



## **DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY**

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PHOENIX, ARIZONA 85007  
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**PIMA COUNTY**  
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TUCSON, ARIZONA 85701  
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OFFICE OF ADMINISTRATION \* OFFICE OF MANUFACTURED HOUSING \* OFFICE OF STATE FIRE MARSHAL

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April 1, 2007

In 2006, the Arizona 47<sup>th</sup> Legislature passed legislation that provides the people of Arizona a venue to homeowners and condominium and planned community associations (HOA) to resolving disputes. These administrative procedures do not limit the rights of the parties to pursue matters in the legal system, but provides an alternative. This legislation became law on September 21, 2006.

PLEASE NOTE THE FOLLOWING CHANGES EFFECTIVE APRIL 1, 2007:

- The filing fee for a single count is \$550.
- Multiple counts are \$2,000.
- Filing Fees are NON-Refundable, by law.
- Filing Fees amount will be reviewed on a regular basis and the current fee amount is effective as of April 1, 2007.
- Only an owner or association may petition the Department for a hearing.
- An owner's petition (complaint) must be about a dispute between the owner and the association.
- An association's petition (complaint) must be about a dispute between the association and the owner.
- The Department cannot accept petitions (complaints) filed by or against renters, non-owners, directors, representatives, other homeowners or management companies.

Sincerely,

Robert Barger, Director  
Department of Fire, Building and Life Safety

**ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY**

**PETITION AND RESPONSE**

**HOMEOWNER'S ASSOCIATION HEARING**

**A.R.S. § 41-2198 et seq.**

**NOTICE**

This Petition may be used only for a dispute between an owner and a condominium association or planned community association that is regulated pursuant to Arizona Revised Statutes title 33, chapter 9 or 16. The dispute must concern violation of condominium documents or planned community documents or violation of the statutes that regulate condominium (A.R.S. Title 33, Chapter 9) or planned communities A.R.S. Title 33, Chapter 16. This Petition may NOT be used for:

- Any dispute among or between owners to which the association is not a party.
- Any dispute between an owner and any person or entity engaged in the business of designing, constructing or selling a condominium or any property or improvements within a planned community, including any person or entity licensed pursuant to title 32, chapter 20, arising out of or related to the design, construction, condition or sale of the condominium or any property or improvements within a planned community.

**DEFINITIONS**

In the Petition and Answer:

"Condominium Documents" and "Planned Community Documents" means the declaration of covenants, conditions, and restrictions bylaws articles of incorporation if any, and rules, if any.

**INSTRUCTIONS FOR PETITION**

- A. Fully complete the Petition, exactly as indicated. Please print or type.
- B. Enclose a check or money order for the nonrefundable filing fee of \$550 if making a single allegation, or \$2,000 if making multiple allegations, payable to the Department of Fire Building and Life Safety.
- C. Attach only a copy of applicable Condominium or Planned Community documents.
- D. Please provide two copies of submitted documents, one will be sent to the respondents and one copy will be sent to the Office of Administrative Hearings.
- E. If you do not fully complete the Petition as indicated, enclose the filing fee, and, if applicable, attach the Condominium or Planned Community documents, the Petition will be returned to you as incomplete.
- E. Submit Petition, fee, and documents to:

**LTA/HOA Dept.**

**Department of Fire, Building and Life Safety**

**1110 West Washington Ave., Suite #100**

**Phoenix, AZ 85007**

## PETITION (To be Completed by Petitioner)

### BACKGROUND

1. Petitioner is a (check one):

Homeowner       Condominium or Planned Community Association

2. Complete the following:

	Homeowner	Condominium or Planned Community Association
<b>Name</b>		
<b>Address</b>		
<b>Daytime Phone</b>	(    )	(    )

3. Does the Condominium or Planned Community have a company responsible for its MANAGEMENT? Yes       No . If yes, complete the following:

Name of Management Company \_\_\_\_\_

Address: \_\_\_\_\_

Phone Number (    ) \_\_\_\_\_

## 4. COMPLAINT

### INSTRUCTIONS

- A. Describe the specific acts or conditions that you believe violate:
- The statutes that regulate condominiums or planned communities, Arizona Revised Statutes Title 33, Chapter 9 or 16, or
  - The Condominium Documents or Planned Community Documents.
- B. Include the specific dates when each act occurred or when each condition came into existence.
- C. You must state each act or condition separately in the space provided.
- D. For each act or condition, in the table list the section number of the applicable statute(s) and, if applicable, the Condominium Documents or Planned Community Documents, which you believe have been violated.
- E. **Any petition that does not separately state each act or condition in the table with a separate citation to the specific section of the statute that relates to each act or condition, or fails to list the specific provisions of the Condominium or Planned Community documents in the table will be considered to be incomplete and will be returned. All information must be provided in the table. Do not say “see attached” instead of filling in the table.**
- F. If the complaint involves the failure to receive the Condominium or Planned Community documents, specifically state that they are unavailable and the facts and circumstances why they cannot be provided with the petition.
- G. Please provide copies of relevant or actual text/pages of the bylaws or documents sections. Please keep all other correspondence or evidence for admission at the hearing.

