



Report to the Board of Supervisors



Prepared by the Maricopa County Department of Transportation

Case #/Title: DOT-02-2013 – Patent Easement Abandonment Ordinance

Meeting Date: May 7, 2014

Supervisor Districts: All Districts

Applicant: Department of Transportation

Request: Approve the proposed ordinance establishing a process for the abandonment of patent easements that are not currently used or needed in the future. Please see copy attached.

Support/Opposition: A Stakeholder Workshop was conducted on November 5, 2013. No one attended.

First TAB meeting held on November 19, 2013. Email in opposition from Mr. Leon Spiro, see copy attached, read to the TAB at Mr. Spiro's request. Mr. Spiro did not attend the meeting. Please see minutes attached.

Second TAB meeting held on January 21, 2014. No additional opposition. Please see minutes attached.

Over a dozen phone calls have been received from property owners anxiously awaiting the opportunity to apply for abandonment of patent easements on their property. A list has been maintained and each will be called upon approval by the Board of Supervisors to let them know the process to be followed.

In addition to the above mentioned email, numerous other emails from Mr. Spiro were received stating his opposition to the ordinance, see copies attached. Also attached are responses to Mr. Spiro.

As we understand it, the point Mr. Spiro is trying to make is that the county should only abandon the county's interest in the patent easement and not the entire easement. The County Attorney says the county doesn't have an interest. The federal government relegated responsibility

for the easements to the State of Arizona. The recent legislation gave counties the authority to abandon the state's interest, which is the entire patent easement.

An email was also received from Mr. Fritz Koenig of San Francisco requesting information that the County Attorney indicated is privileged communication, see copy attached.

An inquiry on the EROP website was received from Mr. Marcus Billmyer, see copy attached. Mr. Billmyer wanted additional information regarding the proposed patent easement abandonment process. He was contacted by phone and provided the requested information. He is in favor of the ordinance.

Department

Recommendation: Approval.

TAB

Recommendation: Approval.

Discussion:

The federal Small Tract Act of 1938 created easements for roadway and utility purposes on parcels conveyed under the Act, generally referred to as "Patent Easements." States have the authority to abandon these Patent Easements and this authority was granted to Arizona cities and towns in A.R.S. §9-500.24. A.R.S. §11-251.16, effective September 13, 2013, grants to Arizona counties authority to abandon these Patent Easements.

There are many land parcels within Maricopa County that were originally conveyed by the United States to private landowners pursuant to the Small Tract Act, passed June 1, 1938. Generally speaking, these conveyances transferred fee title to the land to the new owner, subject to easements (referred to as "patent easements") for the benefit of the public for access and utilities.

A patent easement provides a local government or public utility the right to build a road or to install utilities within the patent easement area without the need to purchase or condemn the land. The owner takes the small tract subject to the access and utility rights reserved in the

easement. Patent easements also provide rights of ingress and egress to property owners in the surrounding area. These rights are subordinate to the public's right to use and develop the easement area for physical and utility access.

Any structures placed within a patent easement by the fee owner are subject to removal or destruction. In such a situation, the fee owner is not entitled to compensation for the loss of the improvements.

The county has no responsibility for improving or maintaining patent easements. Neighboring owners or public utilities may have rights to use a patent easement roadway system. The county does not involve itself in disputes between private landowners concerning contested uses or other contested issues concerning a patent easement area.

Maricopa County requires structures to maintain setbacks from public easements reserved for ingress and egress, including patent easements. Yard area zoning requirements are measured from the easement line. Thus, patent easement can significantly impact the useable area of a parcel.

This is the first of two TAB meetings required by the EROP. The attached Initialization Form sets forth the timeline for the EROP process for this proposed ordinance.

In accordance with the Maricopa County Resolution, "Moratorium on Increased Regulatory Burdens", the County Manager authorized the Department to proceed with this case in September 2013. The County Manager also briefed the Board of Supervisors in October 2013.

