



DEPARTMENT OF FIRE, BUILDING AND LIFE SAFETY

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OFFICE OF ADMINISTRATION * OFFICE OF MANUFACTURED HOUSING * OFFICE OF STATE FIRE MARSHAL

September 1, 2006

In 2006, the Arizona 47th Legislature passed legislation in the form of HB2824 that provides the people of Arizona a venue to homeowners and condominium and planned community associations (HOA) to resolving disputes. These administrative procedures do not limit the rights of the parties to pursue matters in the legal system, but provides an alternative. This legislation becomes law on September 21, 2006.

Until the legislation becomes law, we cannot process any applications because we do not have the legal ability to do so. Thus, any forms or applications received before September 21, 2006, will not be processed until then.

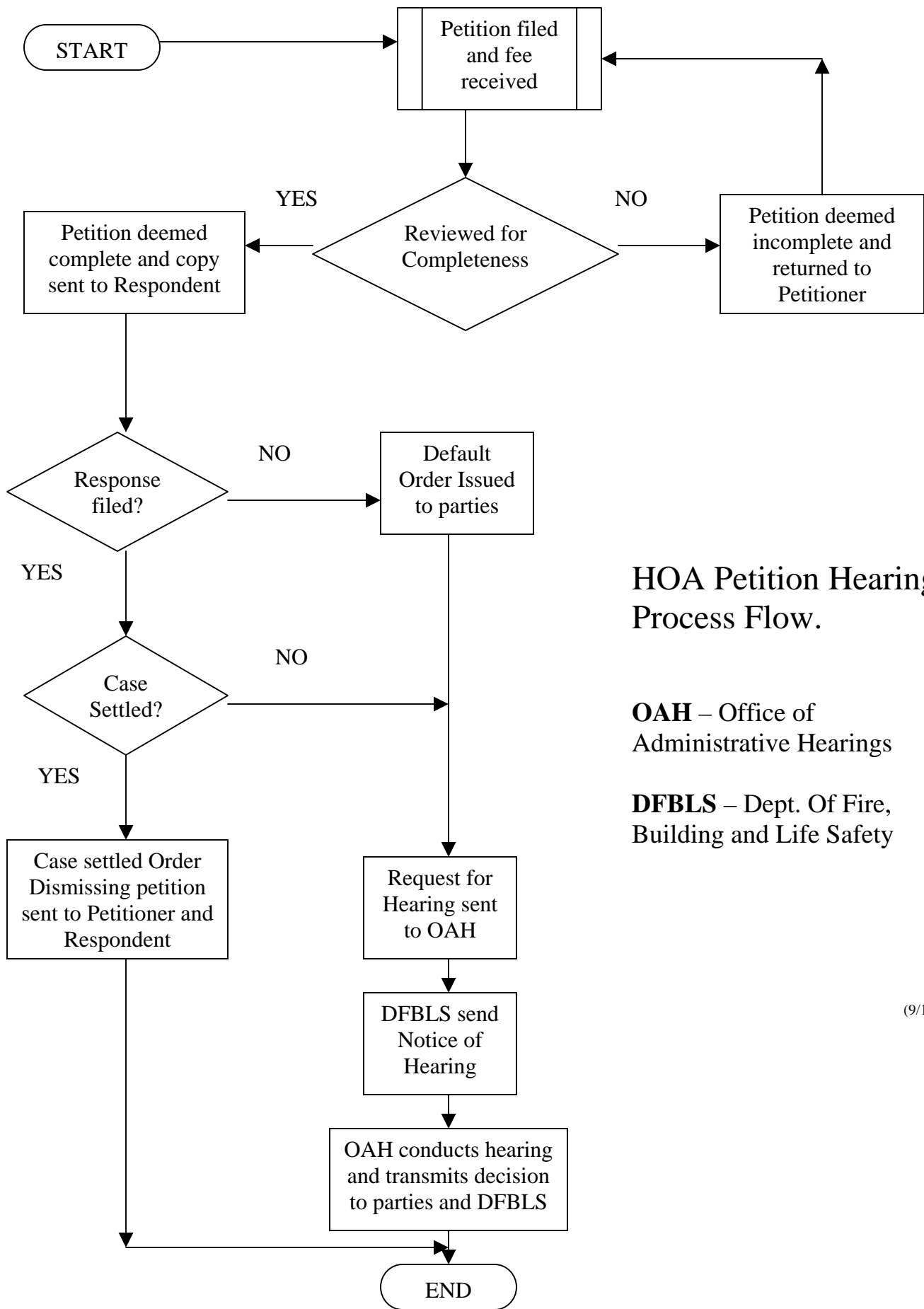
There are a few points of the legislation that need to be made perfectly clear.

