

Owner reply dated August 28, 2026

Correspondence date: 2026-08-28 | Retained source: SRC-000058

Personal information and selected passages have been omitted. The original is retained unchanged. The historical statements are party positions, not adjudicated findings. OCR may contain errors.

The letter states the owner's August 28 positions, not current findings or legal advice. Referenced exhibits are not included. Not every allegation, legal interpretation or deadline has been independently verified; contemplated proceedings are not confirmed filings.

Identifiers, signatures, sensitive personal details, identifying household comparisons, private filenames and selected characterizations are omitted. The existence of an accommodation request remains visible. Name removal does not guarantee anonymity.

Contrary position: counsel's August 28 response stated that all responsive, nonexempt records in the Association's possession had been provided (retained SRC-000038). This is counsel's position, not an independent completeness finding.

Later context: retained correspondence records agendas transmitted September 1 and minutes September 2, 2026, Arizona time (SRC-000215 and SRC-000236). These transmissions postdate this letter; completeness remains a separate question. These transmittals are not reproduced here.

Citation update: the AZNH review petition described as pending was denied September 8, 2026 (filed September 9); the appellate mandate followed September 30. Official dockets: CV-26-0167-PR entry 8 and 1 CA-CV 25-0424 entries 43-44, checked October 14. These are not findings about this Association.

[REDACTED]

August 28, 2026

VIA EMAIL

Santa Rita Ranch III Homeowners Association

Board of Directors:

James C. Newberry, President and Director; Kaitlyn Young, Secretary and Director

Also directed to:

AAM, LLC

Managing agent and custodian of Association records

Through Association Counsel:

Sean K. Moynihan, Esq.

Smith & Wamsley, PLLC

2940 North Swan Road, Suite 212

Tucson, Arizona 85712

sean@smithwamsley.com

Counsel for Santa Rita Ranch III Homeowners Association

Copy by email to:

Kimberly Ferguson; Lisandra Ruiz; Ken Inskeep; Marie Perez; Noel Hengst; Kat Boswell

Re: Deficient August 28 Response; Unresolved A.R.S. § 33-1805 Production, § 33-1803(D) Explanation, Appeal, and Reasonable Accommodation

Dear Mr. Moynihan, Mr. Newberry, Ms. Young, and AAM Representatives:

Ms. Ferguson transmitted Mr. Moynihan's August 28 letter as the Association's response to my August 16 correspondence. Her transmittal and the attached response are reproduced as Exhibit P. The Association's response produces no record, identifies no prior production, reconciles no disputed category, invokes no statutory withholding ground, and leaves the appeal, A.R.S. § 33-1803(D), preservation, and reasonable-accommodation tracks untouched. Instead, it compresses distinct requests into the word "repetitive" and replaces the statute with an undefined "possession" test. That is not a cure. [REDACTED]

[REDACTED] "Repetitive" does remarkable work in the Association's response; none of it is record production. A label cannot substitute for a search, production, withholding decision, statutory explanation, appeal decision, or accommodation decision. Nor does the phrase "for reasons we have previously discussed" identify a rejected category, a prior response, or any legal reason at all.

This reply and its exhibits are directed to the Association, James C. Newberry in his official capacities as President and Director, Kaitlyn Young in her official capacities as Secretary and Director, and AAM as managing agent and custodian of Association records, through Association counsel. Any substantive response may be made through counsel.

For continuity and ease of verification, the accompanying exhibit packet preserves Exhibits A–N from my August 16 notice and adds Exhibit O (the August 16 notice), Exhibit P (the August 28 transmittal and response), and Exhibit Q (the complete *Gordon* ALJ decision). No previously served exhibit has been relabeled.

I. DISTINCT REQUESTS DO NOT BECOME “REPETITIVE” BY BEING COMBINED

A.R.S. § 33-1805 does not prescribe an item-by-item response chart, and I do not demand another copy of an exact record the Association can identify as already produced. But “repeat or redundant” is not evidence of production. It neither cures an expired duty as to a record never supplied nor permits counsel to combine distinct requests until their differences disappear.¹

The history is not complicated, and it cannot fairly be rewritten as one July 10 request:

- On June 12, I requested ARC and Board authority, composition, meeting, action, approval, packet, report, and decision records. On June 25, counsel produced nothing and offered office review only “to the extent” responsive records existed.
- After my June 29 cure notice, AAM made a partial electronic production on July 7. My July 10 letter narrowed the remaining defects to three ARC and governance record groups. Counsel answered on July 17 with a three-category no-additional-records position, but no additional production.
- On July 28, I opened a separate violation-specific records track concerning Compliance No. [REDACTED] and comparator enforcement. AAM acknowledged the July 28 request on July 30. The August 1 Formal Statutory Contest and Appeal restated that request and added Schedule A categories concerning the specific compliance file, comparator enforcement, applicable authority and procedures, and 2026 Board minutes and packets. AAM acknowledged the “appeal and records request” on August 4.
- On August 5, counsel announced a categorical “official records” exclusion for director and management emails. On August 11 at 4:59 p.m., AAM transmitted a compliance-system export, a one-page chart, and counsel's email response. AAM did not identify the production as partial or rolling, and it promised no later production.
- The August 16 notice, reproduced as Exhibit O, did not originate another records request. It catalogued what remained deficient in the June 12 and July 10 track and the July 28 and August 1 track. It expressly stated that it was not a new request and did not restart or extend any deadline. It separately supplemented the appeal and the already-pending August 5 reasonable-accommodation request, addressed preservation, and preserved the A.R.S. § 33-1803(D) track measured from certified delivery on August 7. That statutory explanation was due August 21 and remains unanswered.²

Even if August 4, the date AAM acknowledged the “appeal and records request,” is used as the receipt date for every August 1 category, the tenth business day expired August 18. The Association's August 28 response does not cure that expiration.