Presented by: John B. Hauskins, P.E., Director

Attachments: Proposed Patent Easement Abandonment Ordinance (8 pages)
TAB Meeting Minutes (3 pages)
Comments (92 pages)

REVISED DECEMBER 19, 2013

AN ORDINANCE ADOPTING PROCEDURES FOR THE ABANDONMENT OF
PATENT EASEMENTS PURSUANT TO A.R.S. §11-251.16

Whereas, the Arizona State Legislature has enacted Laws 2013, Chapter 49, relating to county powers and duties, effective on the ninety-first (91st) day after the date the fifty-first (51st) Legislature adjourns its first regular session sine die; and

Whereas, A.R.S. §11-251.16, as added by Laws 2013, Chapter 49, grants to Arizona counties authority to abandon easements created pursuant to the Small Tract Act of 1938; and

Whereas, the Arizona Legislature has required that public notice to be given by the Board of Supervisors before a resolution abandoning an easement created pursuant to the Small Tract Act of 1938 may be adopted; and

Whereas, the Maricopa County Board of Supervisors desires to establish procedures and guidelines for the abandonment of easements created pursuant to the Small Tract Act of 1938; and

Whereas, the Maricopa County Board of Supervisors recognizes it is important for property owners to have a process whereby the property owners may request the Board to remove unnecessary patent easements from their property under certain conditions.

NOW THEREFORE, BE IT ORDAINED BY THE MARICOPA COUNTY BOARD OF SUPERVISORS, as follows:

Section 1. Definitions. As used in this Ordinance, the following terms shall have the following meaning:

“Affected Utilities” means any and all suppliers of electricity, gas, water, sewer service, cable television, telephone service, internet services or other utilities that have

been registered with the Arizona Blue Stake Center that provide services in the vicinity of a patent easement for which abandonment has been requested.

“Board of Supervisors” means the Board of Supervisors of Maricopa County, Arizona.

“Land Abutting the Easement” means those properties, or any part thereof, that share a common boundary with the portion of a patent easement for which a request for abandonment is filed.

“Lender” means any person or institution with a recorded lien secured by a Deed of Trust or Mortgage in property that is burdened by a patent easement.

“Majority of the Owners” means greater than fifty percent (50%) of all record owners of all property that abuts the patent easement for which abandonment has been requested. If an undivided parcel is owned by multiple owners, such owners shall be deemed as one for purposes of this definition.

“MCDOT” means the Maricopa County Department of Transportation.

“Objection to Abandonment” means a notice in writing delivered to the Clerk of the Board of Supervisors on or before the date of the meeting of the Board of Supervisors at which abandonment of a patent easement is scheduled, which expresses opposition to the abandonment.

“Patent Easement” means an easement created pursuant to the Small Tract Act of 1938.

“Request for Abandonment” means the filing of an application in the form prescribed by Maricopa County, together with all supporting documentation, by all record title holders of property that is burdened by a patent easement to commence the process for having the patent easement removed from the property, if deemed justified and appropriate by the Board of Supervisors.

Section 2. Request.

a. Section 2. Request. A request for Initial Determination may be filed by any person. A request for Initial Determination shall be filed on forms provided by MCDOT and shall be accompanied by all required documentation and the required fee. The request for Initial Determination shall be promptly circulated by MCDOT to the Maricopa County Planning and Development Department, Maricopa County Public Works Real Estate Division, Maricopa County Parks and Recreation Department, the Real Estate Services Division of the Maricopa County Department of Finance and the Flood Control District for Maricopa County. In the event the property burdened by the patent easement for which abandonment is being requested has a common boundary with any municipality, any tribal nation, property of the Arizona State Land Department, the Federal Bureau of Reclamation and/or the Federal Bureau of Land Management, each of the affected entities shall also be provided with a copy of the request for Initial Determination. The reviewers named in this paragraph shall provide comments to MCDOT within fifteen (15) days of MCDOT's circulation of the request for Initial Determination. Once MCDOT has completed the review and within thirty (30) days of the circulation of the request for Initial Determination, a written Initial Determination shall be provided to the person requesting the Initial Determination.

b. Subsequent to receipt of a request for Initial Determination, if it is determined by the requesting party that a request for abandonment will be pursued, a request for abandonment shall be filed with MCDOT on forms prescribed by Maricopa County and shall be accompanied by the applicable filing fees established by the Board of Supervisors. A request for abandonment of a patent easement may only be filed by a majority of the record owners of the property burdened by the patent easement for which abandonment is being requested.

