

**Arizona Supreme Court**  
**Civil Petition for Review - Appeal**

**CV-23-0292-PR**

**STATE, et al v Foothills/Hanke, et al**

**Appellate Case Information**

Case Filed: 13-Dec-2023  
Case Closed:

**Dept/Composition**

**En Banc**  
Hon. Ann A. Scott Timmer  
Hon. John R Lopez  
Hon. Clint Bolick  
Hon. James P Beene  
Hon. William G Montgomery  
Hon. Kathryn H. King  
Hon. John Pelander

**Side 1. STATE OF ARIZONA, et al., Plaintiff/Appellant**

(Litigant Group) STATE OF ARIZONA, et al.

- State of Arizona
- John Halikowski

**Attorneys for: Plaintiff/Appellant**

Michelle Burton, Esq. (AZ Bar No. 30311)  
Joe Acosta, Jr, Esq. (AZ Bar No. 5378)  
Kristin K Mayes, Esq. (AZ Bar No. 22584)  
Rachel H Mitchell, Esq. (AZ Bar No. 14560)

**Side 2. FOOTHILLS RESERVE MASTER OWNERS ASSOCIATION, INC., Defendant/Appellee**

(Litigant Group) FOOTHILLS RESERVE MASTER OWNERS ASSOCIATION, INC.

- Foothills Reserve Master Owners Association Inc

**Attorneys for: Defendant/Appellee**

Dale S Zeitlin, Esq. (AZ Bar No. 6615)  
Casandra C. Markoff, Esq. (AZ Bar No. 33990)

**Side 3. DIETMAR HANKE, et al., Intervenor/Appellee**

(Litigant Group) DIETMAR HANKE, et al.

- Dietmar Hanke
- Linda Hanke

PRO SE  
PRO SE

**Attorneys for: Intervenor/Appellee**

**Side 4. GOLDWATER INSTITUTE, Amicus Curiae**

(Litigant Group) GOLDWATER INSTITUTE

- Goldwater Institute

**Attorneys for: Amicus Curiae**

Timothy Sandefur, Esq. (AZ Bar No. 33670)

**CASE STATUS**

Aug 20, 2024...At Issue

Aug 20, 2024...Oral Argument Granted

Jun 3, 2024.....Continued

Dec 13, 2023....Pending

**PREDECESSOR CASE(S)**

	Cause/Charge/Class	Judgment/Sentence	Judge, Role <Comments>	Trial	Dispo
1 CA	1 CA-CV 22-0371				
↪ MAR	CV2017-010359	Eminent Domain, Condemnation	Timothy J Thomason, Authoring Judge of Order Comments: (none)		

**21 PROCEEDING ENTRIES**

- 13-Dec-2023 FILED: Motion for Procedural Order Extending Time to File Petition for Review; Certificate of Service (Appellee Foothills Reserve)
- 14-Dec-2023 A "Motion for Procedural Order Extending Time to File Petition for Review" (Appellee Foothills Reserve) having been filed on December 13, 2023,  
  
IT IS ORDERED granting a first extension of time to file the petition for review on or before February 9, 2023. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the petition for review is not filed by February 9, 2023. (Tracie K. Lindeman, Clerk)
- 15-Dec-2023 A "Motion for Procedural Order Extending Time to File Petition for Review" (Appellee Foothills Reserve) having been filed on December 13, 2023,  
  
IT IS ORDERED granting a first extension of time to file the petition for review on or before February 9, 2024. No further extensions of time shall be granted absent extraordinary circumstances. This matter is subject to dismissal if the petition for review is not filed by February 9, 2024. (Tracie K. Lindeman, Clerk)

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**STATE, et al v FOOTHILLS/HANKE, et al**

