Clerk of the Superior Court
*** Electronically Filed ***
03/20/2026 8:00 AM

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

CV 2025-038890 03/19/2026

HONORABLE DAVID MCDOWELL

CLERK OF THE COURT
A. Patel
Deputy

JEFF CONNELL, et al.

v.

CASA DEL MONTE INC

NIKOLAS T THOMPSON

FLORENCE BRUEMMER
SOLOMON SCOTT KROTZER
TIMOTHY A LASOTA
JUDGE MCDOWELL

**RULING ON COMPLAINT AND APPLICATION FOR INJUNCTIVE RELIEF**

On February 4, 2026 the Court held a final hearing to address Plaintiff Tamara Block's December 15, 2025 *Complaint* and *Application for Temporary Restraining Order, Preliminary Injunction, and Request for Order to Show Cause to Enforce A.R.S. § 33-1243.* The hearing on the application for preliminary injunction was combined with an evidentiary hearing on the underlying Complaint. The decision below resolves this matter in its entirety.

Ms. Block contends in September 2025 members of the Casa Del Monte homeowners' association circulated a petition to recall board members Jeffrey Connell and Jon Macy. A special meeting was scheduled for November 6, 2025 to vote on the recall petition for both board members.

On November 3, 2025, this Court held a hearing upon the application of Plaintiff Jeffrey Connell and Jon Macy for a temporary restraining order and preliminary injunction aimed at the September 2025 recall petition. The Court determined the recall petition was defective because A.R.S. §33-1243(H) does not permit a recall petition to be directed at more than one board member. The Court entered an order restraining the board of directors from holding a vote on the combined recall petition.

Immediately after the Court's entry of its order on the combined Connell/ Macy recall petition, members of the homeowner's association circulated two recall petitions: one directed at Jon Macy and the second directed at Gina Haynie. Ms. Block asserts both recall petitions obtained the required number of signatures (the Association did not dispute that either petition had the required number of signatures).

The Haynie and Macy recall petitions were submitted to the board on November 6, 2025. A special meeting was scheduled for December 5, 2026 to vote on the Haynie petition. No special meeting was scheduled to vote on the November 2025 Macy recall petition.

Ms. Block contends A.R.S. §33-1243(H)(4)(c) and (d) require the entire board be removed (including Jon Macy) because the board failed to hold a special meeting to vote on the Macy recall petition within 30 days of receipt of the recall petition. The board argues the requirements of A.R.S. §33-1243(H) were not met and therefore removal of the entire board is not compelled by statute. Specifically, the board argues the November Macy recall petition was a second recall petition and is invalid under A.R.S. §33-1243(H)(4)(h).

The gravamen of the dispute is whether the September 2025 recall petition aimed at Jon Macy made the November 2025 recall petition a second (and prohibited) recall petition pursuant to A.R.S. §33-1243(H)(4)(h) or whether the fact there was no vote on the September 2025 recall petition permitted the members of the association to submit a second recall petition.

A.R.S. §33-1243(H) provides:

> **H.** Notwithstanding any provision of the declaration or bylaws to the contrary, all of the following apply to a meeting at which a member of the board of directors, other than a member appointed by the declarant, is proposed to be removed from the board of directors:
>
> 1. The unit owners who are eligible to vote at the time of the meeting may remove any member of the board of directors, other than a member appointed by the declarant, by a majority vote of those voting on the matter at a meeting of the unit owners.
>
> 2. The meeting of the unit owners shall be called pursuant to this section and action may be taken only if a quorum is present.
>
> 3. The unit owners may remove any member of the board of directors with or without cause, other than a member appointed by the declarant.

4. For purposes of calling for removal of a member of the board of directors, other than a member appointed by the declarant, the following apply:

(a) In an association with one thousand or fewer members, on receipt of a petition that calls for removal of a member of the board of directors and that is signed by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least twenty-five percent of the votes in the association or by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least one hundred votes in the association, whichever is less, the board shall call and provide written notice of a special meeting of the association as prescribed by § 33-1248, subsection B.

(b) Notwithstanding § 33-1248, subsection B, in an association with more than one thousand members, on receipt of a petition that calls for removal of a member of the board of directors and that is signed by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least ten percent of the votes in the association or by the number of persons who are eligible to vote in the association at the time the person signs the petition equal to at least one thousand votes in the association, whichever is less, the board shall call and provide written notice of a special meeting of the association. The board shall provide written notice of a special meeting as prescribed by § 33-1248, subsection B.