The caption of the August 28 response singles out the “Records Request Dated July 10, 2026,” while the body purports to answer August 16 and invokes August 1 and earlier requests. That mismatch is consequential. [REDACTED]

¹ A.R.S. § 33-1805(A) requires all Association financial and other records to be made reasonably available for examination and requires requested copies within ten business days. Subsection (B) identifies limited grounds on which books and records “kept by or on behalf of the association and the board” may be withheld and permits withholding only “to the extent” the withheld portion relates to an identified ground; subsection (C) addresses disclosures prohibited by other law. The statute contains no blanket exclusion for manager-held records, internal email, or a record lacking full-Board approval. <https://www.azleg.gov/ars/33/01805.htm>

² The chronology is documented in Exhibits A, D, E, M, O, and P. A.R.S. § 33-1803(D) required a written explanation within ten business days after receipt of the certified response, supplying each listed item unless that item appeared in the original notice. Signed delivery occurred August 7, making August 21 the tenth business day. The notice supplied an observation date and appeal route but omitted the governing provision and observer's full name. <https://www.azleg.gov/ars/33/01803.htm>

For an exact duplicate, identify the earlier production by date, filename, and page. That cross-reference is requested as a practical cure mechanism, not as a separate response format that I contend § 33-1805 independently requires. If no additional responsive record exists for a category, identify that category unambiguously. A blanket label cannot transform partial production into complete compliance.

II. “POSSESSION” IS NOT THE STATUTORY BOUNDARY

A.R.S. § 33-1805(A) reaches “all financial and other records of the association.” Subsection (B), which supplies the limited withholding grounds, expressly addresses books and records “kept by or on behalf of the association and the board.” Read together, the statute does not confine access to records physically placed in a selected central folder or homeowner lot file. The August 28 response states that the Association “reviewed its files,” but that statement is ambiguous and inadequate. Physical location in an AAM mailbox, database, drive, or other repository is not a statutory exemption.

I do not contend that § 33-1805 requires creation of a nonexistent document, acquisition of an independent vendor's private file, production of AAM's proprietary software, or disclosure of every communication that merely mentions Association business. Content, function, and whether a record is kept on behalf of the Association or Board matter, as do the statutory exceptions in § 33-1805(B) and (C). I seek existing responsive Association records, many legally mandatory or specifically identified, wherever the Association or its agent keeps them.

The Management Agreement makes the “possession” formulation especially untenable. Section 3.13 gives the Association ownership of “all records that involve Association business whether directly or indirectly,” regardless of whether AAM staff, Board members, members, vendors, or third parties generated them. It expressly includes Association-related emails and electronic documents while excluding AAM's proprietary software itself. The Association cannot own records maintained through its manager and then convert them into non-records by leaving them in AAM's mailbox or system. Section 3.13 appears at Exhibit K, page 6.³

The same defect defeats counsel's August 5 “official records” rule, reproduced at Exhibit D, page 8. Section 33-1805 contains no full-Board-approval test, lot-file test, or categorical “internal email” exclusion. Not every email is responsive or nonexempt, but label, repository, and lack of formal Board approval do not decide whether an existing communication is an Association record kept on its behalf.

I do not seek privileged communications or counsel's legal file. A qualifying privileged communication may be withheld under § 33-1805(B)(1). But communicating facts to counsel does not erase the duty to disclose those facts, and privilege does not categorically swallow separate, nonprivileged Association records.⁴

This distinction is not new to AAM or Smith & Wamsley. In *Gordon v. Tucson Estate No. Two Owner's Association*, an Arizona ALJ held that “Documents in the custody of AAM are in the custody of Respondent” for § 33-1805 purposes. The ALJ also found a governing-document violation where required Finance Committee minutes had not been kept, while distinguishing missing mandatory records from documents that § 33-1805 does not require an association to create. *Gordon* binds only its parties and is nonprecedential, but the factual correspondence is

³ AAM Management Agreement §§ 3.10 and 3.13 and Exhibit B to that agreement, reproduced in Exhibit K. Section 3.13 assigns the Association ownership of Association-business records, including emails and electronic documents, while excluding AAM's proprietary software. The adopted retention schedule assigns Board packets, management reports, and proposals a three-year retention period.

⁴ A.R.S. § 33-1805(B)(1); A.R.S. § 12-2234(C) (“The privilege defined in this section shall not be construed to allow the employee to be relieved of a duty to disclose the facts solely because they have been communicated to an attorney.”). <https://www.azleg.gov/ars/12/02234.htm>

extraordinary: the same manager, Smith & Wamsley, the same records-access statute, and the same custody issue. The complete decision and findings are reproduced as Exhibit Q; the operative custody conclusion and findings appear at Exhibit Q, pages 12 and 14–16.⁵

The distinction between AAM custody and Association custody is therefore not an unfamiliar one.

