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SUPERIOR COURT OF ARIZONA

MARICOPA COUNTY

PHOENIX TOWNHOUSE HOMEOWNERS ASSOCIATION, an Arizona nonprofit corporation, **Plaintiff,** **vs.** **ARIZONA OFFICE OF ADMINISTRATIVE HEARINGS; ARIZONA DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY; and HONORABLE BRIAN TULLY, ADMINISTRATIVE LAW JUDGE;** **Defendants,** **and** **RON MERITT AND JOHN HERNANDEZ,** **Real Parties in Interest.**	**Case No. LC2008-000740-001 DT** **ORDER FOR DECLARATORY AND INJUNCTIVE RELIEF** **(Assigned to the Honorable Paul J. McMurdie)**

The Court having reviewed the pleadings and briefs herein and having given the State of Arizona the opportunity to respond to Plaintiff's claim of unconstitutionality,

which the State refused to do, and no other party having appeared and defended, and good cause appearing:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED as follows:

1. Laws 2006, Ch. 324, § 6, which amended A.R.S. § 41-2198.01 *et seq.* and A.R.S. § 33-1242 and § 33-1803, violates the Arizona Constitution's separation of powers clause and therefore is unconstitutional to the extent that it created an administrative hearing process involving planned community and condominium associations and their members;

2. The Arizona Department of Fire, Building & Life Safety and Office of Administrative Hearings are enjoined from taking any further action in any pending administrative adjudication and from accepting any new petitions for administrative adjudications; and

3. ~~Plaintiff is the prevailing party and is entitled to an award of reasonable attorneys' fees and costs pursuant to A.R.S. § 12-348 and may submit an application and affidavit in support of the same.~~ PJM

IT IS SO ORDERED.

DATED this 29th day of January, 2009.

PAUL J. MC MURDIE
JUDGE OF THE SUPERIOR COURT

Honorable Paul J. McMurdie