c. Upon receipt of a request for abandonment of a patent easement, MCDOT shall review the request for completeness. No request for abandonment of a patent easement shall be complete unless accompanied by the consent to the abandonment by any and all Lenders. MCDOT shall make its determination regarding completeness of the request within fifteen (15) days. MCDOT may return the request for abandonment to the requestor for adjustment to render the request complete.

d. Upon a determination that the request for abandonment of a patent easement is complete, said request shall be circulated by MCDOT to the Maricopa County Department of Planning and Development, the Maricopa County Department of Environmental Services, the Flood Control District of Maricopa County, the Maricopa County Public Works Real Estate Division, the Real Estate Services Division of the Maricopa County Department of Finance and Maricopa County Parks Department. In the event the property burdened by the patent easement for which abandonment is sought has a common border with any incorporated municipality or municipalities, a copy of the request for abandonment shall be sent to said municipality or municipalities. In the event the property burdened by the patent easement for which abandonment is sought has a common border with any property owned by the Arizona State Land Department, a copy of the request for abandonment shall be sent to the Arizona State Land Department. In the event the property burdened by the patent easement for which abandonment is sought has a common border with property owned by the Federal Bureau of Land Management, a copy of the request for abandonment shall be sent to the Federal Bureau of Land Management. In the event the property burdened by the patent easement for which abandonment is sought has a common border with any property that is part of a tribal reservation, a copy of the request for abandonment shall be sent to the appropriate Nation. In addition, MCDOT shall obtain from the Arizona Blue Stake Commission the identity of all Affected Utilities. The reviewers named in this paragraph shall provide comments to MCDOT within thirty (30) days after the request for abandonment has been found to be complete.

e. Upon receipt of input from the departments and agencies to which the request for abandonment of a patent easement have been circulated, but in no event later than fourteen (14) days after the request has been found to be complete, MCDOT shall prepare a report to the Board of Supervisors, including a recommendation if the request should be granted or denied. Said report shall include a determination of whether or not consent of all affected utilities has been obtained and shall include an analysis whether the patent easement for which abandonment is sought is being used or if the patent easement is still necessary. A copy of said report, together with any and

all comments from any of the departments or agencies to which the request has been circulated, shall be posted on the MCDOT web site. MCDOT shall provide to the contact person named on the request for abandonment of a patent easement notice that the required documentation has been posted on the MCDOT web site and shall provide the necessary link to the posting.

f. When the report by MCDOT has been posted, the clerk of the Board of Supervisors shall schedule the request for abandonment of the patent easement for consideration by the Board of Supervisors.

g. Not fewer than sixty (60) days before any meeting at which the request for abandonment of the a patent easement shall be considered, MCDOT, on behalf of the Board of Supervisors, shall provide by certified mail written notice to the record owners of all land abutting the easement and to the Affected Utilities of the time, date and place of the meeting at which the request for abandonment of the a patent easement shall be considered by the Board of Supervisors. The notice shall provide a description of the property burdened by the patent easement for which abandonment is requested, and shall provide notice of the opportunity and deadline to provide objection to abandonment and the right to personally appear at the meeting and present objection to the proposed abandonment.

h. Not fewer than sixty (60) days before any meeting at which the request for abandonment of the a patent easement shall be considered, MCDOT, on behalf of the Board of Supervisors, shall post a notice in one location on or within the vicinity of the portion of the patent easement for which abandonment has been requested. Said posting shall provide notice of the time, date and place of the meeting at which the request for abandonment of a patent easement shall be considered by the Board of Supervisors. The notice shall advise of the opportunity and deadline to provide objection to abandonment and the right to personally appear at the meeting and present objection to the proposed abandonment. The posting shall be accomplished in accordance with the general practice of MCDOT for the posting of notices of abandonments.

i. Not fewer than twenty-four (24) hours prior to the meeting of the Board of Supervisors at which a request for abandonment of a patent easement is to be

considered for resolution, the clerk of the Board of Supervisors shall provide to each member of the Board of Supervisors a copy of the staff report, all documentation by the owners seeking abandonment of a patent easement and any written objection to abandonment received by MCDOT or any other county agency.

Section 3. Fees

- a. The fee for an Initial Determination shall be \$250.00.

