtain HO-6
22 policies for interiors/upgrades and notes the policy covers "walls-in" but not
23 improvements. On August 6, 2025, the Travis Law Firm letter (Exhibit C)
24 proposed amendments due to rising master insurance premiums (\$86,000-

1 \$94,000), redefining "Residential Unit" and "Common Elements" to shift coverage
2 to owners (e.g., requiring HO-3 policies vs. HO-6). The proposed amendments
3 (Exhibit D) amend Paragraphs 1, 10, 12(B), 12(H), add 12(Q), 18(A), and 24.
4 Paragraph 24 requires owners to obtain property insurance and provide proof
5 within 30 days of adoption or renewal, with penalties for non-compliance. The
6 letter states the master policy "will remain in place if the Owners do not approve
7 these proposed amendments," implying cancellation upon approval.

- 8 4. The board approved the amendments on September 20, 2025 (Exhibit I, minutes).
- 9 5. The voting process uses "Action By Written Consent" forms (Exhibit J),
10 distributed around September 26, 2025, with a return date of October 15, 2025.
11 The forms provide "YES" or "NO" checkboxes for grouped amendments (e.g., one
12 vote for multiple paragraphs) but are not tied to a meeting.
- 13 6. Plaintiff demanded a proper meeting via email on September 25, 2025 (Exhibits
14 E,) citing A.R.S. § 33-1250 and in person at the board meeting September 20, 2025.
- 15 7. Plaintiff informed owners of risks via letters/emails on September 24–27, 2025
16 (Exhibits F, G, H, K), highlighting differences in unit definitions (Exhibit L) and
17 insurance shifts.²
- 18 8. The board responded on September 27, 2025 (Exhibit M), denying cost-shifting
19 and claiming legality without addressing violations. No open meeting for
20 counting has been scheduled.
- 21 9. This is the second ballot vote in less than a year in which the board under
22 Gottmann's leadership has refused to call an open meeting for ballots to be
23

24 ² One emailed, one for those without email

1 returned in person as required by (A.R.S. § 33-1250(C)). (See Exhibits P, Q, R, S)

2 III. LEGAL STANDARD

3 A preliminary injunction requires: (1) likelihood of success; (2) irreparable harm; (3)
4 balance of equities favoring movant; and (4) public interest. Ariz. R. Civ. P. 65; Shoen v.
5 Shoen, 167 Ariz. 58, 804 P.2d 787 (Ct. App. 1990). Permanent injunction follows if
6 merits warrant.

7 IV. ARGUMENT

8 A. Likelihood of Success on the Merits

- 9 1. Procedural Violations (A.R.S. § 33-1250(C)): As a condominium, the Condo Act
10 takes precedence over general non-profit laws. The statute prohibits proxies
11 post-declarant and requires provision for in-person and absentee voting at
12 meetings. If using absentee/other ballots for member actions, must comply with
13 subsections 1-7, including #1 (set forth each proposed action – grouping multiple
14 changes into single votes violates this by not allowing separate votes on distinct
15 actions) and the overall tie to a specified meeting (#3: valid for one
16 election/meeting). The consent form (Exhibit J) is not tied to a meeting, instead it
17 uses written consent under A.R.S. § 10-3704, which does not satisfy the Condo
18 Act's meeting requirement for non-unanimous amendments. A.R.S. § 33-
19 1250(C)(1-7) The consent process ignores the Condo Act's precedence, as
20 confirmed in A.R.S. § 33-1201 applying to all condos retroactively.
- 21 2. The October 15, 2025, return date satisfies the 7-day minimum (#4) but does not
22 cure other defects.
- 23 3. Substantive Violations: Amendments change boundaries without unanimous
24 consent (A.R.S. § 33-1227(D); Exhibit D redefines units to exclude parcels,

1 conflicting with warranty deed, Exhibit A). No proof insurance is **unavailable**
2 (A.R.S. § 33-1253(C); Travis letter cites costs, not market refusal). See Kalway,
3 *supra*.

4 4. Breach of Duty (A.R.S. § 33-1248): Board ignored warnings in 2024 for the budget
5 vote and refused to call an open meeting. Illegal vote passed with no
6 consequence to date. Statement used to show repetitive actions of the board
7 despite the violation being stated in the claims against the association in the
8 lawsuit. (Exhibits P, Q, R, S, T).

