ARIZONA COURT OF APPEALS
DIVISION ONE

ARCADIA ORBORN NEIGHBORHOOD ASSOCIATION, et al.,

Plaintiffs/Appellants,

v.

CLEAR CHANNEL OUTDOOR, LLC, et al.,

Defendants/Appellees.

Court of Appeals
Division One
No. 1 CA-CV 22-0464

Maricopa County
Superior Court
No. LC2020-000294-001

BRIEF OF *AMICUS CURIAE* LEAGUE OF ARIZONA CITIES AND TOWNS IN SUPPORT OF DEFENDANTS/APPELLEES CITY OF PHOENIX, PHOENIX BOARD OF ADJUSTMENT, J & R HOLDINGS VI, LLC, AND CLEAR CHANNEL OUTDOOR, LLC.

(LODGED WITH MOTION FOR LEAVE TO FILE)

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INTEREST OF AMICUS CURIAE

This amicus curiae brief ("**Brief**") is submitted by the League of Arizona Cities and Towns ("**League**") under Rule 14 and Rule 16 of the Arizona Rules of Civil Appellate Procedure ("**ARCAP**"). No other person or entity made a monetary contribution for the preparation or submission of this brief. This Brief is being lodged with a Motion for Leave to File Amicus Curiae Brief under ARCAP 16(b).[1]

The League is a voluntary association of all the 91 incorporated cities and towns in the State of Arizona, representing approximately 79% of Arizona's total population. The League provides collective advocacy, education, training, technical assistance, and information-sharing for and among the cities and towns of Arizona.

The League respectfully submits this Brief in support of Defendants/Appellees City of Phoenix ("**City**" or "**Phoenix**"), the Phoenix Board of Adjustment ("**Board**"), J & R Holdings VI, LLC, and Clear Channel Outdoor, LLC (collectively "**Appellees**"), because the issue presented involves a matter of

[1] Plaintiffs/Appellants Tabitha Myers, Harvey Shulman, and Neal Haddad declined to consent to the filing of this Brief. Plaintiffs/Appellants Harvey Shulman and Neal Haddad also indicated they oppose to the filing of this Brief.

fundamental importance to municipalities in Arizona—who is a "person aggrieved" for the purpose of standing under A.R.S. § 9-462.06(K).[2]

The superior court correctly concluded Plaintiffs/Appellants Arcadia Osborn Neighborhood Association, Tabitha Myers, Harvey Shulman, and Neal Haddad ("**Appellants**") are not a "person aggrieved" under A.R.S. § 9-462.06(K) because they have not alleged specific damage to a tangible interest that is peculiar or greater than any purported damage to the public at large. [*See* Appellees' Answering Brief ("**Answering Brief**") at pp. 217, 219 (referencing *Blanchard v. Show Low Planning & Zoning Comm'n*, 196 Ariz. 114, 118 (App. 1999)]. A general concern for traffic safety at a large and busy intersection that is miles away[3] from a plaintiff without any particularized injury is not enough. [*See* Answering Brief at p. 218.].

Reversing the superior court's decision would open the door to innumerable lawsuits by plaintiffs who have not suffered any special damage would overrule clearly defined statutory limits on who can bring a challenge to decisions of a board of adjustment. The League's member municipalities have an interest in

[2] As noted by Appellees, Appellants have not seriously contended to own or lease any adjacent property or property within 300 feet of the adjacent property. [*See* Appellees' Answering Brief at p. 9].

[3] [*See* Answering Brief at pp. 15 fn. 2, 117 (using Google Maps to calculate the distances ranging between 0.6 miles and 5.9 miles and noting the plaintiffs did not dispute the calculations below or on appeal)].

avoiding this outcome and preserving their authority to approve these applications without interference by litigants who have not suffered any special damage. The League's member municipalities also have an interest in protecting their limited budgets from the costs of defending such suits.

INTRODUCTION

What is at stake here is the ability of *everyone* – including drivers or pedestrians who are passing by – to file a lawsuit to reverse a zoning decision even if they have not suffered any special damage.

