

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2019-000424-001 DT

01/21/2020

HONORABLE DOUGLAS GERLACH

CLERK OF THE COURT  
D. Tapia  
Deputy

JOYCE H MONSANTO

JOYCE H MONSANTO  
10907 W EDGEWOOD DR  
SUN CITY AZ 85351

v.

FOUR SEASONS AT THE MANOR  
HOMEOWNERS ASSOCIATION (001)

JONATHAN D EBERTSHAUSER

JUDGE GERLACH  
OFFICE OF ADMINISTRATIVE  
HEARINGS  
REMAND DESK-LCA-CCC

**MINUTE ENTRY**

A Motion to Introduce Additional Evidence has been filed by appellant Joyce Monsanto. The motion would have this court add the following documents to the record on appeal: (i) a subpoena served on a person identified as the president of appellee Four Seasons at the Manor Homeowners Association, (ii) a resolution adopted by the Association that pertains to its parking policy, and (iii) the Association's "Final Policy and Fine Appeal Process."

Rule 10(a) of the Rules of Procedure for Judicial Review of Administrative Decisions permits a party to file a motion "seeking to introduce exhibits or testimony (or both) not offered during the administrative hearing." Rule 10(b) states in part that the motion "*must* set forth the appropriate legal authority in support of [the evidence to be admitted]." (Emphasis added) Despite that requirement, the motion here fails to cite any applicable supporting authority. For that reason alone, the denial of the motion is warranted.<sup>1</sup>

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<sup>1</sup> See e.g., *Kelly v. NationsBanc Mortg. Corp.*, 199 Ariz. 284, 287, ¶ 16, 17 P.3d 790, 793 (App. 2000) (stating that a self-represented party "is entitled to no more consideration from the court than a party represented by counsel, and is held to the same standards expected of a lawyer"); *Old Pueblo Plastic Surgery, P.C. v. Fields*, 146 Ariz. 178, 179, 704 P.2d 819, 820 (App.1985) (same).

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The response brief filed on behalf of the Association maintains that, contrary to what the motion asserts, the documents requested by the subpoena were produced. The motion is unaccompanied by any record establishing whether that is true or not. More important, the motion is unaccompanied by any record establishing that, in the administrative proceeding, Monsanto lodged an objection based on the purported lack of production, asked for a continuance of the hearing so that production could take place, or in some other way preserved noncompliance with the subpoena as an issue for appeal, and no such issue appears in the notice of appeal that Monsanto filed. As such, the motion fails to establish that the subpoena is relevant to the decision being appealed.

According to the notice of appeal, this is a case about Monsanto's desire to "install[] [t]wo flag staffs (referred to as flagpoles)" at her residence. The motion fails to show that the Association's parking policy is relevant to that issue.

The Association's response states that no fine was imposed, and the motion asserts nothing to the contrary. But even if a fine was imposed, the notice of appeal fails to preserve that as an issue for appeal. As such, the motion fails to show that the Association's policy regarding the appeal of a fine is relevant to the issue of the two flagpoles.

In short, the motion fails for lack of support as required by Rule 10(b).

**IT IS ORDERED** denying the Motion to Introduce Additional Evidence that was filed by appellant Joyce Monsanto.

NOTICE: LC cases are not under the e-file system. As a result, when a party files a document, the system does not generate a courtesy copy for the Judge. Therefore, you will have to deliver to the Judge a conformed courtesy copy of any filings.