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ORDER REGARDING HEARING, DENYING MOTIONS

PETITION

ARS Section 33-1804(A) provides, in pertinent part:

¹ Some motions were mooted by the parties' own actions and responses.

as evidence in any dispute resolution process. Any portion of a meeting may be closed only if that closed portion of the meeting is limited to consideration of one or more of the following:²

1. Legal advice from an attorney for the board or the association.

The Tribunal is authorized to conduct an administrative hearing regarding Petitioner's Complaint. At the time of the administrative hearing, the Administrative Law Judge hears the parties' evidence, admits exhibits and/or rules on objections to evidence that is being presented at hearing for consideration and, thereafter, is authorized to consider the relevant evidence and make a recommendation to the agency regarding whether the party with the burden has met their burden.

In this case, concurrent with a denial to dismiss the matter, an Administrative Law judge found that Petitioner's petition set forth a justiciable issue to be heard and determined through an administrative hearing, not through any other method such as motion practice.³ Further, in the ORDER dated August 27, 2023, the Administrative Law Judge set forth a disclosure date⁴ and the following:

Petitioner bears the burden of proof to demonstrate facts in support of his allegations. Both parties shall present for consideration only relevant evidence and testimony regarding the September 28, 2022 meeting.⁵ The Tribunal will apply A.R.S. Section 33-1804(A) to the relevant facts to make its determination.

The September 29, 2023 hearing was reset to be conducted at the Tribunal offices. Petitioner has now requested that a virtual opportunity be provided for witnesses and other persons he believes would be interested member of the public. Therefore, the following VIRTUAL information is provided:

² Emphasis added here.

³ The Tribunal's rules do not anticipate prehearing motions to rule on admissibility of evidence prior to the conduct of the administrative hearing. See A.A.C. R2-19-106(A). In circumstances when no facts are at issue and the parties have stipulated to the facts, written legal memorandum are sometimes permitted.

⁴ The typographical error of a disclosure date of August 15, 2023 therein was questioned by the parties and the Tribunal issued a corrective email on September 1, 2023 to the parties for disclosure to be made by September 15, 2023. Complainant had filed disclosure on July 30, 2023. Respondent filed an updated disclosure on September 15, 2023.

⁵ Only relevant evidence and testimony will be admitted to the hearing record.

GOOGLE Meeting ID
meet.google.com/vdp-hapn-wgg
Phone Numbers
(US) [+1 307-939-2149](tel:+13079392149)
PIN: 771 889 942#

Based on the foregoing,

IT IS ORDERED the parties' pre-hearing motions regarding admissibility, presentation of, and/or relevancy of evidence, and/or summary judgment are Denied. The matter remains set for administrative hearing regarding Petitioner's petition at which time relevant evidence and testimony will be taken and, thereafter, considered.

ORDERED this day, September 21, 2023.

/s/ Kay A. Abramsohn
Administrative Law Judge

Transmitted by either mail, e-mail, or facsimile to:

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