- b. The fee for an Application for Patent Easement Abandonment shall be \$1,600.00. If an Application for Patent Easement Abandonment is filed within six (6) months of the date upon which an Initial Review has been completed for the same patent easement, the applicant shall receive a credit against the fee for the Application for Patent Easement Abandonment in the amount of \$250.00.

Section 4. Procedures before the Board of Supervisors.

a. The owners seeking the abandonment of a patent easement shall have the obligation to demonstrate that the patent easement is not being used by the public or is no longer necessary.

b. At the conclusion of the presentation of all arguments concerning the request for abandonment of a patent easement, and after deliberation, the Board of Supervisors shall grant the request, deny the request or postpone consideration of the request. The granting of any request for abandonment of a patent easement shall only be accomplished by the Board of Supervisors adopting a formal resolution, which resolution shall be in form that will allow the recording of such resolution in the chain of title of the property burdened by the patent easement.

c. The grant of a request for abandonment of a patent may be subject to any and all conditions which the Board of Supervisors shall deem necessary.

Section 5. Criteria for granting relief.

In exercising its discretion to abandon a patent easement, the Board of Supervisors shall use the following criteria:

a. If a patent easement for which abandonment is requested shares a border with and is parallel to any right of way that has been opened and declared by Maricopa County, there shall be a rebuttable presumption that the patent easement is being used and is necessary.

b. If a patent easement for which abandonment is requested shares a border with and is parallel to any right of way that has been dedicated or granted to Maricopa County or to the public, there shall be a rebuttable presumption that the patent easement is still being used and is still necessary.

c. A request for abandonment of a patent easement may be granted only if a majority of the owners shall not have objected, either by providing written objection or presenting objection in person at any meeting of the Board of Supervisors at which a request for abandonment of a patent easement is considered.

d. No request for abandonment of a patent easement shall be granted over the objection of the Arizona State Land Department, the Federal Bureau of Land Management or any Affected Utility.

e. In the event any municipality or tribe to which notice has been provided pursuant to this Ordinance shall provide written objection to the abandonment of a patent easement, there shall be a rebuttable presumption that the patent easement is being used or that the patent easements remains necessary.

f. A request for abandonment of a patent easement shall only be granted when the Board of Supervisors determines in its discretion that the patent easement is not being used by the public at the time of the request or that said patent easement is no longer necessary.

Section 6. Effective abandonment.

Upon the adoption of a resolution abandoning a patent easement and the appropriate signatures being affixed, the original resolution shall be recorded in the office of the Recorder of Maricopa County by the Office of the Clerk of the Board of Supervisors. A patent easement shall be deemed to have been abandoned upon the recording of a resolution abandoning a patent easement which has been properly adopted by the Board of Supervisors. An abandoned patent easement shall no longer be a burden upon the property previously burdened by the patent easement.

Section 7. Effective date. This ordinance shall be effective on the date that is thirty (30) days after adoption by the Board of Supervisors.

ADOPTED BY THE MARICOPA COUNTY BOARD OF SUPERVISORS on _____, 2014.

Denny Barney, Chairman

ATTEST:

Fran McCarroll, Clerk of the Board of Supervisors

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Monday, November 25, 2013 9:24 AM
To: leon spiro
Cc: chucris@mail.maricopa.com; Andrew Kunasek - DIST3X; Dan Brenden; Joseph Domanico; chh@pima.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; Wayne Peck; Mike Freeman - PLANDEVX; miggi1@q.com; mugenti@azleg.gov; jburgess@azleg.gov
Subject: 2013-11-25 - Spiro - RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... Your email was provided to the Transportation Advisory Board at their last meeting on November 19. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Saturday, November 23, 2013 7:43 AM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; chucris@mail.maricopa.com; Andrew Kunasek - DIST3X; Dan Brenden; Joseph Domanico; chh@pima.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; Wayne Peck; Mike Freeman - PLANDEVX; miggi1@q.com; mugenti@azleg.gov; jburgess@azleg.gov
Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Depart

ment of Transportation , Maricopa County. Mr. Wagner: I do hope you received my reply to your E Mail correspondence? If the Advisory Board received the correspondence sent, we have done our job and alerted the County. L. Spiro.