The response's “possession” assertion creates a legal fork, not an escape hatch. If a responsive Association record is kept by AAM on behalf of the Association or Board, AAM's custody does not take it outside § 33-1805; the record must be produced unless a statutory exception applies. If a nonmandatory document genuinely never existed, § 33-1805 does not require its creation. But if governing law or the community documents required a record to be made and kept, “we do not possess it” identifies the recordkeeping problem; it does not cure it. I rely on A.R.S. § 10-11601 to identify mandatory corporate records, not as a freestanding OAH count. Any ADRE/OAH issue will be grounded in § 33-1805 or a specific community-document provision.⁶

III. REQUIRED AND IDENTIFIED RECORD CATEGORIES REMAIN UNPRODUCED AND UNACCOUNTED FOR

AAM identified James C. Newberry as President and Director and Kaitlyn Young as Secretary and Director, and I address them accordingly.

The assertion that every responsive, nonexempt record was produced cannot be reconciled with the following mandatory or specifically identified categories:

1. As an Arizona nonprofit corporation, the Association must keep permanent minutes of all member and Board meetings, records of all member or Board action without a meeting, and records of all action taken on the corporation's behalf by a Board committee. It must maintain those records in written form or a form convertible to writing. No 2026 open-session Board minutes or qualifying permanent action records have been identified or produced. A.R.S. § 10-11601 supplies the recordkeeping duty; access is demanded under § 33-1805 because § 10-11602(G) excludes planned communities from Title 10's separate member-inspection procedure.
2. To the extent the Association contends that any Board action was lawfully taken without a meeting, A.R.S. § 10-3821(A) and Bylaws § 4.8 require written unanimous consents describing the action and inclusion of those consents in the minutes or corporate records. This does not suggest that § 10-3821 authorizes action otherwise prohibited by Title 33's open-meeting requirements. AAM represented that the Board was serving as the ARC and that the review process was facilitated by email, yet no complete consent or permanent action record has been produced. Email may be the medium; it does not eliminate the required record. One June 16 chain from AAM's July 7 production is concrete: after excluding Tory “Ty” Schwartz “based upon his resignation from the Board,” AAM told Mr. Newberry and Ms. Young that “[a] unanimous approval is

⁵ Brian Gordon & Rosalie Gordon v. Tucson Estate No. Two Owner's Association, No. 24F-H043-REL, at 9–15 (Ariz. OAH July 10, 2024), reproduced in full as Exhibit Q. Under A.R.S. § 32-2199.02(B), the order binds only its parties and is nonprecedential. Jason Smith appeared for the respondent. The ALJ held that AAM-held documents were in the Association's custody, found a community-document violation for failure to keep required Finance Committee minutes, held that § 33-1805 did not require creation of documents that genuinely never existed, and declined jurisdiction over a standalone Title 10 claim. The ALJ ordered prospective compliance and \$1,000 in filing-fee reimbursement, but imposed no civil penalty. The decision also distinguished personal notes, drafts, edits, or comments kept on personal copies and not collected or tracked by the association; I do not seek that category. Official decision: <https://portal.azoah.com/records/Matters/Download?id=4b54d8ff-c77f-4c25-9ab6-e89b3b6127e0>; A.R.S. § 32-2199.02: <https://www.azleg.gov/ars/32/02199-02.htm>

⁶ A.R.S. § 10-11601(A), (D), and (F), <https://www.azleg.gov/ars/10/11601.htm>; A.R.S. § 10-11602(G), <https://www.azleg.gov/ars/10/11602.htm>; A.R.S. § 10-3821(A), <https://www.azleg.gov/ars/10/03821.htm>; A.R.S. § 10-3807, <https://www.azleg.gov/ars/10/03807.htm>; Bylaws §§ 4.8, 4.11, and 5.9; Declaration § 7.4. Section 10-11601 supplies corporate recordkeeping duties, while access is sought under § 33-1805 and the community documents.

required if responding electronically,” and the chain records Mr. Newberry's approval at 12:40 p.m. and Ms. Young's at 12:44 p.m. That establishes both directors' participation in that particular ARC action and the existence of its electronic decision trail; it does not establish who authorized unrelated actions. For every other matter the Association says was resolved electronically, produce the complete chain and permanent action record, or identify the noticed open meeting, attendance, vote, and minutes.⁷

