

1 **GOLDSCHMIDT LAW FIRM**
2 **4558 North First Avenue, Suite 150**
3 **Tucson, Arizona 85718**
4 **(520) 622-5145**

5 **Carolyn B. Goldschmidt, Esq.**
6 **Pima County Computer No. 21324**
7 **State Bar of Arizona No. 011499**
8 **Attorney for Respondent**

9 **IN THE OFFICE OF ADMINISTRATIVE HEARINGS**
10 **OF THE STATE OF ARIZONA**

11 DONALD W. HARD,)
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Petitioner)
vs.)
WINTERHAVEN AT COUNTRY CLUB)
ESTATES HOMEOWNERS ASSOCIATION,)
Respondent.)

NO. 07F-HO67023-BFS

**STIPULATION TO VACATE
HEARING**

Petitioner DONALD HARD and Respondent, WINTERHAVEN AT COUNTRY CLUB ESTATES HOMEOWNERS ASSOCIATION (the "Association"), by and through its counsel undersigned, hereby stipulate as follows:

(1) Re: The shared wall between Lot 149 (Hard) and Lot 150 (Burghardt). Hard has raised part of this wall by two courses. The remaining portion of this wall (the portion of the wall that was not raised by Hard) will be raised so that the entire wall is of a uniform height. Hard will pay one-half the cost and the Association will pay the remaining half.

(2) Re: The shared wall between Lot 149 (Hard) and Lot 148 (Holderness). Hard has raised part of this wall by two courses. The remaining portion of this wall (the portion of the wall that was not raised by Hard) will be raised so that the entire wall is of a uniform height. In addition, the courses of block that have been added to this shared wall by Hard, will be painted on the Holderness' side to match the

1 existing paint on the Holderness' side of the wall. Hard will pay one-
2 half the cost of the wall raising and the painting, and the Association
3 will pay the remaining half.

4 (3) The Association will hire the necessary contractor(s) to
5 complete the wall revisions contemplated by this Stipulation. All work
6 will be done from the Burghardts and the Holderness Lots, respectively.
7 Hard will cooperate, as necessary, to get the wall revisions completed.

8 (4) The wall revisions addressed in this Stipulation will be
9 completed within 30 days of the date that this Stipulation is signed by
10 both parties, or as soon thereafter as is practicable.

11 (5) The Association shall ensure that requirements of the ARC and
12 the City of Sierra Vista shall be strictly adhered to in the wall
13 revisions it undertakes. If building permits are required for the work
14 contemplated by this Stipulation, the Association will obtain said
15 permits; and Hard and the Association each will pay one-half the cost of
16 said permits.

17 (6) Neither the Petitioner's nor the Association's portion of costs
18 agreed to herein will exceed \$1,000.00. Hard will reimburse the
19 Association his portion of the costs upon completion of the work and
20 presentation of an invoice showing the cost of wall revisions addressed
21 herein.

22 (7) Upon completion of the wall revisions contemplated by this
23 Stipulation, the Association's Architectural Review Committee will provide
24 Hard with written verification that all revised walls surrounding his rear
25 yard are accepted and conform with the requirements of the Association.

1 (8) This Stipulation shall be signed in counterparts.

2 RESPECTFULLY SUBMITTED this ___ day of _____, 2007.

3 GOLDSCHMIDT LAW FIRM

4
5 _____
6 Donald W. Hard Date

Carolyn B. Goldschmidt Date
Attorney for Respondent

7
8 **Original of the foregoing**
9 _____ this ___ day of
_____ 2007:

10 Michael J. Carroll
11 Administrative Law Judge
12 Office of Administrative Hearings
1400 West Washington, Suite 101
Phoenix, AZ 85007

13 **Copy of the foregoing**
14 **mailed this** _____ **day of**
_____ **2007:**

15 Robert Barger, Director
16 Arizona Dept. Of Fire, Building & Life Safety
ATTN: Joyce Kesterman
1110 W. Washington Street, Suite 100
Phoenix, AZ 85007

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18 Carolyn B. Goldschmidt, Esq.
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