(c) The special meeting shall be called, noticed and held within thirty days after receipt of the petition.

(d) If all of the requirements of this subsection for calling a special meeting are met and the board of directors fails to call, notice and hold a special meeting within thirty days after receipt of the petition, the members of the board of directors are deemed removed from office effective at midnight of the thirty-first day.

(e) For purposes of a special meeting called pursuant to this subsection, a quorum is present if the number of owners who are eligible to vote in the association at the time the person attends the meeting equal to at least twenty percent of the votes of the association or the number of persons who are eligible to vote in the association at the time the person attends the meeting

> equal to at least one thousand votes, whichever is less, is present at the meeting in person or as otherwise allowed by law.
>
> (f) If a civil action is filed regarding the removal of a board member, the prevailing party in the civil action shall be awarded its reasonable attorney fees and costs.
>
> (g) The board of directors shall retain all documents and other records relating to the proposed removal of the member of the board of directors and any election or other action taken for that director's replacement for at least one year after the date of the special meeting and shall allow members to inspect those documents and records pursuant to § 33-1258.
>
> (h) A petition that calls for the removal of the same member of the board of directors shall not be submitted more than once during each term of office for that member.

Neither party provided the Court with any cases interpreting A.R.S. §33-1243(H). While Ms. Block argued legislative history indicated that the term "submitted" required a vote by the members of the association, she provided no legislative history or anything else to support her testimony, even when asked for a citation to authority at the conclusion of the hearing.

This case requires the Court to interpret A.R.S. §33-1243 and determine how it applies to the fact pattern before it. The primary rule of statutory construction is to find and give effect to legislative intent." *Mail Boxes v. Indus. Comm'n of Ariz.,* 181 Ariz. 119, 121 (1995); *J.D. v. Hegyi*, 236 Ariz. 39, 40-41 (2014), *citing Sell v. Gama*, 231 Ariz. 323, 327 (2013).

The best and most reliable indicator of a statute's meaning is its language. *N. Valley Emergency Specialists, L.L.C. v. Santana,* 208 Ariz. 301, 303 (2004); *Bentley v. Building Our Future*, 217 Ariz. 265, 270 (App. 2007). "In construing a statute, [the Court] look[s] to the plain language of the statute, giving effect to every word and phrase, and assigning to each word its plain and common meaning." *Ponderosa Fire Dist. v. Coconino Cty.*, 235 Ariz. 597, 602 (App. 2014), *citing Bilke v. State*, 206 Ariz. 462, 464 (2003) *and Cochise Cty. v. Broken Arrow Baptist Church*, 161 Ariz. 406, 409 (App. 1989). If the language is clear, the Court will apply it without resorting to other methods of statutory interpretation, unless application of the statute's plain meaning would lead to impossible or absurd results. *N. Valley Emergency Specialists, id., citing Bilke, id*; *State ex rel. Montgomery v. Harris,* 234 Ariz. 343, 345 (2014).

In determining the ordinary meaning of a word, the court may refer to an established and widely used dictionary." *State v. Mahaney,* 193 Ariz. 566, 568 (App. 1999). If the language is "subject to

only one reasonable meaning," the Court will apply that meaning. *J.D. v. Hegyi,* 236 Ariz. 39, 40-41 (2014), *quoting Baker v. Univ. Physicians Healthcare*, 231 Ariz. 379, 383 (2013). "Words in statutes, however, cannot be read in isolation from the context in which they are used." *J.D., Id.* at 41; *see Adams v. Comm'n on Appellate Court Appointments*, 227 Ariz. 128, 135 (2011). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Robinson v. Shell Oil Co*., 519 U.S. 337, 341 (1997). "We must construe a statute to fulfill legislative intent by considering it as a whole and giving harmonious effect to all of its sections." *RSP Architects, Ltd. v. Five Star Dev. Resort Communities, LLC,* 232 Ariz. 436, 439 (App. 2013); *see City of Tucson v. Clear Channel Outdoor, Inc.*, 218 Ariz. 172, 183 (App. 2008).

However, courts are "not at liberty to rewrite [a] statute under the guise of judicial interpretation." *New Sun Bus. Park, LLC v. Yuma Cty*., 221 Ariz. 43, 47 (App. 2009), *quoting State v. Patchin*, 125 Ariz. 501, 502 (App. 1980). Rather, the choice of appropriate wording rests with the legislature. *City of Phx. v. Butler*, 110 Ariz. 160, 162 (1973).