3. A.R.S. § 10-3807 and Bylaws § 4.11 make delivery of written notice the operative method for a director's resignation. AAM excluded Tory “Ty” Schwartz from a June 16 communication “based upon his resignation from the Board.” Produce that written notice, which may itself be an email, and any resulting vacancy or appointment record. Bylaws §§ 4.2 and 4.3 fix a three-seat Board and direct the remaining Board members to fill a post-transition vacancy; produce any existing notice, nomination, vote, consent, or appointment record concerning the open seat. If an identified portion falls within § 33-1805(B), confine the withholding to that portion and produce the balance. If AAM relied on something else to treat his service as ended, identify and produce that existing record or correct the representation. If the notice once existed but was not retained, state that plainly.
4. The governing documents identify concrete recordkeeping duties. Bylaws § 5.9 requires the secretary to keep minutes of all Board and member meetings, the Association's corporate books and records, and reports and documents required by law. Bylaws § 5.8 separately requires full and accurate receipt and disbursement accounts, proper vouchers, and a statement of all financial transactions and the Association's financial condition at regular Board meetings. Declaration § 7.4 requires complete and current Association books and records maintained and made available under § 33-1805. Management Agreement § 3.10 adopts a retention schedule that assigns Board packets, management reports, and proposals a three-year retention period, while accounting records, including full financial statements, ledgers, collection records, and delinquency records, are retained for seven years. These provisions do not prove that every agenda entry generated a separate attachment, but they foreclose treating the minutes, financial records, and retained report classes as merely speculative.⁸
5. AAM and counsel have twice invoked Board direction. On April 28, AAM stated that my materials were sent to counsel “as directed by the Board of Directors.” On May 18, counsel stated that a response would follow after receiving “the Board's direction.” Those statements do not, by themselves, prove formal Board action, and counsel's May 18 email is not the later direction counsel said was still expected. They do identify a concrete transmission and decision trail that a blanket “no records” assertion does not address. If formal Board action supplied the direction, produce the responsive notice, agenda, open-session minutes, written consents, or other required action record. If the direction arose

⁷ The two-director fact does not make every meeting vote automatically unanimous. Bylaws § 4.7 may permit one of two serving directors to constitute a quorum; if both attend, A.R.S. § 10-3824(D) requires two affirmative votes. A present director is deemed to assent absent recorded dissent or abstention. § 10-3824(E). Action without a meeting requires both then-serving directors' written consents under § 10-3821 and Bylaws § 4.8. The June 16 chain proves only that ARC action; the unproduced effective resignation date prevents assuming a two-director Board on April 28 or May 18. <https://www.azleg.gov/ars/10/03824.htm>. A Z N H Revocable Trust v. Sunland Springs Village Homeowners Association, No. 1 CA-CV 25-0424, ¶¶ 10–14, 23 (Ariz. App. Apr. 28, 2026) (published; petition for review pending, CV-26-0167-PR), requires Board voting and formal action in open meetings but did not decide § 10-3821. Official opinion: <https://coa1.azcourts.gov/Portals/1/OpinionFiles/Div1/2026/1%20CA-CV%2025-0424%20A%20Z%20N%20H%20v.%20SUNLAND%20SPRINGS.pdf>; docket: <https://apps.azcourts.gov/aacc/appella/ASC/CV/CV260167.pdf>

⁸ Bylaws §§ 5.8-5.9, reproduced in Exhibit J; Declaration § 7.4, reproduced in Exhibit I; AAM Management Agreement §§ 3.10 and 3.13 and Exhibit B, reproduced in Exhibit K. The Bylaws require minutes for every meeting held but do not themselves prescribe a monthly Board-meeting cadence. Management Agreement § 2.13 separately states that AAM will attend one meeting with or on behalf of the Association per month; that provision corroborates the recurring meeting and reporting structure but is not asserted to require the Board itself to meet monthly.

from existing delegated authority, produce any existing record reflecting that authority and any nonprivileged Association record memorializing the operative instruction. If “Board direction” was shorthand for an officer, individual director, management, or counsel decision, correct the attribution and identify the existing nonprivileged source record. Privileged legal advice need not be produced merely because it refers to the direction, but privilege cannot substitute for a separate minute, consent, or corporate-action record the law required the Association to maintain.

6. Four exact responsive agenda files are established by the Association's own AssociationVoice transmissions: [REDACTED] transmitted January 12; [REDACTED] transmitted June 8; [REDACTED] transmitted July 17; and [REDACTED] transmitted July 20. Each falls within Schedule A ¶ 23, and each concerns ARC, architectural, compliance, or related Board business captured by the June 12 agenda and meeting-record categories. The Association neither reproduced these files nor identified their earlier transmissions as prior productions in its records responses. I already possess the copies in Exhibit L and do not demand pointless duplication. Their unaccounted-for omission matters because it contradicts any category-specific claim that the responsive agenda and packet records were searched, reconciled, and completely produced.⁹
7. Those agendas identify particular minutes rather than merely suggesting that minutes might exist. The June 10 general-session and executive-session agendas identify March 11 and April 22 minutes in their respective session contexts. The July 22 general-session agenda identifies both June 10 general-session and June 10 executive-session minutes. Bylaws § 5.9 and A.R.S. § 10-11601 required minutes for each meeting that occurred. Produce the March 11, April 22, and June 10 open-session minutes. If the January 14 or July 22 meetings convened, produce those open-session minutes as well. For executive-session minutes, identify the record and invoke § 33-1805(B)(3) only to the extent it applies. If a scheduled meeting did not occur, or required minutes were not created or retained, say so directly. The November 12, 2025 minutes identified on the January 14 agenda fall outside Schedule A ¶ 22's date period, but remain relevant to the extent they were included in or distributed with the responsive January 14 packet.
8. The monthly financial-report trail is separately defined. Management Agreement § 2.7 requires AAM, on or before the last day of each month, to deliver a detailed written statement of the preceding month's receipts and disbursements. At minimum, the monthly report must include a balance sheet, income/expense/budget comparison, delinquency report, general ledger, cash receipts and disbursements, reserve statements, bank statements, and supporting documents. The January 14, June 10, and July 22 agendas expressly identify November 2025, April 2026, and June 2026 financial materials, respectively. Existing versions supplied to the Board, included in a Board packet, or distributed or presented for those meetings were responsive to Schedule A ¶ 23. I rely on the Management Agreement as evidence of creation, contents, custody, and retention, not as a claim that every contract provision independently supplies a freestanding homeowner OAH count.¹⁰

