

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 Lisa Marx,
 Petitioner,

No. 24F-H054-REL

4 v.

ORDER

5 Tara Condominium Association,
6 Respondent.

7 **PETITION**

8 On or about May 29, 2024, Petitioner filed an HOA Dispute Process Petition
9 (Petition) with the Arizona Department of Real Estate indicating that she had two issues
10 with Tara Condominium Association (Tara). With that filing, Petitioner paid the total fee
11 of \$1,000.00 for two issues (\$500.00 per issue).¹

12 With the filing of a Petition that proceeds to hearing, in addition to possible orders
13 for a respondent to abide by the statute and association documents, petitioners are
14 entitled to request the Tribunal order a respondent to reimburse to the petitioner the
15 filing fee in the event the petitioner prevails.

16 In the instant “two-issue” Petition, Petitioner alleged that Tara was in violation of
17 the following: A.R.S. 33-1258(A); A.R.S. Section 33-1248 (A), (D), (E), and (F); and,
18 Tara CC&Rs Section 9(E).

19 In the Petition, however, Petitioner set forth, as to A.R.S. 33-1258(A), five
20 instances on multiple dates of the alleged denials or partial denials of allowing review,
21 or provision, of requested documents.

22 Additionally, Petitioner set forth, as to A.R.S. Section 33-1248(A), (D), (E), and
23 (F), and Tara CC&Rs Section 9(e), thirteen instances on eleven different dates of
24 alleged and various violations of A.R.S. Section 33-1248(A), (D), (E), and (F), lumping
25 them together under the stated A.R.S. Section 33-1248 subsections.

26 On or about June 29, 2024, Tara filed a Response to the Petition, summarily
27 denying all of the allegations.

28 **MOTIONS TO TRIBUNAL**

29
30

¹ See A.R.S. Section 32-2199.01.

1 On August 8, 2024, Tara filed an Amended Response to Petitioner's Petition. In
2 that Amended Response, Tara admitted to the alleged violations of
3 A.R.S. Section 33-1248(A), (D), (E), and (F) on February 1, 2024.² Additionally, Tara
4 admitted to the alleged violations of A.R.S. Section 33-1258(A) on February 22, 2024,
5 March 26, 2024, and April 4, 2024.³ Finally, Tara stipulated to make a \$1,000.00
6 payment to Petitioner reimbursing her for her filing fees and requested that the Tribunal
7 vacate the scheduled August 29, 2024 hearing.

8 On August 8, 2024, Petitioner filed a Reply to Respondent's motion and
9 requested that the Tribunal not vacate the hearing. Petitioner argued that the
10 "numerous" issues in her two complaints required "a ruling that is binding and definite"
11 to "hopefully prevent further violations." Petitioner argued that the Amended Response
12 was "only a partial acceptance of the violations."

13 **DISCUSSION**

14 Based on review of the Petition, if the matter proceeds to hearing, Petitioner will
15 be required to narrow her Petition. Petitioner has paid for a two-issue Petition but has
16 listed many more issues. The alleged violations of A.R.S. 33-1258(A) are easily
17 categorized as one allegation of "records" violation and thus, would be treated at
18 hearing as one issue. However, the thirteen alleged violations of A.R.S. Section 33-
19 1248(A), (D), (E), and (F) and CC&RS Section 9 cannot be categorized as one issue;
20 Petitioner has listed multiple instances of various actions over five or six different dates.

21 **RULING**

22 Based on review of the Petition and Motions,

23 IT IS ORDERED that Petitioner must select the "one" other issue, as to an
24 alleged violation of A.R.S. Section 33-1248(A), (D), (E), and (F) and CC&RS Section 9
25 that would proceed to administrative hearing.⁴

26 IT IS ORDERED that Petitioner must select the "one" other issue *no later than*
27 *August 23, 2024* by close of business.
28

29 ² That date is one of the eleven instances on which Petitioner alleged violations.

30 ³ Those dates are three of the five instances on which Petitioner alleged violations.

⁴ This ORDER is being provided at this time so that Petitioner would not be surprised by the requirement to do so at the time of the administrative hearing.

1 IT IS FURTHER ORDERED that, in conjunction with the requirement that
2 Petitioner select the "one" other issue, alternatively, Petitioner may choose to accept
3 Tara's admissions of violations and its offer to reimburse her filing fees *no later than*
4 *August 23, 2024*. In the event that Petitioner chooses to accept Tara's admissions of
5 violations and its offer (Offer) to reimburse her filing fees, Petitioner must so notify the
6 Tribunal and Tara and withdraw the request for hearing *no later than August 23, 2024*.

7 ORDERED this day, August 16, 2024.

8 /s/ Kay A. Abramsohn
9 Administrative Law Judge
10

11 Transmitted electronically to:

12 Susan Nicolson, Commissioner
13 Arizona Department of Real Estate

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