The term "submitted" is not defined in A.R.S. Title 33. (See A.R.S. §33-1202).

The term submit is defined as, "to present (a proposal, application, or other document) to a person or body for consideration or judgement*". Merriam Webster Dictionary* (online version, consulted 03/16/2025). In this case, a recall petition is submitted to the board and then if the recall petition meets the appropriate requirements (number of signatures, signatures of members of the association, etc.,) a special meeting is called, a special meeting is held, and a vote is conducted.

The term "submitted" is not synonymous with "vote", "call a special meeting", or "conduct a special meeting", or the other terms used in the other sections of A.R.S. §33-1243(H) which relate to recall petitions. Instead of using the term "vote" in A.R.S. §33-1243(H)(4)(h), the legislature chose to use the word "submitted". If the legislature had only intended to prevent multiple votes on recall petitions for the same board member, it could easily have used the word "vote" or indicated that no more than one special meeting shall be called or held to address recall petitions addressed at the same board member. However, the legislature used the term submitted, which implies - because the submission is made by the members of the association - that the legislature intended to stop repeated recall petitions before a special meeting was called, a special meeting was held, or a vote was held. The legislature also did not state "submitted to members" which would imply its intent that a vote is required. If the legislature had intended that a recall petition reach a vote before future recall petitions are prohibited, it could have said so. It did not.

The plain definition of "submitted" does not make any other provision of this statute ambiguous, nor does it render any other provision of this statute superfluous, contradictory, or absurd. However, if the Court were to read the term "submitted" as advocated by Ms. Block, i.e. the same

as ”voting” then an incongruity of terms would result. As advocated by Ms. Block two terms with different ordinary and plain meanings would be interpreted synonymously to achieve a result not supported by the plain language of the specific clause or the statute as a whole. Ms. Block’s position would require the Court to do what it cannot – substitute its judgment for that of the legislature.

While the plain definition of “submitted” may not achieve the result desired by some members of this association, the Court’s role is to determine the intent of the legislature, not substitute its judgment for that of the legislature. If a party believes the language of a statute does not meet the present needs of the citizens of this state or that certain terms need to be defined to aid in the application of the statutes, his/her recourse is to return to the legislature to modify the statutes. The Court can only interpret what is written, the Court cannot re-write the statute for the legislative branch.

The Court does not find that the first recall petition for Jon Macy needed to be voted upon by the members before it would act to prohibit a second recall petition under A.R.S. §33-1343(H)(4)(h). The first recall petition for John Macy was submitted to the board and the board called a special meeting for November 6, 2025. The November 2025 recall petition for Jon Macy was also submitted to the board and constituted a second recall petition “submitted” for the same board member within that member’s term. As such the November 2025 recall petition violated A.R.S. §33-1342(H)(4)(h).

Because the November 2025 recall petition for Jon Macy was a second recall petition within Mr. Macy’s same term, it was not permitted by the statute. Because the November 2025 recall petition was not valid, “all of the requirements of this subsection for calling a special meeting” (as provided in the introductory clause of A.R.S. §33-1243(H)(4)(d)) were not met and the board’s failure to call a special meeting was not improper and the sanction clause of A.R.S. §33-1243(H)(4)(d) does not apply. The Court finds the board did not violate A.R.S. §33-1243(H)(4)(d)

**IT IS ORDERED** denying the request to remove the entire board of directors as requested in Plaintiff Tamara Block’s December 15, 2025 *Complaint* and *Application for Temporary Restraining Order, Preliminary Injunction, and Request for Order to Show Cause to Enforce A.R.S. § 33-1243*

Based upon Plaintiff’s failure to prevail on the merits, **IT IS ORDERED** denying the request for a preliminary and permanent injunction.

Ms. Block also asserted Ms. Whyte, another board member, should be removed because she was holding secret meetings of the board and retained counsel without approval of the board.

Ms. Block failed to produce sufficient persuasive evidence to support either of those allegations.

**IT IS ORDERED** denying the request to remove Barbara Whyte as a board member.

**IT IS ORDERED** denying any other relief sought by Tamara Block in her December 15, 2025 *Complaint* and *Application for Temporary Restraining Order, Preliminary Injunction, and Request for Order to Show Cause to Enforce A.R.S. § 33-1243*

**IT IS ORDERED** Defendant shall submit a proposed form of judgment containing Rule 54(c) language by **April 20, 2026.** If Defendant intends to assert a claim for fees or costs, the application and supporting affidavits shall be submitted no later than **April 3, 2026.**