⁹ Exhibit L reproduces the authenticated AssociationVoice transmittal metadata and the four exact agenda files. Exhibit O, Schedule A ¶ 23, requested every Board meeting or director packet during January 1 through August 1, including agendas, management reports, financial materials, compliance reports, and attachments. Exhibit M reproduces the June 12 request, including the ARC-related agenda and Board-meeting-record categories. A.R.S. § 33-1804(D)-(F) separately requires timely Board-meeting agendas and favors sufficiently informative agendas. <https://www.azleg.gov/ars/33/01804.htm>

¹⁰ AAM Management Agreement §§ 2.7, 2.13, and 3.10 and Exhibit B, reproduced in Exhibit K. Section 2.7 supplies the monthly written financial-report requirement and its eight minimum components; § 2.13 describes AAM's monthly meeting attendance; and the adopted retention schedule assigns Board packets, management reports, and proposals three years and specified accounting records seven years. Bylaws § 5.8 appears in Exhibit J. The recurring agenda entries and transmittals appear

9. The recurring Community Manager's Report is a distinct report family, not another name for the § 2.7 financial package. The January agenda identifies a Community Manager's Report containing 30-day, 90-day, and yearly compliance summaries and repeat-violation counts. The June and July agendas again identify Community Manager's Reports containing compliance summaries, common-area reporting, and architectural-submittal reporting; the executive agendas identify Compliance Reports. Every Board meeting during the requested period was conducted through Zoom; in that electronic setting, I personally observed Ken Inskeep display and walk attendees through the recurring monthly reports, including the compliance-summary chart that AAM later transmitted electronically on August 11. Even if that particular PDF export was generated on August 11, the recurring report, source data view, and Board presentation were not speculative. Produce each existing responsive packet version, saved report, compliance summary, and export actually supplied to or used for the Board during the requested period. If AAM contends that a presentation came only from a live VMS view and no historical snapshot was saved, state that plainly. I do not demand creation of a new static report or production of AAM's proprietary software.¹¹

Items 6 through 9 identify and substantiate records already encompassed by the June 12 request and Schedule A ¶¶ 22-23. They do not create a new request, broaden the responsive period, or restart any deadline.

Those categories require different answers, not one collective adjective. For each: identify the exact prior production; produce the record; cite a statutory withholding ground, confine any withholding to the portion within that ground, and produce the balance; or state plainly that the record never existed, the event did not occur, or the record was not retained.

IV. THE AUGUST 28 LETTER LEAVES FOUR OTHER TRACKS UNDECIDED

The Association's August 28 response cannot serve as a decision on matters it never addresses. It is silent on: (1) the still-incomplete § 33-1803(D) response; (2) the pending appeal and comparator evidence; (3) preservation; and (4) the reasonable-accommodation request. Each remains unaddressed.¹²

The initial notice supplied the observation date and described an appeal route, but it did not identify the governing-document provision allegedly violated or the observer's first and last name. Mr. Inskeep later quoted Declaration § 10.16 generally, before the certified response was delivered, but the Association issued no post-delivery written explanation supplying every item omitted from the notice. At minimum, the observer information remains due, together with a compliant written explanation that identifies the provision on which the Association actually relies.

The appeal is a merits challenge, not a plea for leniency

My appeal contests whether any violation existed. It is not merely a request for leniency under the Fine Policy's "extenuating circumstances" provision, particularly before any monetary

in Exhibit L, and the August 11 chart appears in Exhibit F. These provisions and records are used as evidence of existence, custody, use, and retention, not as a demand that AAM create a document that never existed or disclose proprietary software.

¹¹ The recurring Community Manager's Report and Compliance Report entries and their stated components appear in the January, June, and July agenda materials reproduced in Exhibit L. The chart transmitted August 11 appears in Exhibit F. Management Agreement § 3.10 and Exhibit B, reproduced in Exhibit K, assign management reports and Board packets a three-year retention period. These records and my firsthand observations of the Zoom format and recurring presentations are evidence of recurring use and custody; they are not a demand to create a historical export that was never saved or to disclose AAM's proprietary software.

¹² A.R.S. § 33-1803(D) requires a written explanation identifying at least the allegedly violated provision, the date of violation or observation, the observer's first and last name, and the contest process, except for an item previously supplied in the notice. <https://www.azleg.gov/ars/33/01803.htm>

penalty. The appeal preserves its grounds concerning the notice and proof, governing authority, procedure, Board authorization, inconsistent enforcement, and comparator evidence.

