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9  
10 **ARIZONA SUPERIOR COURT**  
11 **COUNTY OF MARICOPA**

12 Troon Village Master Association, an Arizona  
13 non-profit corporation,

14 Plaintiff,

15 v.

16 Arizona Department of Fire, Building & Life  
17 Safety; and Nancy J. Waugaman, an unmarried  
woman.

18 Defendants.

Case No. LC-2007-000598-001DT

**THE ATTORNEY GENERAL'S  
BRIEF IN SUPPORT OF THE  
CONSTITUTIONALITY OF  
A.R.S. §§ 41-2198 to -2198.05**

(Assigned to the Honorable  
Margaret H. Downie)

19  
20 Pursuant to A.R.S. § 12-1841(A), the Attorney General files this brief in support of  
21 the constitutionality of A.R.S. §§ 41-2198 to -2198.05. These statutes authorize the Office  
22 of Administrative Hearings (OAH) and the Department of Fire, Building, and Life Safety  
23 (the Department) to resolve disputes between planned community associations and  
24 homeowners that arise out of the planned community documents and the statutes  
25 governing planned communities, A.R.S. §§ 33-1801 to 1816. The Attorney General urges  
26

1 the Court to find that these statutes do not do not unconstitutionally delegate judicial  
2 functions.

### 3 **STATEMENT OF FACTS<sup>1</sup>**

#### 4 **The Planned Community Act.**

5  
6 In 1994, the Legislature first enacted statutes regulating planned communities.  
7 1994 Ariz. Sess. Laws, ch. 310, § 1. The initial provisions allowed the board of directors  
8 to impose late charges and reasonable penalties after notice and an opportunity to be heard,  
9 required that the association's meetings be open to members, required that the  
10 association's financial records be available for inspection by members, and required the  
11 seller of a planned community unit to disclose pertinent information about the association  
12 and its bylaws and rules. *Id.* The original enactment provided a right of action for  
13 purchaser damaged by a unit owner's failure to disclose the required information about the  
14 association but did not otherwise provide a right of action for persons harmed by  
15 violations of the statutes. *Id.*

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18 From 1994 to 2006, the Legislature amended the statutes regulating planned  
19 communities, currently codified at A.R.S. §§ 33-1801 to -1816 (the Planned Community  
20 Act), almost every year and sometimes through multiple bills throughout the legislative  
21 year. *See, e.g.*, 1996 Ariz. Sess. Laws, ch. 147, § 8; 1996 Ariz. Sess. Laws, ch. 236  
22 (providing, among other changes, that an association has a lien on a unit for past due  
23 assessments and late charges and that the prevailing party in an action brought to foreclose  
24

25  
26 <sup>1</sup> Because the Attorney General is arguing in support of the constitutionality of the statutory  
scheme at issue here and will not address the other issues in this case, his Statement of Facts  
discusses the statutory scheme of the Planned Community Act and the Department's adjudicatory  
procedures and legislative history.