Appellants invite a new theory of standing under A.R.S. § 9-462.06(K) that would essentially allow everyone to challenge the decisions of a board of adjustment without the need to plead any special damage that is distinct from the rest of the community.

A.R.S. § 9-462.06(K) does not give standing to everyone. It gives standing to a "person *aggrieved*." *See* A.R.S. § 9-462.06(K) (emphasis added). Aggrievement requires "special damages or particularized harm" to a tangible personal interest that is different in kind or quality from the damage suffered by the community in general. *See Center Bay Gardens, LLC v. City of Tempe City Council*, 214 Ariz. 353, 359 ¶20 (App. 2007); *Armory Park Neighborhood Ass'n v. Episcopal Cmty. Servs. in Ariz.*,148 Ariz. 1, 5 (1985). If the Court were to

eliminate this requirement, it would subject outdoor advertising permits–and all other zoning decisions across Arizona–to attack by anyone who passes by and is merely inconvenienced by increased in traffic in the area. Such an unworkably lax theory of standing conflicts with the statute's meaning, relevant canons of construction, and precedent from this and other courts. It also flies in the face of practicality and would open the litigation floodgates against municipalities, hamper basic municipal functions, strain municipal budgets, and impede lawful development. The Court should decline any invitation to broaden standing under A.R.S. § 9-462.06(K) and affirm.

ARGUMENT

1. The Appellants' lax theory of standing would open the litigation floodgates against municipalities and strain municipal budgets and functions.

This case demonstrates why courts have required a particularized injury to qualify as a "person aggrieved" under A.R.S. § 9-462.06(K). The average volume of traffic on Thomas Road is 32,891 vehicles per day (15,849 westbound and 17042 eastbound) and 33,206 vehicles per day on Central Avenue (11,186 southbound and 10,834 northbound). *See Traffic Volume Map*, City of Phoenix, p. 15 (June 22, 2017). [**APP18**][4]

[4] The *Phoenix Traffic Volume Map* is available online, but the specific area near Thomas Road and Central Avenue was included in the Appendix for ease of use.

If the Court were to rule that particularized harm is not required, municipalities would be forced to defend lawsuits from people merely have standing because they regularly drive through an intersection or regularly visit nearby properties. This would lead to absurd results. What if everyone who regularly attends Phoenix Suns games could sue to challenge every decision near the arena? What if the regular patrons of a drive-through coffee shop could sue to challenge every decision near this coffee shop? Instead of being a forum of last resort for true adversaries with ripe disputes, the courts would become a tool used to prevent property owners who have injured no one from lawfully developing their properties.

Without saying so explicitly, Appellants are essentially equating the "aggrieved" adjective with the word "affected" in the same subsection. *See* A.R.S. § 9-462.06(K). "Aggrieved" and "affected" have different meanings. *See Welch v. Cochise Cnty. Bd. of Supervisors*, 251 Ariz. 519, 527 (2021) (noting "aggrieved by" in Vermont's open-meeting law entails a different standard than "affected by" in Arizona's open-meeting law); *see also, Trisha A. v. DCS*, 247 Ariz. 84, 88 ¶ 17 (2019) (explaining and applying the presumption-of consistent-usage canon); Antonin Scalia & Bryan A. Garner, *Reading Law: The Interpretation of Legal Texts* 170-72 (2012) ("A word or phrase is presumed to bear the same meaning throughout the text; a material variation in terms suggests a variation in meaning.")

[**APP19**]. Here, the legislature purposely used "aggrieved" to require a plaintiff to plead special damages, as opposed to a plaintiff who is merely effected or influence in some way by a decision. *Compare* AFFECT, Black's Law Dictionary (11th ed. 2019) ("Most generally, to produce an effect on; to influence in some way") *with* AGGRIEVED, Black's Law Dictionary (11th ed. 2019) ("having legal rights that are adversely affected; having been harmed by an infringement of legal rights").

