

SUPERIOR COURT OF ARIZONA  
MARICOPA COUNTY

LC2016-000282-001 DT

10/18/2017

HONORABLE PATRICIA ANN STARR

CLERK OF THE COURT  
C. Avena  
Deputy

CANDLEWOOD ESTATES AT TROON  
NORTH HOMEOWNERS ASSOCIATION

FREDERICK E DAVIDSON

v.

CAROL M ROOT (001)  
ARIZONA DEPARTMENT OF FIRE BUILDING  
AND LIFE SAFETY (001)

CAROL M ROOT  
10457 E MONUMENT DR  
SCOTTSDALE AZ 85262

BRADLEY R JARDINE  
OFFICE OF ADMINISTRATIVE  
HEARINGS  
REMAND DESK-LCA-CCC

MINUTE ENTRY

Appellant Candlewood Estates at Troon North Homeowners' Association ("Candlewood") seeks reversal of the May 25, 2016 Order of the Department of Fire, Building and Life Safety ("Department") granting a petition for rehearing filed by Appellee Carol M. Root ("Root"). For the following reasons, this Court dismisses this appeal.

I. FACTS AND PROCEDURAL BACKGROUND

Root filed a Petition against Candlewood with the Department, alleging that Candlewood had violated the Declaration of Covenants, Conditions and Restrictions ("the CC&Rs") governing the community in which Root lives. Candlewood filed a Motion to Dismiss, which an Administrative Law Judge ("ALJ") granted.

The ALJ found that "the sole method to address any issues relating to the interpretation and enforcement of both declarations is through the Dispute Resolution process" outlined in the

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CC&Rs. (ALJ Decision, February 17, 2016, at 4-5.) The Office of Administrative Hearings certified the ALJ Decision, and Root filed a Motion for Rehearing or Review.

The Department granted a rehearing in an order dated May 25, 2016, finding the ALJ Decision “not justified by the evidence” or “contrary to law.” (Order, May 25, 2016, at 1.) The Department issued the Order as a “final administrative decision,” and informed the parties that it could be appealed. (*Id.* at 2.)

This appeal followed.

## II. LEGAL ANALYSIS

Candlewood argues that the Order granting a rehearing is a final administrative order because the Order says it is. But that is not the standard.

This Court may only review final administrative decisions. A.R.S. § 12-905(A). For an administrative decision to be final, it must both affect the “legal rights, duties or privileges” of a person and terminate the proceeding before the administrative agency. A.R.S. § 12-901(2). Here, the decisions from which Candlewood filed its notice of appeal was not a final decision, but instead the granting of a rehearing. It did not terminate the proceeding, but rather granted Root’s request for a rehearing.

Thus, when Candlewood filed its notice of appeal, no final decision had yet been made. The identification of the Order as a “final administrative decision” by the Director is erroneous, and cannot confer jurisdiction on this Court when it in fact has none.

## III. CONCLUSION

Based on the foregoing, this Court concludes that the Order granting the Motion for Rehearing is not a final order, and thus, is not appealable.

IT IS THEREFORE ORDERED dismissing the appeal in this matter.

IT IS FURTHER ORDERED denying Candlewood’s request for attorneys’ fees and costs, as they are not the prevailing party.

IT IS FURTHER ORDERED lifting the stay previously granted in this matter.

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IT IS FURTHER ORDERED any Application for Costs must be filed within 30 days of the filing of this minute entry.

IT IS FURTHER ORDERED that this judgment is final pursuant to Rule 54(c), Ariz. R. Civ. P., as no further matters remain pending.

IT IS FURTHER ORDERED signing this minute entry as a formal order of the Court.

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THE HON. PATRICIA A. STARR  
JUDGE OF THE SUPERIOR COURT

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