1 a lien is entitled to costs and reasonable attorneys' fees); 1997 Ariz. Sess. Law, ch. 40  
2 (amending the provision that granted a right of action for damages for failure to disclose  
3 association information upon resale to include the right to attorneys' fees and specified  
4 that an association could be sued for failure to disclose); 1999 Ariz. Sess. Laws, ch. 231,  
5 § 2 ; 2002 Ariz. Sess. Law, ch. 96, § 2 ; 2002 Ariz. Sess. Law, ch. 184, § 1 (added a  
6 provision prohibiting the association from prohibiting the display of a flag); 2003, ch. 99,  
7 § 1 (added a provision prohibiting the association from prohibiting residents who are  
8 public service employees from parking work-required vehicles); 2004 Ariz. Sess. Law,  
9 ch.57, § 2, ch. 72, § 2 (requiring the association's board of directors to conduct an annual  
10 financial audit), ch. 114, § 5, ch. 166, § 1 (adding protection for residents who are police  
11 and fire protection employees to park work-required vehicles), ch. 245, § 2, ch. 299, § 1  
12 (prohibiting associations from prohibiting the display of political signs), ch. 312, § 5  
13 (prohibiting an association board member from voting on matters when he or she has a  
14 conflict of interest), ch. 342, § 2 (amending the provision that allowed the association to  
15 impose a lien for assessments to include late fees and attorneys' fees in the lien); 2005  
16 Ariz. Sess. Laws, ch.106, § 2, ch. 132, §§ 14, 16, ch. 269, §§ 5 to 8 (adding provisions  
17 governing proxy voting and removal of members of the association's board of directors),  
18 2006 Ariz. Sess. Laws, ch. 71, §§ 5 to 8 (requiring notice to homeowners before assessing  
19 penalties), ch. 72, § 2, ch. 75, § 2, ch. 173, § 1. Obviously, the Legislature devoted  
20 substantial time and effort in developing the statutes that regulate planned community  
21 associations.  
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1 **The Adjudicatory Procedures.**

2 In 2006, the Legislature amended A.R.S. §§ 41-2198 to -2198.05 to authorize the  
3 Department and OAH to “adjudicate complaints regarding and ensure compliance with”  
4 *planned community documents and the Planned Community Act, A.R.S. §§ 33-1801 to -*  
5 *1816. 2006 Ariz. Sess. Laws, Ch. 324, § 6. It also amended a portion of the Planned*  
6 *Community Act to cross reference A.R.S. § 41-2198.01. Id. § 2. In supporting this*  
7 *amendment, Representative Farnsworth “advised that homeowners’ associations continue*  
8 *to be an issue” and that going to court was not an adequate remedy for homeowners when*  
9 *paying the assessment would be less expensive. Minutes of Meeting Before H. Comm. on*  
10 *Judiciary on Feb. 16, 2007, 47<sup>th</sup> Leg., 2<sup>nd</sup> Reg. Sess. 10 (Ariz. 2007) (attached hereto).*  
11 *Representative Farnsworth noted that because homeowner associations have “automatic*  
12 *statutory lien authority and foreclosure authority,” “homeowners generally decide to pay*  
13 *the assessments or fees even if they disagree with them.” Id. He stated that the purpose of*  
14 *the amendment was to create a “mechanism to allow HOAs and homeowners to have a*  
15 *reasonable resolution at a reasonable cost.” Id. Cliff Vanell, the Director of OAH,*  
16 *supported the amendment, noting that it was “within the existing mission of OAH.” Id.*

17 Under A.R.S. § 41-2198.01(B), if an owner and a planned community association  
18 have a dispute, either may petition the Department for a hearing concerning violations of  
19 the planned community documents or statutes that regulate planned communities.  
20 However, the Department does not have jurisdiction to hear disputes that are among or  
21 between owners and do not involve the association. *Id.* After receiving the petition and  
22 filing fee, the Department must mail a copy of the petition to the respondent and notify  
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1 him or her of the right to respond within twenty days. A.R.S. § 41-2198.01(D). After  
2 receiving the response, the Department's director must review the petition to determine if  
3 it is justified, and if it is, refer the petition to OAH. A.R.S. § 41-2198.01(E). The director  
4 must issue a default if the respondent fails to answer and may informally dispose of any  
5 contested case. A.R.S. § 41-2198.01(F), (G).  
6

7 If the Department's director refers the petition to OAH, the petition is assigned to  
8 an administrative law judge (ALJ) who hears the case in accordance with A.R.S. § 41-  
9 1092.07.<sup>2</sup> This section provides for an informal hearing in which each party is permitted  
10 to present relevant evidence and cross-examine witnesses. A.R.S. § 41-1092.07. After the  
11 hearing, the ALJ may order any party to abide by the statute or community document at  
12 issue and "may levy a civil penalty on basis of each violation." A.R.S. § 41-2198.02(A).  
13