The legislative record of A.R.S. § 9-462.06 indicates an intent to promote efficiency in the land use process and prevent the uncertainty and delays that result from permit decisions being called into question. The right to appeal a decision of the board of adjustment in superior court was added in 1982. *See* Laws 1982, Ch. 219, § 1, 673 (S.B. 1144) [**APP20**] (adding subsection J, which was changed to subsection K in Laws 1988, Ch. 269, § 2). [**APP21**] A representative from the City, Peter Atonna, testified in support of S.B. 1144 and said the bill would "help the efficiency of the zoning adjustment process regarding the right to appeal." *Bd. of Adjustment Decisions; App., Hr'g on S.B. 1144 Before the Sen. Comm. on Gov't on Jan. 28, 1982*, 35th Leg., 2nd Reg. Sess., 2 (Ariz. 1982) (statement of Peter Atonna, Administrator, City of Phoenix on Jan. 28, 1982) (citation omitted). [**APP22**] An attorney for the City of Tucson, Frank Bangs, also testified in support of the S.B. 1144 and stated: "[t]he objective of the bill was to provide some finality

in the legal process which will act both as protection for both the property owner/developer as well as the property owner neighbors." *Id*. (statement of Frank Banks, Assistant City Attorney, City of Tucson) (citation omitted). Bangs also said the "case law in Arizona established that the role of the superior courts in reversing or affirming a decision shall be limited to decide whether the board was out of line in its process of coming to a decision." *Id.* (emphasis added).

These concerns over efficiency in the land use process are reflected in various provisions of A.R.S. § 9-462.06. *See, e.g.*, A.R.S. § 9-462.06(D) (requiring appeals to the board to be filed within a reasonable time and requiring the zoning administrator to "immediately" transmit all records to the board); A.R.S. § 9-462.06(J) (setting a 15-day deadline for filing appeals with the clerk of the legislative body); A.R.S. § 9-462.06(K) (setting a 30-day deadline for filing a complaint for special action in the superior court]; A.R.S. § 9-462.06(F) (requiring the board to fix a "reasonable time" for hearing an appeal).

Efficiency and predictability in land use processes matter to Arizona municipalities because they spend significant time and resources adopting zoning codes and processing zoning applications. Each of these applications can result in litigation against the municipality, even when there is widespread community support for a proposed project and unanimous approval by hearing officers and the board of adjustment. These zoning decisions (big and small) can invariably stir up

intense feelings of support or opposition from neighbors, concerned citizens, advocacy groups, competitors, and other interested parties. With so much at stake, individuals become motivated to litigate. Individuals who suffer special damages because of a board's decisions should have recourse in superior court. Individuals who do not suffer special damages because of a board's decision, however, should not have such recourse to prevent property owners from lawfully developing their properties.

Given the volume of applications it receives, Phoenix would be particularly vulnerable to baseless lawsuits. In January 2023 alone, Phoenix conducted 56 use permit and variance hearings.[5] If Phoenix processes 56 case each month, the potential use permit and variance case load for 2023 is 672 cases. This is significant amount of zoning decisions to which individuals and organizations could challenge in court. While some of these suits might be dismissed or resolved

[5] *See* City of Phx., *Notice of Results –Zoning Adjustment Hearing* (hearings on Jan. 5, 2023), https://www.phoenix.gov/cityclerksite/PublicMeetings/230105003R.pdf; City of Phx., *Notice of Results –Zoning Adjustment Hearing* (hearings on Jan. 12, 2023), https://www.phoenix.gov/cityclerksite/PublicMeetings/230112007R.pdf; City of Phx., *Notice of Results –Zoning Adjustment Hearing* (hearings on Jan. 19, 2023), https://www.phoenix.gov/cityclerksite/PublicMeetings/230119006R.pdf; City of Phx., *Notice of Results –Zoning Adjustment Hearing held* (hearings on Jan. 26, 2023), https://www.phoenix.gov/cityclerksite/PublicMeetings/230126005R.pdf.

early, defending each case would be at the taxpayers' cost.[6] The resulting budgetary pinch would hurt the City's ability to devote resources to cases and matters it views as truly crucial for the interests of the City and its residents. Diluting and diverting City resources to non-priority cases would mean less money for other essential services its residents have already elected to fund. Considering there are 91 boards of adjustment in Arizona, the statewide financial impact could be significant.