**\* Single Count Violations Fill in the Shaded Box:**

On or about \_\_\_\_\_ (specify date), the Respondent committed the specific following act, or specifically failed to act in the following manner, or caused the following condition to occur:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_, in violation of the following provisions of the condominium or planned community documents and/or A.R.S. § Title 33, Chapter 9 (condominium) or A.R.S. Title 33, Chapter 16 (planned community).

Please specify the

subsection: \_\_\_\_\_

**Multiple Count Violations Use The Blank Boxes Below:**

On or about \_\_\_\_\_ (specify date), the Respondent committed the specific following act, or specifically failed to act in the following manner, or caused the following condition to occur:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, in violation of the following provisions of the condominium or planned community documents and/or A.R.S. § Title 33, Chapter 9 (condominium) or A.R.S. Title 33, Chapter 16 (planned community).

Please specify the subsection: \_\_\_\_\_

On or about \_\_\_\_\_ (specify date), the Respondent committed the specific following act, or specifically failed to act in the following manner, or caused the following condition to occur:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, in violation of the following provisions of the condominium or planned community documents and/or A.R.S. § Title 33, Chapter 9 (condominium) or A.R.S. Title 33, Chapter 16 (planned community).

Please specify the subsection: \_\_\_\_\_

On or about \_\_\_\_\_ (specify date), the Respondent committed the specific following act, or specifically failed to act in the following manner, or caused the following condition to occur:

\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_, in violation of the following provisions of the condominium or planned community documents and/or A.R.S. § Title 33, Chapter 9 (condominium) or A.R.S. Title 33, Chapter 16 (planned community).

Please specify the subsection: \_\_\_\_\_

\* Additional Counts Should Use Same or Similar Format to Above \*

### RELIEF REQUESTED

5. Petitioner requests that the following relief be awarded regarding the acts, omissions, or conditions described in the table above (check all relief requested):

\_\_\_ Order a party to abide by the statute(s) specified in the table above.

\_\_\_ Order a party to abide by the section(s) of the condominium document(s) or community document(s) specified in the table above.

\_\_\_ Impose a civil penalty on the basis of each violation specified in the table.

\_\_\_ If the petitioner prevails, order the respondent to pay to the petitioner the filing fee required by A.R.S. § 41-2198.01.

6. Petitioner expects to call the following number of witness at hearing: \_\_\_.

7. By signing below, Petitioner requests that a hearing be held before the Office of Administrative Hearings. If Petitioner is an Association, the signer is authorized to sign on behalf of the Association.

Petitioner's Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_

Title, if Petitioner is an Association \_\_\_\_\_

**REMINDER:** If you do not fully complete the Petition as indicated, enclose the filing fee, and, if applicable, attach the Condominium or Planned Community documents, the Petition will be returned to you as incomplete.

## **Frequently Asked Questions**

1. *Who can request a hearing?*

Pursuant to A.R.S. § 41-2198.01(B), Only an owner of a condominium or association may petition the Department for a hearing

2. *Who is the petitioner?*

Prior to a matter being referred to the OAH for a hearing, there can only be one petitioner for a petition. In the case of a homeowner, petitioner refers to the owner(s) of an individual unit. Although two parties who co-own an individual unit may file a petition together, the owners of separate units must file an individual petition. In the case of a homeowner association, the petitioner is the individual authorized to act on behalf of the condominium association or planned community association.

3. *How do different petitioners request to have their hearing consolidated?*

After the matter is set for a hearing before the OAH, a petitioner may request to have one or more hearings consolidated by filing such a request with the OAH and comply with OAH's procedures and rules.

4. *Who can act as a representative of a party?*

If a party is an individual, the person may represent himself/herself or arrange for legal counsel.

If a party is corporation, the party may be represented by an officer, employee or contractor of the corporation ("corporated representative") as long as the corporate representative meets the requirements of A.R.S. §41-2198.01(l) and the corporate representative's actions do not conflict with the requirements of Arizona Supreme Court Rule 31. Will need to arrange for legal counsel.<sup>1</sup>

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5. *Who issues a default decision?*

(4/1/07)

If a respondent does not submit a response in answer to the petition, the Director shall issue a default decision.<sup>2</sup> The Director shall issue an Order finding the respondent in default and deem the allegations in the petition admitted and issue a final order granting relief he believes is appropriate based on the deemed allegations.<sup>3</sup>

6. *Who issues the final decision?*

The Director of the Department issues an order of dismissal if the case is settled before a hearing or an order on default if no response is received. If the matter proceeds to hearing, the Administrative Law Judge Decision issues the final hearing decision

7. *How was the filing fee set?*

The legislation mandated that this program to be self-funded or self-sustaining. The legislation creating this program mandated that the program should not be a burden on the state taxpayers but be paid for by the persons that utilize this program. The filing fee amount is set according to actual cost of providing the services of this program by the Department of Fire, Building and Life Safety and the Office of Administrative Hearings to the parties who use it.

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<sup>1</sup> Notwithstanding the representation provisions set forth in A.R.S. § 41-2198.01(I) and 41-2198.04(D), Arizona Supreme Court Rule 31 controls over representation issues before the OAH.

<sup>2</sup> See A.R.S. § 41-2198.01(F).

<sup>3</sup> A.R.S. § 41-2198.01(B) contemplates disputes between an owner and a condominium or planned community association.