

CLERK OF THE  
SUPERIOR COURT  
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H. GEARHART, DEP  
19 JUN 28 AM 11:12

1 R. L. Whitmer  
2 6333 N. Scottsdale Rd.  
3 Casita 21  
4 Scottsdale, Arizona 85250  
5 602.531.2615  
6 Pro Per

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

9 R. L. WHITMER,  
10  
11 Petitioner/Plaintiff.

**CV2016-055080**

12 v.

**MOTION FOR PARTIAL  
SUMMARY JUDGMENT**

13 HILTON CASITAS HOMEOWNERS  
14 ASSOCIATION, also known as  
15 HILTON CASITAS COUNCIL OF  
16 HOMEOWNERS, also known as  
17 COUNCIL OF CO-OWNERS, also  
18 known as HILTON CASITAS  
19 COUNCIL OF CO-OWNERS

(FOR THE ENFORCEMENT OF AN  
ADMINISTRATIVE LAW ORDER  
No. 14F-H1415004-BFS)

20 Defendant/Respondent

(Assigned to the Honorable  
Lisa Flores)

21 Pursuant to the Arizona Rules of Civil Procedure, the Petitioner hereby  
22 requests that the Court grant partial summary judgment based on the  
23 Respondent's admission in paragraph 23 of their June 27, 2019 proposed  
24 findings of fact and conclusion of law:

25 "23. Thereafter, the board of directors prepared annual  
26 budgets and reports for 2016 and 2017 to be eventually  
27 ratified by the unit owners in February of 2017."

28 Adopting the 2016 annual budget in February of 2017 after the 2016  
revenue has been collected and expended is a violation of A.R.S. § 33-1243.D  
and the administrative law order ("Order").

1 The Respondent did not even attempt to comply with the Order in 2016 as  
2 shown by the agenda and minutes of their February 16, 2016 board meeting (Ex.  
3 A), which was the only board meeting prior to the one and only unit owners  
4 meeting in 2016.

5 Accordingly, based on the Respondent' admission the Court should grant a  
6 partial summary judgment finding that the Respondent violated the Order by not  
7 adopting a budget in 2016 and not seeking ratification of the 2016 budget by the  
8 unit owners in 2016 and find the Respondent in contempt of the Order.

9 DATED this 28<sup>th</sup> day of June, 2019.

10  
11  
12 

13 R. L. Whitmer  
14 Plaintiff/Petitioner

15  
16 COPY mailed this same date to:

17 Augustus Shaw,  
18 Shaw & Lines Law Firm  
19 4523 E. Broadway Rd.  
20 Phoenix, AZ 85040

# Exhibit A

**From:** Evon Potocki <Evon@cpihoa.com>  
**Sent:** Tuesday, February 16, 2016 1:10 PM  
**To:** Evon Potocki  
**Subject:** FW: Scottsdale Hilton Casitas - Board Meeting Notice- (Change of Location!)

**Note: Change of Location!**

## **BOARD OF DIRECTORS MEETING NOTICE**

**The Board of Directors meeting scheduled for:**

**Date:** Tuesday February 16<sup>th</sup>, 2016.  
**Located:** Scottsdale Hilton Ballroom  
**Time:** 4:30pm

**Agenda:**

- Approve the last Board minutes
- Parking signs
- Noncompliance Issues
- Discuss the amended Declarations.
- Date for annual meeting and vote on the amended Declarations.
- Questions
- Adjourned

**Homeowners are welcome to attend!**

**Thank you-**

**The Hilton Casitas Council of Homeowners**

**Evon Potocki**  
*Community Manager*



**Cornerstone Properties, Inc.**  
P.O. Box 62073  
Phoenix, AZ 85082

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<http://www.cpihoa.com>

A meeting of the Board of Directors of the H.O. A of Casita owners took place on Feb.16 4.30 p.m. in the Hilton Hotel.

Attending were Mike Bengson (president) and board members Steve pollock, Don Randolph, Barrie Bercuson and David Cameron (by conference call). Also attending were Bob Anderson (lawyer) and three casita owners.

The meeting was brought to order and the minutes from previous Board Meeting approved.

The purpose of this meeting was to go over the H.O.A. declarations that were amended by the board at the last meeting, and Mr. Anderson gave his comments and suggestions before presenting them to a general meeting of owners.

Also discussed were signs restricting overnight parking and approved by the board.

There were discussions about penalties for owners behind on dues and fines with comments from Bob Anderson of how to enforce penalties.

Also discussed was the option for owners to rent out their casitas, with the decision to bring it to a vote with all owners participating with a 51% margin for approval or disapproval.

Suggestions were made of forming an architectural committee to standardize exterior casita appearances but no decision taken. To be raised at next general meeting.

The meeting was ajourned with a motion from Don Randolph and seconded by Steve Pollock.