----- Forwarded Message -----
To: "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>
Cc: "jdomanico@mcao.maricopa.gov" <jdomanico@mcao.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Wednesday, November 20, 2013 3:01 AM
Subject: Fw: Patent Easement Abandonment. DOT-02-2013

FYI.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>
Cc: "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "markstuart1001@cox.net" <markstuart1001@cox.net>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>;

"noel@noelhebets.com" <noel@noelhebets.com>; "tfleming@azleg.gov" <tfleming@azleg.gov>;
"prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov"
<peckw@mcao.maricopa.gov>

Sent: Monday, November 18, 2013 2:08 PM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Liason, Department of Transportation, Maricopa County; Mr. Wagner: I have your reply for which I thank you. It will be much appreciated to have my comments mentioned to the Advisory Board. Mr. Wagner, if permitted, can you provide me the name of the "Lead Attorney" of the Maricopa County Attorneys Office who is responsible for authoring this Small Tract Act of 1938 Patent Easement Ordinance change? If not, am I to assume that this Ordinance change will have the approval of County Attorney Bill Montgomery? The Board of supervisors has in the past abandoned these Small Tract Act Patent Easements but in the Resolution, states that there will be no encroachment in the patent easement. May I suggest that you engage the services of Professor Gary Birnbaum and Attorney Noel Hebets to present their legal opinions regarding this proposed Ordinance change. If the abandonment of these "patent easements is in total" as stated in this draft, we view this as being a "property right taking". I have no idea what the opinions are of these Attorneys? My sincere thanks for presenting this issue to the Advisory Board. In the future, I would like to present to the Advisory Board some interesting material regarding Appellate Court Case #1 CA-CV 06-0756. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Monday, November 18, 2013 9:11 AM

Subject: RE: Patent Easement Abandonment. DOT-02-2013

Mr. Spiro ... I appreciate your contacting the Maricopa County Department of Transportation regarding this item. I will share your comments with the Transportation Advisory Board at tomorrow's meeting. Please note that this ordinance was drafted by the County Attorney's office. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, November 17, 2013 3:08 PM

To: Mitch Wagner - MCDOTX

Cc: noel@noelhebets.com; leon_spiro@yahoo.com; Stephen Chucri - DIST2X; chh@pima.gov; Andrew Kunasek - DIST3X; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; john@reactionresearch.com; markstuart1001@cox.net; annwallack@gmail.com; aubuchonlaw@cox.net; noel@noelhebets.com; Tom Manos - CAO; tadams@azleg.gov; tfleming@azleg.gov; tom.horne@azag.gov; Dan Brenden; barredondo@azleg.gov; bjerbic@lasvegasnevada.gov; citycouncil@lasvegasnevada.gov; debra.lopez@azag.gov; dominaco@mail.maricopa.gov; Joseph Domanico; dguerin@goldwaterinstitute.gov; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; jburbes@azleg.gov; jerbeck@lasvegasnevada.gov; jmurillo@scottsdaleaz.gov; john@saaronline.com; sam@samjwest.com; ortegarchi@cox.net; renocop@earthlink.net; tforese@azleg.gov; mugenti@azleg.gov

Subject: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Board Liaison, Maricopa County; Mr. Wagner. Please read the following comment to the Transportation Advisory Board regarding #DOT-02-2013, Patent Easement Abandonment. Please be advised that we believe that the Small Tract Act of 1938 does not permit anyone to abandon these roadway and public utilities easements in total., but only their interest. Please read Planning Department Department Directive Memorandum #dDD 2011-05. Has there been a change? Before going forward with this request,

why not get the approval of Maricopa County Attorney Bill Montgomery. Thank you for presenting this comment to all those in attendance. I await your acknowledgment of this correspondence. Leon Spiro, SFC-E7 (.Retired) U.S. Army