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[6] In 2022, approximately 70 use permit or variance decisions were appealed to the Board of Adjustment. See City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Dec. 1, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/221201005R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Nov. 3, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/221103004R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Oct. 6, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/221006005R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Sept. 1, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220901004R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Aug. 4, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220804003R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on July 7, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220707002R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on June 2, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220602005R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on May 5, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220505003R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Apr. 7, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220407006R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Mar. 3, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220303007R.pdf; City of Phx., *Board of Adjustment Results of Public Meeting* (hearings on Feb. 3, 2022), https://www.phoenix.gov/cityclerksite/PublicMeetings/220203007R.pdf.

Appellants ask this Court to ignore the "aggrievement" requirement and lower the factual bar for standing, allowing litigants to challenge lawful approvals without pleading any particularized injury. Accepting this novel theory of standing would negate standing as a doctrine, increase uncertainty in zoning decisions, and increase the number of lawsuits against municipalities by plaintiffs who have not suffered any special harm. This result would be contrary to A.R.S. § 9-462.04 and policies inherent in Arizona's zoning laws. The Court should avoid this outcome and affirm.

CONCLUSION

The superior court correctly concluded Appellants lack standing because each is not a "person aggrieved" under A.R.S. § 9-462.06(K). This Court should affirm.

RESPECTFULLY SUBMITTED this 23rd day of March 2023 by:

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CERTIFICATE OF COMPLIANCE

This certificate of compliance concerns an Amicus Curiae Brief and is submitted under ARCAP 14 and 16. I certify that the Amicus Curiae Brief to which this Certificate is attached uses Times New Roman of at least 14 points, is double-spaced, and contains 2,219 words. The document to which this Certificate is attached does not exceed the word limit that is set by ARCAP 14.