14 The ALJ's order is a final administrative decision and is enforceable through  
15 contempt of court. A.R.S. § 41-2198.02(B). Under A.R.S. § 41-1092.08(H), a party may  
16 appeal the final administrative decision to this Court. The ability to use the procedures in  
17 A.R.S. §§ 41-2198 to -2198.05 should "not be construed to limit the jurisdiction of the  
18 courts of this state to hear and decide matters pursuant to the . . . statutes and documents  
19 that regulate planned communities. A.R.S. § 41-2198.03(B).  
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23 <sup>2</sup> Under A.R.S. 41-1092.01(C)(7), the director of OAH must maintain "a program  
24 for the continuing training and education" of ALJs," which must require that the ALJ  
25 "receive training in the technical and subject matter areas of the sections to which the  
26 administrative law judge is assigned." The director is also required to "[s]ecure, compile  
and maintain all decisions, opinions or reports of administrative law judges" under A.R.S.  
§§ 41-1092 to -1092.12. A.R.S. § 41-1092(C)(6).



1 auxiliary to and dependant upon the proper exercise of legitimate regulatory authority.”

2 *Id.* at 562, 869 P.2d at 1215. The court determined that the authority for the Department’s  
3 hearing officer to resolve disputes between mobile home parks and tenants was a proper  
4 exercise of regulatory authority. *Id.* at 562-63, 869 P.2d at 1215-16. In reaching this  
5 conclusion, the court looked to the Department’s regulatory authority under A.R.S. § 41-  
6 2141(A) and the purpose of the hearing officer function in A.R.S. § 41-2198 (1988), which  
7 was to “adjudicate complaints regarding and ensure compliance with” the Arizona Mobile  
8 Home Parks Residential Landlord and Tenant Act. *Id.* at 562, 869 P.2d at 1215. The court  
9 also examined the purpose of the Arizona Mobile Home Parks Residential Landlord and  
10 Tenant Act, finding that its purpose was “[t]o simplify, clarify and establish the law  
11 governing the rental of mobile home spaces and rights and obligations of landlord and  
12 tenant’ and ‘[t]o encourage landlord and tenant to maintain and improve the quality of  
13 mobile home housing.’” *Id.* at 562-63, 869 P.2d at 1214-15 (quoting A.R.S. § 33-1402).

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17 The court then applied the four-factor test, which it had adopted in *J.W. Hancock* to  
18 analyze a separation-of-powers claim that a legislative scheme that conferred adjudicative  
19 powers on an administrative agency infringed on judicial powers. *Id.* The *J.W. Hancock*  
20 test considers the following, non-exclusive factors: “(1) the ‘essential nature’ of the power  
21 exercised; (2) the degree of control exercised by the agency in the exercise of the power;  
22 (3) the legislature’s objective in establishing the agency’s functions; and (4) the practical  
23 result of the mingling of roles.” *Id.* at 562, 869 P.2d at 1214 (quoting *J.W. Hancock*, 142  
24 Ariz. at 405, 690 P.2d at 1214). Although the court recognized that the power exercised  
25 by the Department through its hearing officer was judicial, it concluded that “the hearing  
26

1 officer function within the Department d[id] not usurp the authority of the judiciary.” *Id.* at  
2 563, 690 P.2d at 1215. Application of the other factors supported its conclusion: there  
3 was judicial review of the Department’s decision; the Legislature’s purpose was to  
4 augment the Department’s regulatory powers; and “as a practical matter, the Department’s  
5 objective of administering compliance with the [Arizona Mobile Home Parks Residential  
6 Landlord and Tenant] Act [were] furthered by inclusion of its hearing officer function.”  
7  
8 *Id.*