[REDACTED]

[REDACTED]

My written appeal and supporting materials remain operative; I request that any questions also be transmitted in writing and that the final decision be issued in writing.

The accommodation omission

[REDACTED]

On August 5, after AAM renewed the in-person demand “as advised by the Association Attorney,” I submitted a complete, separately captioned formal request for reasonable accommodation. That request sought electronic transmission of electronically maintained or readily exportable records, offered narrowly tailored verification if genuinely needed, and requested an equally effective alternative if the requested format could not be granted. I did not refuse inspection. In that same August 5 response, I conditionally selected the August 19, 9:00 to 11:00 a.m. window for any records not produced electronically beforehand, while preserving the accommodation request and statutory deadlines. Because Mr. Inskeep's scheduling email mistakenly listed the offered date as “Wednesday, 6/19/2026,” my response expressly assumed he meant Wednesday, August 19 and twice requested confirmation of the corrected date and appointment. AAM's August 11 transmittal neither supplied that confirmation nor identified any record that required physical inspection.

[REDACTED]

What happened next exposes the point. AAM's August 11 transmission of the VMS export and chart demonstrates that those materials were already electronic and readily transmissible. AAM did not identify the transmission as a response to, partial grant of, or decision on the August 5 accommodation request, and it identified no responsive record that genuinely required physical inspection.

[REDACTED]

Official HUD and DOJ guidance uses a close analogy. When disability prevents compliance with a housing provider's in-person office-payment rule, the provider must permit an alternative such

¹³ Fine Policy and appeal materials, Exhibit H; Declaration §§ 7.3 and 7.4, Exhibit I; *Tierra Ranchos Homeowners Association v. Kitchukov*, 216 Ariz. 195, 201, ¶ 25, 165 P.3d 173, 179 (App. 2007) (Association discretionary authority must be exercised reasonably and in good faith). The comparator evidence appears in Exhibits F and G. The merits remain fact-dependent; comparability, Association knowledge, different treatment, and any legitimate contemporaneous explanation are evidence bearing on the reasonableness of enforcement.

¹⁴ The August 5 scheduling email and formal request are reproduced in Exhibit D, pages 5-7. Mr. Inskeep's “Wednesday, 6/19/2026” date appears at page 5; my corrected conditional selection and first confirmation request appear at page 6; and the repeated confirmation request appears at page 7. 42 U.S.C. § 3604(f)(2), (f)(3)(B); 24 C.F.R. § 100.204(a); A.R.S. § 41-1491.19(B), (E)(2), <https://www.azleg.gov/ars/41/01491-19.htm>. HUD/DOJ, Joint Statement on Reasonable Accommodations Under the Fair Housing Act, Questions 6, 7, 15, and 17-18 (May 17, 2004). Question 6 gives the in-person office-payment example; Question 15 states that undue delay may be deemed a failure to accommodate; Questions 17-18 limit disability-related inquiries to information needed to evaluate disability, accommodation, and nexus. https://www.justice.gov/sites/default/files/crt/legacy/2010/12/14/joint_statement_ra.pdf

as payment by mail. AAM's own transmission demonstrates feasibility for already-electronic material. The Association has articulated no undue financial or administrative burden, fundamental alteration, or equally effective alternative. The unresolved components of the formal request have remained substantively undecided since August 5. The August 11 delivery did not acknowledge, grant, deny, or otherwise decide the accommodation request. It simply transmitted particular records in the electronic form in which they already existed, while leaving the office-only condition, unresolved record categories, paper-only representative option, and accessible appeal and communication components substantively unanswered. Neither AAM's invitation to "discuss" nor counsel's omission of the request from the August 28 response supplies a decision.

Federal and Arizona law prohibit refusing a reasonable accommodation in a housing-related rule, policy, practice, or service when the accommodation may be necessary for equal use and enjoyment of a dwelling. The requested modifications concern the method and pacing of access to Association records and an appeal arising from enforcement against my home, services and privileges available to me only because I own and occupy the dwelling. They do not alter any substantive homeowner obligation. That is the asserted housing nexus; its ultimate sufficiency, necessity, and reasonableness remain fact-specific. Arizona's published *Canady* decision confirms that an HOA's accommodation duty is affirmative and may require an exception to a facially neutral rule. Two factually pertinent, nonbinding decisions reinforce the narrower point here. *Donovan* treated accessible HOA records and meaningful governance participation as sufficiently connected to equal use and enjoyment at the pleading stage. *Unger* rejected the assumption that Zoom or a representative automatically answered a request for recordings or prompt written access. None predetermines the ultimate format; all reject the categorical reasoning reflected in the Association's silence and office-only position.¹⁵¹⁶¹⁷

HUD and DOJ state: "An undue delay in responding to a reasonable accommodation request may be deemed to be a failure to provide a reasonable accommodation." The Association's August 28 response does not decide the request, seek limited verification, identify a burden or fundamental alteration, or propose an equally effective alternative.