**21 PROCEEDING ENTRIES**

4. 5-Feb-2024 FILED: Petition for Review of Defendant/Appellee Foothills Reserve Master Owners Association, Inc.; [Replaced by 2/6/24 Filing] Certificate of Service; Certificate of Compliance; Opinion; Order (MCSC) Filed 7/2/19 (Appellee Foothills Reserve)
5. 5-Feb-2024 FILED: Record from CofA: Electronic Record
6. 6-Feb-2024 FILED: Notice of Amended Certificate of Service; Amended Certificate of Service; (Duplicate) Petition for Review of Defendant/Appellee Foothills Reserve Master Owners Association, Inc.; (Duplicate) Certificate of Compliance (Appellee Foothills Reserve)
7. 8-Feb-2024 RECEIPT No.: 2024-00018 ; \$280.00, Authorization: 8563024724050747, Applied to: FOOTHILLS RESERVE MASTER OWNERS ASSOCIATION, INC. - Class A Filing Fee (\$280.00) Paid for: FOOTHILLS RESERVE MASTER OWNERS ASSOCIATION, INC. - By nCourt LLC
8. 29-Feb-2024 FILED: Unopposed Motion for Procedural Order Extending Time to File Response to Petition for Review; Certificate of Service (Appellants State, et al.)
9. 4-Mar-2024 An "Unopposed Motion for Procedural Order Extending Time to File Response to Petition for Review" (Appellants State of Arizona, et al.) having been filed on February 29, 2024,  
  
IT IS ORDERED granting a first extension of time to file the response to petition for review on or before April 5, 2024. No further extensions of time shall be granted absent extraordinary circumstances. (Tracie K. Lindeman, Clerk)
10. 22-Mar-2024 FILED: Notice of Recent Articles Regarding the Court of Appeals Opinion; Certificate of Service; Exhibit 1; Exhibit 2 (Appellee Foothills Reserve)
11. 5-Apr-2024 FILED: Response to Petition for Review; Certificate of Service; Certificate of Compliance (Appellants State, et al.)
12. 26-Apr-2024 FILED: Brief Amicus Curiae of Goldwater Institute in Support of Petition for Review Filed with Consent of all Parties; Certificate of Service; Certificate of Compliance (Amicus Goldwater)
13. 26-Apr-2024 FILED: Consent of All Parties (Amicus Goldwater)
14. 3-Jun-2024 ORDERED: Petition for Review = CONTINUED.  
  
Chief Justice Brutinel did not participate in the determination of this matter.
15. 20-Aug-2024 ORDERED: Petition for Review = GRANTED as to this rephrased issue:  
  
"Does A.R.S. § 12-1122(A)(2) provide for compensation for proximity damages after condemnation of an appurtenant easement?"  
  
FURTHER ORDERED: The case shall be set for oral argument.  
  
FURTHER ORDERED: The parties may file simultaneous supplemental briefs, not to exceed 20 pages in length, no later than September 12, 2024. Any amicus briefs are due on or before September 26, 2024 and any responses to amicus briefs are due on or before October 16, 2024. Any amicus briefs or responses may not exceed 20 pages in length.  
  
Justice Brutinel did not participate in the determination of this matter.
16. 28-Aug-2024 Justice Brutinel is recused and will not participate in the above captioned matter. Therefore, pursuant to Article 6, Section 3 of the Arizona Constitution,  
  
IT IS ORDERED that the Honorable John Pelander, Justice (Retired) of the Arizona Supreme Court is designated to sit on the case until it is finally determined. (Hon. Ann A. Scott Timmer)
17. 28-Aug-2024 NOTICE OF ORAL ARGUMENT: Set for Tuesday, October 29, 2024 at 10:15 A.M. [twenty (20) minutes per side]
18. 29-Aug-2024 FILED: Record from CofA: Entire Electronic Record
19. 30-Aug-2024 FILED: Notice of Acknowledgment of Oral Argument (Dale Zeitlin will argue) (Appellee Foothills Reserve)
20. 3-Sep-2024 FILED: Notice of Acknowledgment of Oral Argument (Hayleigh Susan Crawford will argue) (Appellants State, et al.)
21. 12-Sep-2024 FILED: Supplemental Brief; Certificate of Service; Certificate of Compliance (Appellee Foothills Reserve)