Transportation Advisory Board

Maricopa County Department of Transportation

MINUTES

Tuesday, November 19, 2013

6. PATENT EASMENT ABANDONMENT ORDINANCE (DOT-02-2013)

Presentation: Mitch Wagner, Board of Supervisors Liaison

Suggested Action: Public meeting to initiate regulatory change

Mr. Wagner introduced the Patent Easement Abandonment Ordinance. Mr. Wagner stated that not many people are familiar with Patent Easements because, unless there is one on your property, you have no reason to be concerned about the ordinance. Mr. Wagner stated they were created back in 1938 in the Small Tract Act to allow local government utilities to have right-of-way easements without having to pay for them in the future so that they could establish utility lines and roadways. He explained that as developments progressed, the need for patent easements has gone away, but they continue to be an encumbrance on people's property. Mr. Wagner stated that when the property owner goes to Planning & Development and wants to build a fence or structure on their property, the setback lines that Planning & Development requires also apply from the patent easements, which are usually about 30 feet. He explained that the patent easements run along the front, back or side of the property. Mr. Wagner stated that property owners have inquired about the abandonment process with respect to these easements, taking a big patch of land, sometimes on two sides of the property, greatly impacting the developable area. He said this ordinance is the attempt to comply with the state statute that was changed earlier this year, giving counties the authority to abandon patent easements. He stated that cities and towns already have that authority, and the new state statute allows for counties to establish a process by which they could abandon patent easements upon application of the property owner.

Mr. Wagner continued that there is a fee associated with the application for the patent easement; the reason for that is the Maricopa County Department of Transportation was tasked with administering this ordinance. The County's money comes from the Highway User Revenue Fund (HURF), and the County can't spend the money on abandoning patent easements. Mr. Wagner stated that an analysis of the anticipated labor costs was done, and a fee of \$250 was established for the property owners to pay. Mr. Wagner stated that the initial fee would be used for the review, which would hopefully address many of the inquiries that we have. Mr. Wagner reasoned that a property owner may be requesting the abandonment of a patent easement that is adjacent to an existing roadway where there is going to be a (public) need in the future, particularly with an intersection, possibly for turn lanes, etc. He pointed out that those patent easement requests (where a future public need is identified) have to be honored, and hopefully with this \$250 fee we can take care of many of the requests that come in. Mr. Wagner explained that if you need to go through a full review, that requires notifying all the utility companies that might be impacted and also having the property posted, with signs indicating that the abandonment has been requested and is being considered by the Board. He

observed that's a much more expensive process in terms of labor costs, so that would be where the \$1,600 fee would come in. He pointed out that if somebody pays the \$250 and then goes forward with the full review, they get credited for that \$250 against the \$1,600, so it's not a dual fee.

Chairman Erpenbeck asked for clarification of the role of the TAB with respect to any patent easements.

Mr. Wagner stated that the TAB would not play a role in the process. Mr. Wagner indicated that the County's Real Estate Division, as well as our Development Services Department, would be reviewing the requests. Board Member Pastor requested clarification that the \$250 will go to the administration costs for this application and nothing else?

Mr. Wagner stated that she was correct. He said there has been one meeting held, and there was no one in attendance, but prior to the meeting there were inquiries from residents that were anxious to hear about the proposed process. Mr. Wagner said that he received an email from Mr. Spiro, who is in opposition. (Mr. Wagner noted that a copy was provided to the TAB Members today.) He stated that the email raises different legal challenges. Mr. Wagner stated that the issues have been reviewed by Wayne Peck of the County Attorney's Office, who drafted the ordinance, and we have responded to him accordingly. Mr. Wagner asked Chairman Erpenbeck to inquire to the public for comment.

Chairman Erpenbeck asked if anyone would like to make a public comment regarding the Patent Easement Abandonment Ordinance. There was no comment.

MINUTES

Tuesday, January 21, 2014

1. PATENT EASEMENT ABANDONMENT ORDINANCE (DOT-02-2013)

Presentation: Mitch Wagner, Board of Supervisors Liaison

Suggested Action: Public Hearing of the Enhanced Regulatory Outreach Program and possible recommendation to the Board of Supervisor for approval

Mr. Wagner mentioned that this is a second hearing for this ordinance and that there has been some editing done since the last hearing. Mr. Wagner indicated that he had received no additional comments. Mr. Wagner indicated that he had received emails from Leon Spiro, who raised a number of concerns that have been addressed by the County Attorney's Office. Mr. Wagner requested a motion that the TAB recommends approval from the Board of Supervisors.

Board Member Gullet asked Mr. Paulsen if he could explain how the ordinance works. He asked if, as long as a quiet zone remains in operation, it would not be abandoned by the County?