9         The statutory scheme that the court upheld in *Cactus Wren* is very similar to the  
10 statutory scheme challenged here. In 2006, the Legislature amended A.R.S. §§ 41-2198 to  
11 -2198.04, which authorized the Department and OAH to adjudicate disputes between  
12 mobile home parks and tenants, to also “adjudicate complaints regarding and ensure  
13 compliance with” planned community documents and the Planned Community Act. 2006  
14 Ariz. Sess. Laws, Ch. 324, § 6. This additional adjudicatory authority is also a proper  
15 exercise of regulatory authority. Like the Mobile Home Parks Residential Landlord and  
16 Tenant Act, the Planned Community Act establishes the law governing the rights and  
17 obligations of homeowner associations and members. *See, e.g.*, A.R.S. § 33-1803  
18 (regulating the amount of assessments and requiring associations to give members notice  
19 and a right to be heard before imposing assessments); -1804 (requiring associations to  
20 conduct open meetings at least once a year and give notice of the meetings); -1805  
21 (requiring the association to make its financial and other records available to the  
22 members); -1806 (requiring members to provide purchasers relevant information about the  
23 association); -1807 (permitting the association to impose a lien on a member’s unit for  
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1 unpaid assessments); -1808 (regulating the permissible display of signs). These statutory  
2 regulations would have little meaning if there were no agency able to enforce them. As  
3 Representative Farnsworth noted, the ability to bring an action in superior court was not  
4 adequate when the cost of litigation exceeded the amount of the association's assessment.  
5 See *Minutes of Meeting Before H. Comm. on Judiciary on Feb. 16, 2007*, 47<sup>th</sup> Leg., 2<sup>nd</sup>  
6 Reg. Sess. 10 (Ariz. 2007). And, by virtue of their role as adjudicators, both the  
7 Department and OAH through its ALJs will develop expertise in the Planned Community  
8 Act's regulations. See A.R.S. § 41-1092.01 (C)(7) (requiring the director of OAH to  
9 develop a program requiring that an ALJ "receive training in the technical and subject  
10 matter areas of the sections to which the administrative law judge is assigned") and (c)(8)  
11 (requiring the director to maintain all ALJ decisions, opinions, and reports).  
12  
13

14 In addition, application of the *J.W. Hancock* four-factor test shows that the statutes  
15 authorizing the Department and OAH to resolve disputes that arise from the Community  
16 Planning Act and community planning documents do not usurp judicial authority.  
17

18 First, the "essential nature" of the power exercised in the challenged statutes is  
19 judicial. The statutes are an amended version of those reviewed by the court in *Cactus*  
20 *Wren* and the court found that the adjudicatory function in the statutes was judicial in  
21 nature. 177 Ariz. at 563, 869 P.2d at 1216. Because it is constitutionally permissible for  
22 administrative agencies to exercise judicial power, there is only a violation of Article III if  
23 it is warranted under the other three factors.  
24

25 Second, the adjudicatory function does not constitute a coercive influence upon the  
26 judiciary. As the court in *Cactus Wren* noted about the hearing officer function addressed