Delegation may assign work to AAM or counsel; it does not change who bears the underlying obligation. The Association remains responsible for its statutory, contractual, and fair-housing obligations, the Board remains responsible for decisions and oversight committed to it by law and the governing documents, and AAM remains responsible for its own conduct within its authority as managing agent. Board service alone does not create automatic individual liability. Potential direct liability turns on evidence of a person's own conduct, knowledge, and corrective power. **A director who personally denies, directs, authorizes, or ratifies an unlawful accommodation refusal may face individual exposure for that conduct.** Neither title nor receipt of this reply is enough. Arizona permits directors to rely on competent management and counsel when that reliance is reasonable and in good faith; a director's conduct is presumed

¹⁵ *Canady v. Prescott Canyon Estates Homeowners Association*, 204 Ariz. 91, 94–97, ¶¶ 9–12, 16–18, 60 P.3d 231, 234–37 (App. 2002). *Canady* involved an age-occupancy restriction, not electronic records, but it is published Arizona authority confirming an HOA's affirmative fair-housing accommodation duty. The case followed Arizona Attorney General complaints, a reasonable-cause determination, and a State enforcement action.
<https://coai1.azcourts.gov/Portals/1/89/opinionfiles/CV/CV020138.pdf>

¹⁶ *Donovan v. Woodbridge Maintenance Association*, No. 2:14-cv-00995-JAM-EFB, 2015 WL 1241020, at 3–4 (E.D. Cal. Mar. 17, 2015). The court denied judgment on the pleadings where a blind owner alleged that screen-reader-compatible HOA records and meaningful participation in Association decision-making were necessary for equal use and enjoyment. The decision is nonbinding and pleading-stage; it did not finally adjudicate that Word format was required.
<https://cases.justia.com/federal/district-courts/california/caedce/2%3A2014cv00995/267170/33/0.pdf>

¹⁷ *Unger v. Majorca at Via Verde Homeowners Association, Inc.*, No. 21-13134, 2022 WL 4542348, at 3–4 (11th Cir. Sept. 29, 2022) (per curiam). The unpublished, nonbinding decision reversed dismissal because the court relied on Zoom and representative alternatives without first evaluating whether requested recordings or prompt written access were facially reasonable. It did not hold that those accommodations were ultimately required.
<https://media.ca11.uscourts.gov/opinions/unpub/files/202113134.pdf>

compliant under state corporate law unless the challenger rebuts that presumption by clear and convincing evidence. **This reply ensures that the Association, Mr. Newberry, Ms. Young, and AAM have the chronology, identified records, and authorities before deciding whether to continue nonproduction or deny the accommodation.**¹⁸

If the Association does not provide a substantive written determination by September 2, 2026, I will treat each unresolved component of the accommodation request as denied for purposes of pursuing available remedies and will assert that the continuing undue delay is itself a failure to accommodate. September 2 is a final voluntary cure opportunity, not a statutory accommodation deadline, and nothing in this notice concedes that the delay has not already become undue.

Accordingly, if the accommodation remains unresolved after September 2, I intend, on September 3, 2026, or shortly thereafter, to submit a Housing/Disability Civil Rights Intake Questionnaire to the Arizona Attorney General's Civil Rights Division and to pursue a formal Charge of Discrimination through that process. A housing charge filed with the Division is considered dual-filed with HUD. The complaint will address the Association's and AAM's continuing failure or refusal to decide and provide the requested accommodation, including the unresolved electronic-access, paper-only representative, and accessible-appeal components; AAM's post-notice insistence on office inspection; and the complete omission of accommodation from the Association's August 28 response. It will not ask the civil-rights agencies to adjudicate the underlying § 33-1805 dispute, and it will not waive or delay the separate records, appeal, preservation, or judicial remedies.¹⁹

Separately, absent complete production and a legally sufficient, category-specific response by September 2, I intend, on or after September 3, 2026, to file one or more petitions with ADRE for referral to OAH against the Association. The separately stated issues may include nonproduction of existing Association records under § 33-1805, failure to create or retain records required by the community documents, and other properly presented Title 33 or community-document violations supported by the record. They will not present § 10-11601 or the Fair Housing Act as freestanding OAH counts. I will seek the relief authorized by A.R.S. §§ 32-2199 through 32-2199.02, including compliance orders, reimbursement of applicable filing fees to the extent I prevail, and any civil penalty the record warrants.²⁰

V. CURE REQUIRED AND OPTIONS PRESERVED

The Association must complete the following cure by September 2, 2026. This is a final voluntary cure opportunity, not a new statutory response period or an extension of any expired deadline:

¹⁸ Board position alone does not impose automatic vicarious officer liability. *Meyer v. Holley*, 537 U.S. 280, 285–92 (2003). HUD's direct-liability rule provides that a person is directly liable for the person's own discriminatory conduct and, in specified circumstances, for knowingly failing to take prompt corrective action where the person has corrective power. 24 C.F.R. § 100.7(a), <https://www.ecfr.gov/current/title-24/subtitle-B/chapter-I/part-100/subpart-A/section-100.7>. In *Hernandez v. Golf Course Estates Home Owners Association*, No. 6:18-cv-00932-AA, slip op. at 15–17 (D. Or. Apr. 10, 2020), a nonbinding district-court order rejected blanket immunity and denied summary judgment where each director's knowledge and personal involvement were disputed, while noting that the Ninth Circuit had not squarely resolved the issue. <https://law.justia.com/cases/federal/district-courts/oregon/ordce/6%3A2018cv00932/137111/32>. Arizona's director-reliance rule permits reliance on management and counsel only when reasonable and in good faith; reliance is not in good faith when the director knows facts making it unwarranted. Section 10-3830(D) separately presumes compliance and places a clear-and-convincing burden on a challenger. A.R.S. § 10-3830(A)–(D), <https://www.azleg.gov/ars/10/03830.htm>

