

Final agency action regarding decision below:

REQHRG Date hearing requested

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of the Real Estate
Salesperson's License of:

SHARON FIX,

Respondent.

No. 00A-016-REL

**ORDER DENYING RESPONDENT'S
MOTION FOR RECONSIDERATION
OF ORDER DENYING APPLICATION
FOR AWARD OF ATTORNEY'S FEES**

On January 2, 2001, Respondent Sharon Fix filed an application for an award of attorney's fees in the above matter. On January 4, 2001, the Arizona Department of Real Estate (the "Department") filed a response in opposition to Respondent's application. By Order dated January 5, 2001, the Administrative Law Judge denied Respondent's application. In that Order, the Administrative Law Judge held:

"Respondent asserts that she is entitled to an award of attorney's under A.R.S. § 41-1007. However, on December 6, 2000, Respondent, through counsel, stipulated to dismiss this matter with prejudice, and in so doing to bear her own costs and attorney fees. Respondent's agreement to bear her own costs and attorney's fees bars her from receiving the award she seeks, and Respondent's application must therefore be denied.

Respondent's application must likewise be denied for the reason that Respondent has failed to establish she is a prevailing party under A.R.S. § 41-1007."

On February 26, 2001, Respondent filed a "Response to Order Denying Application for Award of Attorney's Fees," which the Administrative Law Judge deems to be a motion for reconsideration of his January 5, 2001 Order denying Respondent's application. The Department, through counsel, filed a response in opposition to

Respondent's motion on March 9, 2001.

Respondent makes two arguments in support of her motion for reconsideration. First, Respondent asserts that because the Department dismissed the proceedings against her, she was, by definition, the prevailing party and therefore entitled to an award of fees under A.R.S. § 41-1007. Second, Respondent urges that the Attorney General's office obtained her stipulation to dismiss – including her agreement to bear her own costs and attorney's fees – by misrepresentation, and that she therefore is not bound by its terms.

Respondent presents no credible evidence in support of her motion for reconsideration, nor does Respondent direct the Administrative Law Judge to any supporting legal authority. Having considered Respondent's motion, the Administrative Law Judge finds that nothing in that motion establishes any reasonable basis for the Administrative Law Judge to reconsider his prior Order denying Respondent's application for attorney's fees.

Therefore,

IT IS HEREBY ORDERED that Respondent's February 26, 2001 motion for reconsideration is **DENIED**.

Done this day, April 12, 2001.

Daniel G. Martin
Administrative Law Judge

Copy transmitted by mail this
_____ day of _____, 2001, to:

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By _____