1 there (*id.*), OAH's final decision here is subject to judicial review under A.R.S. § 12-  
2 905(A). This provides "a critical 'check' of administrative power." *Cactus Wren*, 177  
3 Ariz. 563, 869 P.2d at 1216. The ALJ's power is limited to ordering compliance with the  
4 Planned Community Act and planned community documents and levying a civil fine for  
5 violations. A.R.S. § 41-198.02(A). The ALJ's orders must be enforced through contempt  
6 of court. A.R.S. § 41-2198.02(B). In addition to judicial review, A.R.S. § 41-298.03(B)  
7 specifically provides that the existence of the administrative remedy is not to be construed  
8 to limit the state courts' ability "to hear and decide matters" pursuant to "the statutes or  
9 community documents that regulate planned communities." Thus, associations and  
10 members may obtain relief directly from the courts for violation of the statutes.  
11  
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13 Third, the Legislature's objective in permitting OAH to hear complaints concerning  
14 the Planned Community Act and planned community documents is to ensure compliance  
15 with the Act. A.R.S. § 41-2198. The ALJ's remedial authority is appropriately limited to  
16 this purpose; there is no jurisdiction to hear "[a]ny dispute among or between owners to  
17 which the association is not a party" or "[a]ny dispute between an owner" and an entity or  
18 person "that is engaged in the business of designing, constructing or selling . . . any  
19 property or improvements as defined in § 33-1802, . . . ." Moreover, the legislative history  
20 of the Planned Community Act shows that the Legislature was not interested in taking  
21 away judicial power but ensuring the enforceability of the Act. *See* legislative history of  
22 the Planned Community Act *infra* at 2-3 that indicates that the Legislature continually  
23 amended it to add both judicial and administrative remedies.  
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1 Fourth, as a practical matter, permitting OAH to adjudicate complaints arising from  
2 the Community Planning Act is critical to the goal of ensuring compliance with the Act.  
3 Without this remedy, an owner would be forced to go to court even if the nature of the  
4 complaint did not justify the time, effort, and expense of going to court or forego any relief  
5 from violations of the Community Planning Act. *See Minutes of Meeting Before the H.*  
6 *Comm. on Judiciary on Feb. 16, 2007, 47<sup>th</sup> Leg. 2<sup>nd</sup> Reg. Sess. 10 (Ariz. 2007)*  
7 *(Representative Farnsworth advised that going to court was not an adequate remedy to*  
8 *resolve owners' complaints against homeowners' associations); see also J.W. Hancock,*  
9 *142 Ariz. at 406, 690 P.2d at 125 (noting that public policy favored permitting the*  
10 *Registrar of Contractors to resolve disputes between private parties because some disputes*  
11 *"would not justify the time and effort of going to a court").*

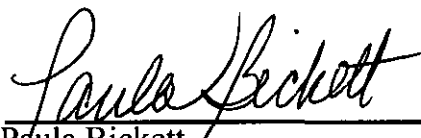
14 In sum, because the statutes that authorize the Department and OAH to resolve  
15 complaints between owners and planned community associations do not usurp the  
16 judiciary's power, they do not violate Article III.

### 18 CONCLUSION

19 For all the foregoing reasons, the Attorney General requests the Court to uphold the  
20 constitutionality of A.R.S. §§ 41-2198 to 2198.05.

21 RESPECTFULLY SUBMITTED this 13<sup>th</sup> day of June, 2008.

23 Terry Goddard  
Attorney General

24   
25 \_\_\_\_\_  
26 Paula Bickett  
Chief Counsel, Civil Appeals  
Office of the Solicitor General

1 ORIGINAL of the foregoing filed  
this 13<sup>th</sup> day of June, 2008, with:

2 Clerk of Court  
3 Maricopa County Superior Court  
101 West Jefferson  
4 Phoenix, Arizona 85003-2243

5  
6 COPY of the foregoing mailed/delivered  
this 12<sup>th</sup> day of June, 2008, to:

7 The Honorable Margaret Downie  
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## ARIZONA HOUSE OF REPRESENTATIVES

### Forty-seventh Legislature – Second Regular Session

#### COMMITTEE ON JUDICIARY

Minutes of Meeting

Thursday, February 16, 2006

House Hearing Room 4 -- 8:30 a.m.

Chairman Farnsworth called the meeting to order at 8:35 a.m. and attendance was noted by the secretary.

Mr. Downing asked whether the 48 hours can be expanded. Chairman Farnsworth again stated that the person can be removed from the classroom. This legislation addresses those who are non-compliant and who refuse to take action to obtain a fingerprint card. He noted it already is law that a current fingerprint card is required to work with children unless the person is a volunteer. He advised that it can take up to six weeks to acquire a fingerprint card.

Mr. Quelland expressed concern about teachers who have contracts with districts. He queried how this would work in those situations. Chairman Farnsworth thinks the teacher would know what State law is.