9 5. Breach of Fiduciary Duty (A.R.S. § 33-1248): Board ignored warnings showing
10 repeated disregard for the law (Exhibits E, F, G, H, L) and pushed shifts for
11 personal benefit.

12 **B. Irreparable Harm If allowed, amendments will alter property rights (e.g., title**
13 **clouds), increase costs to individuals and risk coverage gaps/disproportionate repairs**
14 **(e.g., tree damage).**

15 If approved, Defendants plan to cancel or allow the lapse of the existing master
16 insurance policy as soon as the vote passes, as evidenced by the Travis Law Firm letter
17 (Exhibit C), which conditions the policy's continuation on non-approval. This would
18 immediately leave the buildings and common elements uninsured, exposing Plaintiff
19 and other owners to catastrophic financial losses from unforeseen events (e.g., fire,
20 storm damage) that cannot be retroactively mitigated, especially given the high \$25,000
21 deductible (\$100,000 for wiring fire) under the current policy (Exhibit N). Although
22 Paragraph 24 provides 30 days for owners to provide proof of new individual
23 insurance (Exhibit D), this does not ensure continued master coverage during the
24 transition or prevent gaps if owners refuse secure HO-3 policies due to

1 unenforceability. Examples of increased costs and liabilities include individual
2 responsibility for deductibles if damage occurs to the roof or building (shifting from
3 collective association coverage), and increased maintenance costs according to
4 amended Paragraph 12(B) (Exhibit D) that were formerly collective responsibilities of
5 the association through dues (e.g., exterior repairs now borne individually). Such gaps
6 in coverage constitute irreparable harm, as monetary damages would be insufficient to
7 restore the status quo, and the shifts would create permanent title clouds and resale
8 barriers conflicting with Plaintiff's warranty deed (Exhibit A). Harm is imminent as the
9 October 15, 2025, deadline approaches, and not compensable by damages.

10 **C. Balance of Equities and Public Interest Status quo preserves master policy;**

11 Defendants face no harm from delay. Public interest favors enforcing condo laws by
12 protecting the rights of all condominium owners (non-parties to the lawsuit) to a fair
13 and transparent voting process, as mandated by state law (A.R.S. § 33-1250); preventing
14 a sudden and potentially devastating shift in insurance coverage for all owners, which
15 could cause financial harm beyond just the individual plaintiff; and ensuring the
16 condominium association adheres to legal and transparent governance standards for
17 the benefit of all members. Public interest favors enforcing condo laws (A.R.S. § 33-
18 1217 equal sharing).

19 **V. CONCLUSION**

20 Grant the motion to prevent invalid amendments and illegal vote.

21 Dated: October 05, 2025

22 /s/ Lisa Marx

23 Lisa Marx, Pro Se

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AFFIDAVIT OF LISA MARX

I, Lisa Marx, declare under penalty of perjury:

1. I am the Plaintiff and owner of Unit 5.
2. The facts in the motion are true based on personal knowledge and attached exhibits.
3. Harm is imminent: Voting is ongoing via invalid consents (Exhibit J), with return date October 15, 2025; without relief, amendments may be recorded soon, causing title/resale issues and immediate cancellation of the master insurance policy upon approval (Exhibit C), despite the 30-day period for proof of new insurance (Exhibit D).
4. Board chairperson was asked directly by Plaintiff on September 20, 2025 at the board meeting if he was going to call an open meeting to turn in ballots and he stated emphatically, "No." No meeting has been called.
5. This is the second denial in a year of statutory voting rights showing a disregard for the law, creating a pattern of repeated violations and violating fiduciary duty after being informed of the needs to hold an open meeting. (Exhibits P, Q, R, S)
6. I notified Defendants via emails and spoken word at the meeting September 20, 2025 that the vote was not legal with no change in actions. (Exhibits E, F, G).

Executed: October 05, 2025

/s/ Lisa Marx

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Respectfully submitted

Dated: October 5, 2025
/s/ Lisa Marx

Lisa Marx Pro Se
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602-748-7781

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Copies emailed to:

ORIGINAL of the foregoing e-filed

this 5th day of October, 2025

Arizona Judicial Branch Statewide e-Filing System

CERTIFICATE OF SERVICE I hereby certify that on October 5, 2025, I caused a true and correct copy of the foregoing document to be served via email to:

Charles H. Oldham, Esq

Chuck.Oldham@chdblawn.com

By: /s/ Lisa Marx