

1 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**

2
3 Jeff Lion

No. 18F-H1817009-REL

4 Petitioner,

5 Riggs Ranch Meadows Homeowners
6 Association

**ADMINISTRATIVE LAW JUDGE
DECISION**

7 Respondent.
8

9
10 **HEARING:** January 9, 2018

11 **APPEARANCES:** Petitioner Jeff Lion did not appear; Nathan Tennyson, Esq. for
12 Respondent

13 **ADMINISTRATIVE LAW JUDGE:** Thomas Shedden
14

15 **FINDINGS OF FACT**

16 1. On October 2, 2017, the Arizona Department of Real Estate issued a
17 Notice of Hearing setting the above-captioned matter for hearing on November 29, 2017
18 at the Office of Administrative Hearings in Phoenix, Arizona.

19 2. The Notice of Hearing shows that Petitioner Jeff Lion alleged that
20 Respondent Riggs Ranch Meadows Homeowners Association violated Article 8 of the
21 Respondent's CC&Rs.

22 3. Mr. Lion filed a Motion to Continue the matter, requesting that it be heard
23 on January 9, 2018. Respondent did not object to the Motion and the matter was
24 scheduled to convene at 9:00 a.m. on January 9th.

25 4. Mr. Lion did not appear at 9:00 a.m. January 9, 2018, but his two named
26 witnesses did appear. The witnesses informed the tribunal that Mr. Lion was not going
27 to appear and that they were going to represent him at the hearing.

28 5. The tribunal informed these witnesses that under Arizona Supreme Court
29 Rule 31, they could not represent Mr. Lion unless they were attorneys licensed to
30 practice in Arizona. The witnesses confirmed that neither of them is a licensed attorney
in the State of Arizona.

1 6. Considering that the matter had been continued to January 9, 2018 at Mr.
2 Lion's request, the tribunal informed the parties that the matter would be vacated and
3 remanded to the Department based on Mr. Lion's failure to appear.

4 7. Because there was no authorized representative present for Mr. Lion, no
5 evidence was taken.

6 **CONCLUSIONS OF LAW**

7 1. The Department of Real Estate has authority over this matter. ARIZ. REV.
8 STAT. Title 32, Ch. 20, Art. 11.

9 2. The party asserting a claim, right, or entitlement has the burden of proof,
10 and a party asserting an affirmative defense has the burden of establishing the
11 affirmative defense. The standard of proof on all issues in this matter is that of a
12 preponderance of the evidence. ARIZ. ADMIN. CODE § R2-19-119.

13 3. A preponderance of the evidence is:

14 The greater weight of the evidence, not necessarily established
15 by the greater number of witnesses testifying to a fact but by
16 evidence that has the most convincing force; superior
17 evidentiary weight that, though not sufficient to free the mind
18 wholly from all reasonable doubt, is still sufficient to incline a fair
19 and impartial mind to one side of the issue rather than the other.
20 BLACK'S LAW DICTIONARY 1373 (10th ed. 2014).

21 4. Appearances at the Office of Administrative Hearings are considered to be
22 the practice of law. See Arizona Supreme Court Rule 31.

23 5. In this matter, Mr. Lion specifically requested that the hearing be
24 conducted on January 9, 2018. No one authorized to represent Mr. Lion appeared at the
25 scheduled hearing time. Consequently, Mr. Lion failed to present any evidence in
26 support of his petition.

27 6. Mr. Lion's petition is dismissed and the Respondent Riggs Ranch
28 Meadows Homeowners Association is deemed to be the prevailing party in this matter.

29 **ORDER**

30 **IT IS ORDERED** that Petitioner Jeff Lion's petition is dismissed.

NOTICE

Pursuant to ARIZ. REV. STAT. section 32-2199.02(B), this Order is binding on the parties unless a rehearing is granted pursuant to ARIZ. REV. STAT. section 32-2199.04. Pursuant to ARIZ. REV. STAT. section 41-1092.09, a request for rehearing

1 in this matter must be filed with the Commissioner of the Department of Real
2 Estate within 30 days of the service of this Order upon the parties.

3 Done this day, January 10, 2018

4
5 /s/ Thomas Shedden
6 Thomas Shedden
7 Administrative Law Judge

8 Transmitted by either mail, e-mail, or facsimile on ____

9 Judy Lowe, Commissioner
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