- The \$550 Filing Fees are NON-Refundable, by law.
- Only Homeowner can file a complaint; renters or non-owners cannot.
- The complaint must be against the condominium or planned community association. Not directors, representatives, other homeowners, management companies or such.

Remember this is new to everyone, so we will try to make the implementation of the legislation as smooth as possible, but patience may be required while we work through any problems. Thanks for your understanding.

Sincerely,

Robert Barger, Director
Department of Fire, Building and Life Safety



HOA Petition Hearing Process Flow.

OAH – Office of Administrative Hearings

DFBLS – Dept. Of Fire, Building and Life Safety

7.

COMPLAINT

- Describe the specific acts or conditions that you believe are violations of the statutes that regulate condominiums or planned communities. List the specific dates when each act occurred or when each condition came into existence. Each act or condition shall be separately stated in the spaces provided below.
- For each act or condition, list in the corresponding space provided below the section number of the applicable statute(s), which you believe, has been violated. Any petition that does not separately state each act or condition with a separate citation to the specific section of the statute that relates to each act or condition, and fails to list the specific provisions of the Condominium or Planned Community documents will be considered to be incomplete and will be returned and not fully processed.
- If the complaint involves the failure to receive the Condominium or Planned Community documents specifically state that they are unavailable and the facts and circumstances why they cannot be provided with the petition.

	Act or Condition	Applicable Section of the CPCA Documents	OR	Applicable Statutes
1.				
2.				
3.				
4.				
5.				
6.				
7.				
8.				
9.				

(Attach page for additional allegations)

8. The undersigned person requests that a hearing be held regarding this petition and complaint.

Petitioner: _____ Dated: _____

9. Person(s) signing on behalf of Petitioner. Note: The act of signing on behalf of the named petitioner does not make the signer a petitioner but does signify that the signer has been authorized to act on behalf of the named petitioner to request a hearing):

(Print and Sign Name(s) and Date)

10. If the signer of the petition is not the petitioner, please provide the following information:

Address of signer of petition:

10. Daytime phone of signer of petition:

11. Number of witnesses that Petitioner will call to testify at hearing: _____

* * *

Reminder: failure to fully complete this petition including the failure to submit copies of the applicable Condominium or Planned Community Documents may cause this petition to be considered incomplete.

* * *

Frequently Asked Questions

1. *Who can request a hearing?*

Pursuant to A.R.S. § 41-2198.01(B), in a petition, a person can state that a hearing is desired. The petition is to be signed by a petitioner or signed by a person(s) on behalf of a petitioner.

2. *Who is the petitioner?*

Prior to a matter being referred to the OAH for a hearing, there can only be one petitioner for a petition. The petitioner is the name of the person who is identified on the petition as the petitioner. A.R.S. § 41-2198.01(b) involving disputes between an owner and a condominium association or planned community association, which provides for a petitioner (singular) to file a petition for hearing with the Department along with a nonrefundable filing fee

Although A.R.S. § 41-2198.01(C) provides that the petition made be signed by persons on behalf of the petitioner, the fact that one or more persons sign a petition does not elevate that person to petitioner status.

3. *How do different petitioners request to have their hearing consolidated?*

After the matter is set for a hearing before the OAH, a petitioner may request to have one or more hearings consolidated by filing such a request with the OAH and comply with OAH's procedures and rules.

4. *Who can act as a representation of a party?*

If a party is an individual, the person may represent himself/herself or arrange for legal counsel.

If a party is a legal entity that is identified in Arizona Supreme Court Rule 31, it may have an authorized employee or officer represent it provided

there is compliance with the rule or the entity may arrange for legal counsel.¹

5. *Who issues a default decision?*

If a respondent does not submit a response in answer to the petition, the Director shall issue a default decision.² The Director shall issue an Order finding the respondent in default and deem the allegations in the petition admitted.³ In that Order, the Director will refer the matter over to the OAH for a hearing upon default and issuance of an Administrative Law Judge Decision (Findings of Fact, Conclusions of Law and Order).

6. *Who issues the final agency decision?*

The Administrative Law Judge Decision is the final decision.

7. *Why was the filing fee set at \$550?*

The legislation mandated that this program is self-funded or self-sustaining. Thus, this program should not be a burden on the state taxpayers but be paid for by the persons that utilize this program.

¹ Notwithstanding the representation provisions set forth in A.R.S. § 41-2198.01(I) and 41-2198.04(D), Arizona Supreme Court Rule 31 controls over representation issues before the OAH.

² See A.R.S. § 41-2198.01(F).

³ A.R.S. § 41-2198.01(B) contemplates disputes between an owner and a condominium or planned community association. Therefore, because there is only one respondent there is no issue of how to handle defaults of multiple respondents as is the case with LT matters.