DATED this 23rd day of March 2023

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APPENDIX
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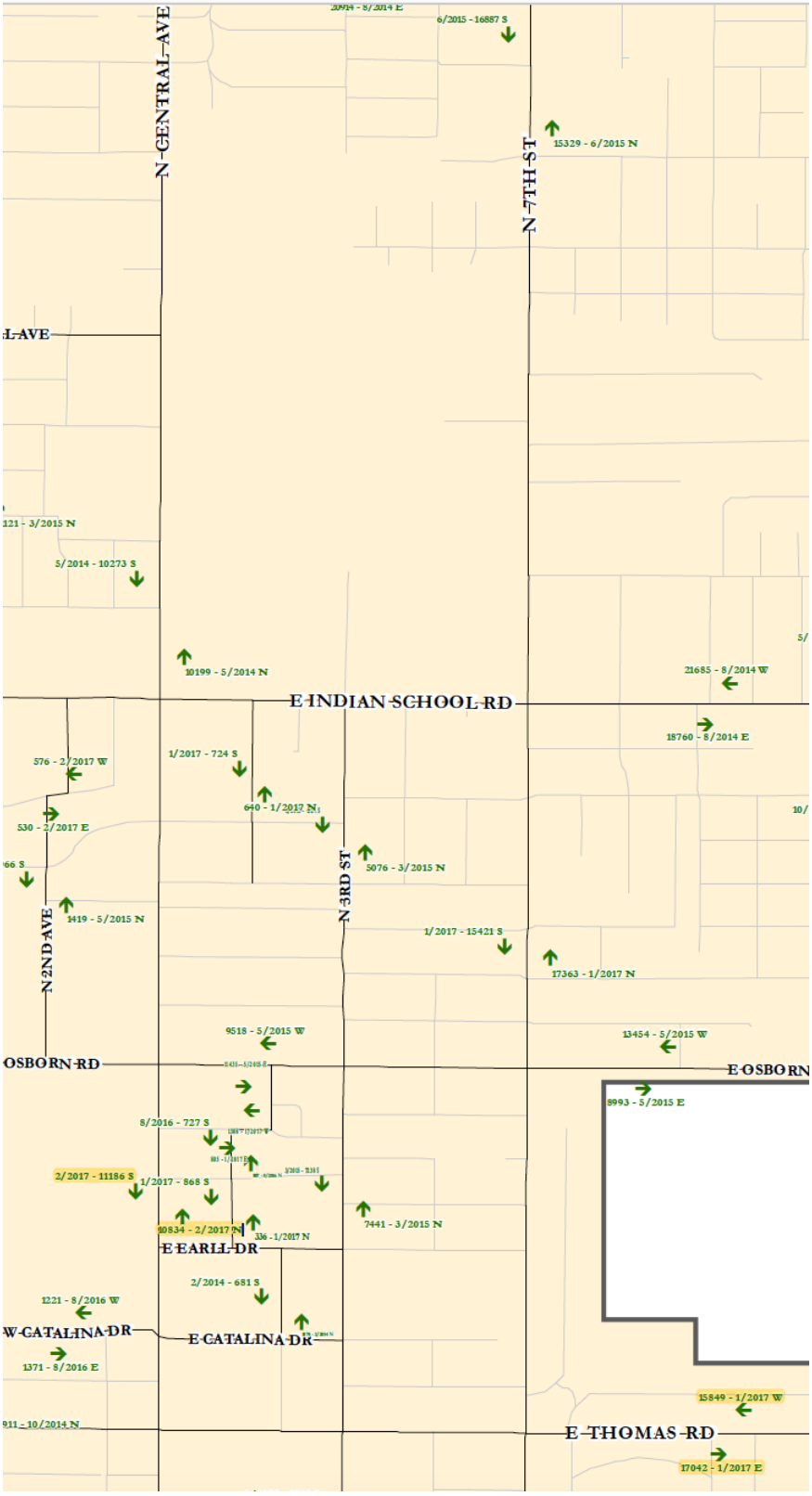
* The Appendix page number matches the electronic Word page number. Counsel has added emphasis to selected pages in this Appendix using yellow highlighting to assist the Court with its review of the record. Some record items included in the Appendix contain only a limited excerpt. This Appendix complies with the bookmarking requirements of ARCAP 13.1.

Traffic Volume Map, City of Phoenix, p. 15 (June 22, 2017).



Antonin Scalia & Bryan A. Garner,
Reading Law: The Interpretation of Legal Texts 170-72 (2012)

25. Presumption of Consistent Usage

A word or phrase is presumed to bear the same meaning throughout a text; a material variation in terms suggests a variation in meaning.

> "[T]here is a natural presumption that identical words used in different parts of the same act are intended to have the same meaning."
>
> *Atlantic Cleaners & Dyers, Inc. v. United States*, 286 U.S. 427, 433 (1932) (per Sutherland, J.).

The correlative points of the presumption of consistent usage make intuitive sense. The preparation of a legal instrument has traditionally been seen as a solemn and deliberative act that requires verbal exactitude. Hence it has long been considered "a sound rule of construction that where a word has a clear and definite meaning when used in one part of a . . . document, but has not when used in another, the presumption is that the word is intended to have the same meaning in the latter as in the former part."[1] And likewise, where the document has used one term in one place, and a materially different term in another, the presumption is that the different term denotes a different idea. If it says *land* in one place and *real estate* later, the second provision presumably includes improvements as well as raw land.

Yet more than most other canons, this one assumes a perfection of drafting that, as an empirical matter, is not often achieved. Though one might wish it were otherwise, drafters more than rarely use the same word to denote different concepts, and often (out of a misplaced pursuit of stylistic elegance) use different words to denote the same concept. Predictably, then, the canon has had its distinguished detractors. Justice Joseph Story called the approach "narrow and mischievous," adding: "It is by no means a correct rule of interpretation to construe the same word in the same sense, wherever it occurs in the same instrument."[2] One of Story's examples from the Constitution is *state*, which bears four meanings in the document: (1) a section of territory occupied by a political society; (2) the government established by such a society; (3) the society that is organized under such a government; and (4) the people composing such a political society.[3]