Mr. Paulsen replied that is correct. He introduced Mr. Wayne Peck, Deputy County Attorney, who is the author of the ordinance, to address questions.

Mr. Peck mentioned that the genesis of the ordinance is from Supervisor Kunasek and that there are a number of people who want these easements abandoned because they are of no use to their property. Mr. Peck explained that the ordinance provides a process by which someone can request that a patent easement be abandoned. The test is that there has to be an opinion from MCDOT that it is not in use and MCDOT sees no potential for future use. If there is any question, the recommendation is going to be not to abandon. It's not as if adopting the ordinance abandons easements, it does not; an applicant has to go through the process.

Mr. Peck stated his perception that Mr. Shapiro's concern is not about use of a patent easement on Mr. Shapiro's property, but rather as a global issue. Mr. Peck explained that if an easement is actually being used, or is necessary because it's how access will occur in the future, the recommendation will be not to approve abandonment. He said that otherwise the Board could overturn the recommendation and affirm the abandonment finding if the easement is not in use and not necessary.

Chairman Erpenbeck asked how a determination is made on the likelihood of the future use.

Mr. Peck stated that each application will be studied by a few divisions within MCDOT. It will be based on what's currently going on, future plan, etc. It will be on a case by case basis, not a "one size fits all."

Mr. Hauskins stated it's important and incumbent upon MCDOT to look at the framework studies that we have, where roads may go in the future, etc.; in those areas we would probably take a closer look. He stated his belief that this was predominantly drafted to address those properties that are in unincorporated county areas, etc. He opined that the likelihood of those easements being used is pretty slim. Mr. Hauskins expressed that MCDOT would try to be understanding and judicious.

Mr. Peck mentioned that in a majority of cases property owners are not even aware that they have patent easements on their property. Mr. Peck noted that he does a lot of work with Planning and Development and has observed that many people will come in with a developmental plan and the patent easement is discovered when the review is being done. He observed that the patent easements are generally less necessary closer to the urbanized areas.

MOTION: Vice Chairman Martin moved that the TAB recommend the ordinance to the Board of Supervisors for approval; Board Member Gullet seconded the motion.

ACTION: *Motion passed unanimously.*

Mitch Wagner - MCDOTX

From: Cynthia Robinson - MCDOTX
Sent: Monday, January 27, 2014 9:47 AM
To: 'fritzkoenig@hushmail.com'
Cc: Mitch Wagner - MCDOTX
Subject: 2014-01-27 - Koenig - Re: Request for Copy of Public Record-Clarification regarding Patent Easement Abandonment by Maricopa County Attorney's office

Importance: High

Dear Mr. Koenig:

Per your request below, the information you are requesting is privileged communication between attorney and client, and thus is not subject to disclosure.

Thank You.

Cynthia Robinson MPA C.P.M. ECM
Maricopa County Department of Transportation
Custodian of Records

Fritz Koenig
1819 Polk Street, # 227
San Francisco, CA 94109
310-508-8794

fritzkoenig@hushmail.com

January 24, 2014

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

Re: Request for Copy of Public Record—Clarification regarding Patent Easement Abandonment by Maricopa County Attorney's office

Dear Mr. Wagner:

Please provide to me a copy of the whole recent clarification regarding "patent easement" abandonment from the Maricopa County Attorney's office which stated:

"As the original grantor of an easement, the county has the right to abandon or revoke an easement." and,

"The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally."

I wish to see who originated the above statements, to whom they directed those statements, when they were issued, etc. If the communication was by paper letter, please provide a copy of the letter. If it was by email, please provide a copy of all of the email to include the "to address" and the "from address" and other standard correspondence routing information.

My email address is probably the best address to use for reply.