¹⁹ Arizona Attorney General Civil Rights Intake Questionnaire: <https://www.azag.gov/complaints/civil-rights>. The Civil Rights Division is a HUD Fair Housing Assistance Program agency, and housing charges filed with the Division are considered dual-filed with HUD. <https://www.azag.gov/civil-rights/faq>. The intake questionnaire begins the process; the Division then conducts intake and, if appropriate, prepares a formal Charge of Discrimination.

²⁰ A.R.S. §§ 32-2199 through 32-2199.02 authorize adjudication of Title 33 planned-community and community-document violations. An ALJ may order compliance, reimburse a prevailing petitioner's filing fee, and levy a civil penalty paid to the State. The order binds the parties. OAH does not award the homeowner compensatory damages under this process. <https://www.azleg.gov/ars/32/02199.htm> ; <https://www.azleg.gov/ars/32/02199-01.htm> ; <https://www.azleg.gov/ars/32/02199-02.htm>

1. Produce all outstanding, existing, nonexempt Association records kept by or on behalf of the Association or Board, including responsive records maintained in AAM repositories on the Association's behalf.
2. For each specifically identified category, identify the earlier production by date, filename, and page; produce the record; identify the applicable § 33-1805(B), § 33-1805(C), or privilege ground, confine any withholding to the portion within that ground, and produce the balance; or state unambiguously that the record does not exist. This accounting is a cure mechanism, not a claim that § 33-1805 prescribes a response chart or requires creation of a record.
3. Produce the March 11, April 22, and June 10 open-session minutes and, if those meetings convened, the January 14 and July 22 open-session minutes, together with every other open-session minute responsive to Schedule A ¶ 22. Produce the qualifying action records, the written resignation notice on which the Association relies, and the resulting vacancy or appointment records. For any executive-session minute, identify the record and apply § 33-1805(B)(3) only to the extent authorized. If a required record was not created or retained, say so directly rather than obscuring that failure behind "possession."
4. For the four exact agenda files named above, identify the earlier transmission by date and filename or reproduce the file. Produce the existing nonexempt Board packets and meeting materials for January 14, June 10, and July 22, including the identified financial materials, Community Manager's Reports, compliance summaries or reports, and other responsive components actually included, distributed, or presented. If a report was displayed only through a live system and no saved historical version exists, state that fact rather than treating the entire category as "repetitive."
5. Confirm that the renewed search included repositories reasonably likely to contain Association records kept on its behalf, including relevant AAM mailboxes and drives, AssociationVoice, VMS, ARC systems, and Board or committee accounts used to keep Association business records. I request a credible cure account, not a statutory search affidavit.
6. Issue separate written responses addressing the omitted § 33-1803(D) information, including the observer's first and last name and the governing provision actually relied on; the pending appeal and comparator evidence; the reasonable-accommodation request; and preservation. The accommodation response must grant the requested format, identify a legally supportable basis for denial, or propose an equally effective alternative.
7. If the Association denies electronic delivery for a record because it genuinely exists only on paper, identify that record and make it available at AAM's office to my designated representative for photographing or scanning. That is a fallback for paper-only records, not permission to print an electronic file and recast it as paper-only.

If the Association does not cure, I will proceed without another voluntary extension. I expressly preserve the right to select among available remedies, including:

- the one or more ADRE/OAH petitions described above, under § 33-1805 and the applicable community documents, seeking compliance, filing-fee reimbursement to the extent I prevail, and any civil penalty the record warrants;
- to the extent authorized by an available cause of action and subject to any properly determined forum issue, declaratory and injunctive relief concerning records access, mandatory corporate records, and the authority and validity of undocumented Association or Board action, together with recoverable fees, costs, and any actual damages supported by the law and evidence;

- administrative or judicial fair-housing remedies arising from an actual or constructive denial of the accommodation request and the continuing delay;
- relief in the pending violation and appeal process based on the merits, comparator evidence, procedural defects, and any inability to establish lawful Board authorization; and
- appropriate preservation, discovery, and evidentiary remedies if responsive material was discarded after a duty to preserve arose.

This identifies available paths. It does not elect a forum, concede any jurisdictional or procedural issue, accuse anyone of spoliation without evidence, or waive any claim, defense, objection, deadline, or remedy.

The Association cannot demand strict compliance from owners while treating its own duties as optional. A manager's mailbox is a repository, not a safe harbor. "Repetitive" is a label, not a production history, and "possession" is not a statutory exemption. The lawful choices are simple: identify the prior production, produce the record, confine withholding to a legally protected portion and produce the balance, or admit the record does not exist. The Association's August 28 response does none of this. After months of partial production and blanket conclusions, noncompliance continues.

Sincerely,