Michele Diamond, Director of Government Affairs, Arizona State Board for Charter Schools, spoke in support of H.B. 2118. She advised that the Charter Board currently does not have a tool to deal with repeat fingerprinting violations. Sponsors of charter schools have two tools available to them to deal with violations: withhold 10 percent of State aid until the school comes into compliance, and issue a notice of intent to revoke.

Persons in support of H.B. 2118 who did not speak:

Gary Bae, Director of Public Affairs, The Leona Group Arizona  
Tom Dorn, representing Arizona Charter Schools Association

**Question was called for on Vice-Chairman Barto's motion that the Farnsworth ten-page amendment dated 2/15/06 be adopted (Attachment 5). The motion carried.**

**Vice-Chairman Barto moved that H.B. 2118 as amended do pass. The motion carried by a roll call vote of 8-0-1 (Attachment 7).**

H.B. 2824, homeowners' associations, condominiums, hearings – DO PASS AMENDED

**Vice-Chairman Barto moved that H.B. 2824 do pass.**

**Vice-Chairman Barto moved that the Farnsworth 23-line amendment dated 2/15/06 be adopted (Attachment 8).**

Katy Proctor, Majority Research Analyst, reviewed the provisions of H.B. 2824 (Attachment 9):

- Provides that for a dispute between an owner and either a condominium association or planned community association, either may petition the Department of Building and Fire Safety (DBFS) for a hearing concerning *violations of the association documents or violations of statutes regulating associations.*
- Requires the petitioner to file a petition with DBFS and pay a filing fee of \$500.
- Deposits the filing fee into the Condominium and Planned Community Hearing Office Fund (Fund).
- Provides that an order issued by an administrative law judge (ALJ) in an action regarding a condominium or planned community is final and not subject to a request for a rehearing.
- Establishes the Condominium and Planned Community Hearing Office Fund (Fund) within the DBFS. Allows the Director of DBFS to administer the fund.
- Makes Fund monies continuously appropriated and requires the State Treasurer to invest/divest monies on notice from the Director. Credits monies earned from investment to the Fund.
- Requires monies in the Fund to be transferred from the Fund to the general fund quarterly.
- Allows DBFS to retain five percent of the monies to offset the costs of administering and providing a hearing officer function for these disputes, including reimbursing the OAH for actual costs incurred.
- Contains a blank appropriation from the general fund in FY 2007 to the Fund. Exempts the appropriation from lapsing.
- Requires the Joint Legislative Budget Committee (JLBC) to review and make recommendations to the Legislature regarding the filing fees charged to parties for filing for an administrative hearing under this section. JLBC must recommend a level of filing fee appropriate to ensure the hearing officer program is fiscally sound and self-supporting. The report must be made by December 1, 2007.

Ms. Proctor explained the Farnsworth 23-line amendment dated 2/15/06 clarifies that the decision by the

Administrative Law Judge is also not subject to being accepted, rejected or modified by the Director, and rewrites the Fund language (Attachment 8).

Chairman Farnsworth advised that homeowners' associations continue to be an issue. The only option available to a homeowner is to go to court which ultimately may cost more money than paying the assessment. HOAs have the power of automatic statutory lien authority and foreclosure authority. Because of that threat, homeowners generally decide to pay the assessments or fees even if they disagree with them. This legislation is a mechanism to allow HOAs and homeowners to have a reasonable resolution at a reasonable cost. The bill calls for a \$500 filing fee to prevent frivolous lawsuits. If the homeowner is successful with his suit, the HOA has to reimburse the filing fee.

Mr. Downing asked whether a justice of the peace (JP) can do this. Chairman Farnsworth replied this is a different mechanism than going to a justice court.

Representative Chuck Gray, said there are still some mechanical issues involving JPs that are not workable, so he is here to support this bill. He believes it solves the problem of holding HOAs accountable.

Mr. Downing asked Representative Gray if he is comfortable with the \$500 threshold. He thinks it might affect some people of limited means. Representative Gray said he believes it is within the realm of acceptability.