Because it is so often disregarded, this canon is particularly defeasible by context. Perhaps under his colleague Story's influence, Chief Justice John Marshall noted: "[I]t has . . . been also said, that the same words have not

Laws 1982, Ch. 219, § 1, 673 (S.B. 1144)

D. Appeals to the board of adjustment may be taken by persons aggrieved or by any officer, department, board or bureau of the municipality affected by a decision of the zoning administrator, within a reasonable time, by filing with the zoning administrator and with the board a notice of appeal specifying the grounds thereof. The zoning administrator shall immediately transmit all records pertaining to the action appealed from to the board.

E. An appeal to the board stays all proceedings in the matter appealed from, unless the zoning administrator certifies to the board that, in his opinion by the facts stated in the certificate, a stay would cause imminent peril to life or property. Upon such certification proceedings shall not be stayed, except by restraining order granted by the board or by a court of record on application and notice to the zoning administrator. Proceedings shall not be stayed if the appeal requests relief which has previously been denied by the board except pursuant to a special action in superior court as provided in subsection J of this section.

F. The board shall fix a reasonable time for hearing the appeal, and shall give notice of hearing by both publication in a newspaper of general circulation in accordance with § 9–462.04 and posting the notice in conspicuous places close to the property affected.

G. A board of adjustment shall:

1. Hear and decide appeals in which it is alleged there is an error in an order, requirement or decision made by the zoning administrator in the enforcement of a zoning ordinance adopted pursuant to this article.

2. Hear and decide appeals for variances from the terms of the zoning ordinance only if, because of special circumstances applicable to the property, including its size, shape, topography, location, or surroundings, the strict application of the zoning ordinance will deprive such property of privileges enjoyed by other property of the same classification in the same zoning district. Any variance granted is subject to such conditions as will assure that the adjustment authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and zone in which such property is located.

3. Reverse or affirm, wholly or partly, or modify the order, requirement or decision of the zoning administrator appealed from, and make such order, requirement, decision or determination as necessary.

H. A board of adjustment may not:

1. Make any changes in the uses permitted in any zoning classification or zoning district, or make any changes in the terms of the zoning ordinance provided the restriction in this paragraph shall not affect the authority to grant variances pursuant to this article.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

I. If the legislative body is established as the board of adjustment, it shall exercise all of the functions and duties of the board of adjustment in the same manner and to the same effect as provided in this section.

J. A person aggrieved by a decision of the board or a taxpayer, officer or department of the municipality affected by a decision of the board may, at any time within thirty days after the board has rendered its decision, file a complaint for special action in the superior court to review the board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

Approved by the Governor, April 22, 1982.

Filed in the Office of the Secretary of State, April 22, 1982.

2. Grant a variance if the special circumstances applicable to the property are self-imposed by the property owner.

I. If the legislative body is established as the board of adjustment, it shall exercise all of the functions and duties of the board of adjustment in the same manner and to the same effect as provided in this section.

<<+**J.** IN A MUNICIPALITY WITH A POPULATION OF MORE THAN ONE HUNDRED THOUSAND PERSONS ACCORDING TO THE LATEST UNITED STATES DECENNIAL CENSUS, A PERSON AGGRIEVED BY A DECISION OF THE BOARD OR A TAXPAYER, OFFICER OR DEPARTMENT OF THE MUNICIPALITY AFFECTED BY A DECISION OF THE BOARD MAY, AT ANY TIME WITHIN FIFTEEN DAYS AFTER THE BOARD HAS RENDERED ITS DECISION, FILE AN APPEAL WITH THE CLERK OF THE LEGISLATIVE BODY. THE LEGISLATIVE BODY SHALL HEAR THE APPEAL AND MAY AFFIRM OR REVERSE, IN WHOLE OR IN PART, OR MODIFY THE BOARD'S DECISION. THE AUTHORITY TO FILE A COMPLAINT, AS PROVIDED IN SUBSECTION K OF THIS SECTION, MAY BE USED IN LIEU OF OR IN ADDITION TO THE APPEAL PROVIDED IN THIS SUBSECTION.+>>