Chairman Farnsworth stated the \$500 filing fee was set high enough to prevent a person from filing just to harass an HOA.

Cliff Vanell, Director, Office of Administrative Hearings (OAH), spoke in support of H.B. 2824. He said this legislation is within the existing mission of OAH. It does have a funding source that would allow these cases to proceed without putting an undue burden on the Office. It is designed to limit the number of cases that go to OAH and guards against other frivolous situations. It clearly states what the Administrative Law Judge is to address and the remedies to be applied. He maintained it is an appropriate tool to use for this stated purpose.

In reply to Mr. Downing, Mr. Vanell advised that the right of appeal would be to the Superior Court.

Mr. Downing queried the number of cases anticipated. Mr. Vanell said he thinks with the \$500 filing fee, the number would not be large. He referred to the OAH website and newsletter (Attachment 10) where information



can be accessed to allow people to participate more.

Mr. Barnes wondered if OAH plans to have indoctrination sessions with people who do not understand the process. Mr. Vanell advised that people can research past OAH decisions to allow them to see what the approach of the OAH has been in the past. He related that a copy of their brochure is sent to each party to assist them to interface with OAH so they can be well prepared to represent themselves.

Brian Lincks, Arizona Association of Community Managers, testified in opposition to H.B. 2824. He stated that some of the language is ambiguous and he does not know how it would work. One of the provisions in the bill clearly limits management companies from representing their HOA Board of Directors in the Administrative Law hearings. There is also concern about higher costs which will not allow HOAs to handle matters on their own without legal counsel. He said the Association would like to work with the sponsor and others so the Association could support this legislation.

Roland Kelly, Coalition of HomeOwners for Rights and Education (CHORE), expressed support for H.B. 2824. He stated it is very important to do as much as possible in an area where there is so little control and where so many homeowners are subjected to unnecessary fines. He said the fines could turn into large amounts of money for people who are interested in pursuing their cases in court. He related that CHORE gets hundreds of complaints each year. Homeowners usually pay rather than becoming involved in a protracted lawsuit. They pay because they believe they are told they have no other recourse.

Mr. Miranda agreed with Mr. Kelly. He believes the playing field needs to be even.

George Staropoli, representing self, stated support for H.B. 2824. He said he thinks the OAH will be an excellent forum to address these issues. Homeowners are at a definite disadvantage because HOAs have the resources to hire attorneys while homeowners oftentimes do not. He said he thinks this bill will go a long way to help solve the problem.

Persons in support of H.B. 2824 who did not speak:

Pat Haruff, Coalition of HomeOwners for Rights and Education (CHORE)  
Anne Stewart, spokesperson for The Sun City Formula Registry

Fran Noe, representing self  
John Lamer, representing self  
Donna Neill, representing self  
Jerry Neill, representing self  
Keith Wallace, representing self  
Mary Afdem, representing self  
N. Kasper, representing self  
Fred Fischer, representing self

Persons in opposition to H.B. 2824 who did not speak:

Kevin DeMenna, representing Community Associations Institute (CAI)  
Linda Lang, Executive Director, Arizona Association of Community Mangers

**Question was called for on Vice-Chairman Barto's motion that the Farnsworth 23-line amendment dated 2/15/06 be adopted (Attachment 8). The motion carried.**

**Vice-Chairman Barto moved that H.B. 2824 as amended do pass. The motion carried by a roll call vote of 9-0-0 (Attachment 11).**

H.B. 2342, child support; self-employed parent – DO PASS

**Vice-Chairman Barto moved that H.B. 2342 do pass.**

Jen Forst, Majority Intern, summarized the provisions of H.B. 2342 (Attachment 12):

- Strikes the provision that requires both parents to equally share the cost of the federally-authorized tax practitioner (FATP) if at least one of the parents is self-employed.
- Requires the court to determine which parent shall pay for the cost of the FATP or determine each parent's share of the cost.