<<-***->><<+**K.**+>> A person aggrieved by a decision of the <<+ LEGISLATIVE BODY OR +>> board or a taxpayer, officer or department of the municipality affected by a decision of the <<+LEGISLATIVE BODY OR+>> board may, at any time within thirty days after the board has rendered its decision, file a complaint for special action in the superior court to review the <<+ LEGISLATIVE BODY OR+>> board decision. Filing the complaint does not stay proceedings on the decision sought to be reviewed, but the court may, on application, grant a stay and on final hearing may affirm or reverse, in whole or in part, or modify the decision reviewed.

AZ ST § 9–462.06, Note

"**Sec. 2. Retroactivity**

"This act is effective retroactively to April 1, 1988."

Approved by the Governor July 1, 1988.

Filed in the Office of the Secretary of State July 1, 1988.

AZ LEGIS 269

Bd. of Adjustment Decisions; App., Hr'g on S.B. 1144 Before the Sen. Comm. on Gov't on Jan. 28, 1982, 35th Leg., 2nd Reg. Sess., 2 (Ariz. 1982)

(amendment continued)
Line 20, following "duties" insert a period and strike remainder of line.
Strike lines 21 through 26
Page 2, strike lines 1 through 13

The motion to amend carried by voice vote. Senator Gutierrez then moved the committee recommend S.B. 1142 DO PASS AS AMENDED. Motion carried by roll call vote of 8-0-1. (See attachment #6)

S.B. 1144 - board of adjustment decisions; appeal - DO PASS

Mr. Peter Atonna, Phoenix City Zoning Administrator, was present to testify in support of the bill. He stated that this exact same bill has been before the Legislature the last three years, and received a DO PASS recommendation. Last year it passed unanimously in the House, but was lost in the process again. Mr. Atonna stated this bill would help the efficiency of the zoning adjustment process regarding the right to appeal. He stated that the present problem is two-fold: 1) It is presently possible for a person to stay proceedings indefinitely through administrative draping, i.e. merely by refiling an appeal after a decision is made by the Board of Adjustment. Thus, a person is able to legally avoid any prosecution by continual deferment literally year after year. 2) This bill provides that a person may file a complaint with the Superior Court to review a Board of Adjustment decision, a provision which was left out of earlier legislation through a technical error.

Senator Gutierrez asked Mr. Atonna whether, the way the bill is worded now, the superior courts could take it upon themselves to review something other than the technical process they are supposed to assess. Senator Gutierrez referred specifically to page 2, paragraph 3 on lines 29-31. Mr. Atonna replied that unfortunately this occurs sometimes even with the present laws requiring the superior courts to assess only whether a technical error was made in arriving at a decision. Other discussion followed regarding the authority of the Board of Adjustment, the appeals process, and relief available to aggrieved parties.

Mr. Frank Bangs, Assistant City Attorney for the City of Tucson, also testified in support of the bill. Mr. Bangs views this bill as a course correction for the Urban Management Act, which dramatically added to the existing planning and zoning enabling legislation for the state. He stated that Act has worked very well, but there have been a few problems with the administration of that law, such as the one described by Mr. Atonna. The objective, according to Mr. Bangs, is to provide some finality in the legal process which will act as protection for both the property owner/developer as well as the property owner neighbors. The bill provides that an aggrieved person still has the right to appeal a decision of the Board of Adjustment to a Superior Court; however, the filing of this petition does not constitute a stay of the proceedings. Mr. Bangs also referred to Senator Gutierrez' question about the courts by stating that he feels case law in Arizona has established that the role of superior courts in reversing or affirming a decision shall be limited to deciding whether the board was out of line in its process of coming to a decision.

Senator Mawhinney moved the committee recommend S.B.1144 DO PASS. Motion carried by roll call vote of 6-1-2. (See attachment #7) Meeting adjourned at 10:13 A.M.

Respectfully submitted,

2/1/82

Mary Frankel
Mary Frankel, Committee Secretary