Sincerely,

Fritz Koenig

Mitch Wagner - MCDOTX

From: Regulatory
Sent: Monday, January 20, 2014 4:15 PM
To: Suzanne Gray - PLANDEVX
Subject: FW: Regulatory Outreach

From: markus@badgeringredients.com[SMTP:MARKUS@BADGERINGREDIENTS.COM]
Sent: Monday, January 20, 2014 4:14:52 PM
To: Regulatory
Subject: Regulatory Outreach
Auto forwarded by a Rule

Citizen Comments

Issue: TD-DOT-02-2013 – Patent Easement Abandonment Ordinance

Citizen's Name: Markus Billmyer
Organization:
City: Cave Creek
Zip: 85331
Phone Number: 414-412-0066
Phone Type: mobile
Email: markus@badgeringredients.com

Does citizen want to be contacted: yes

Comment is regarding: express support

Comments:

I am attempting to build a garage on my property and have learned of a patent easement that borders the property line parallel to the proposed location. With the setbacks it is impossible to build with the existing easement. The easement is unused, and unnecessary as access is only to my fenced yard, running the length of my yard, and ends at my neighbour's yard. I have spent several days between the Land management office and the Maricopa Planning and Development department to legally find out if I can build. I have spent a fair amount of time and money to acquire the required surveys and other documents that were requested only to then find out about a patent easement (new to me) on my property. I have been redirected to the DOT which has not returned any calls. A web search has also not produced any results to find information about the actual process to request an abandonment. There is information claiming an application that is to be filled out and it seems that fees have already been established. Although the fees are as confusing as the process. \$1600 on one search and \$250 on another search... but still no direction to who, how, or even where to obtain an application. Both the offices have directed me to a generic phone number and main web site for the MCDOT. I am frustrated and feeling that a simple solution must be being overlooked.

Time of Request: 1/20/2014 4:14:52 PM

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Monday, April 07, 2014 9:53 AM
To: 'leon spiro'
Subject: 2014-04-07 - Spiro - RE: Patent Easement Abandonment Ordinance

Mr. Spiro ... The Board of Supervisor has scheduled a public hearing on the Patent Easement Abandonment Ordinance for May 7, 2014 at 9:00 a.m. in the Supervisors' Auditorium at 205 W. Jefferson Street, Phoenix. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

CONFIDENTIALITY NOTICE: This message, with any attachments, is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential and exempt from disclosure. If you are not the intended recipient, any dissemination, distribution, or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by return E-mail and delete this message and all attachments. Thank you.

Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Sunday, April 06, 2014 4:30 PM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; Dan Brenden; Joseph Domanico; Denny Barney - DIST1X; ggriffin@azleg.gov; tfleming@azleg.gov; Andrew Kunasek - DIST3X; Clinton Hickman - DIST4X; Stephen Chucri - DIST2X; Denny Barney - DIST1X; jborges@azleg.gov; John Hauskins - MCDOTX; Darren Gerard - PLANDEVX
Subject:

Mr. Mitch Wagner. Reference MCDOT Ordinance change DOT2-2013. When is this to be heard by the Board of Supervisor's for approval? If not yet approved, suggest that this be continued until the Arizona Legislature replies to the question asked, as to whether this HB2031,2013 is permitting the Arizona Counties to "abandon Small Tract Act of 1938 Roadway and Public Utilities Easements "in total" or just "permitting the Counties to abandon only their interest". There is a big difference ; I await your reply.

Leon Spiro, SFC-
E7 (Retired) U. S. Army.

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Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Monday, April 07, 2014 2:10 PM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; Andrew Kunasek - DIST3X; Stephen Chuceri - DIST2X; Denny Barney - DIST1X; Clinton Hickman - DIST4X; tfleming@azleg.gov; Dan Brenden; Joseph Domanico; chh@pima.gov; district1@pima.gov; district2@pima.gov; ggriffin@azleg.gov; btownsend@azleg.gov; jburgess@azleg.gov
Subject: 2014-04-07 - Spiro - MCDOT Ordinance Change Request

Mitch Wagner: Many thanks. It is a shame that Attorney Mike Foster is no longer with us. His advice in 2001 to the Scottsdale City Council, was "don't touch" regarding the Small Tract Act of 1938 Patent Roadway Easements. At that time, Mike Foster was the Arizona State Private Property Rights Ombudsman Attorney. who spoke as a Private Citizen, I view this Ordinance request change to be a "private property rights taking". I certainly hope that these Board Members remember the oath they took when they took their oath of office. Many thanks for this information. You are definitely an asset. Leon Spiro, SFC-E7 (Retired) U. S. Army. PS: Did the Maricopa County Attorney ever reply to my "handicap request"? LS,

----- Forwarded Message -----ny thanks for thi

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>
To: 'leon spiro' mailto:leon_spiro@yahoo.com%3Eationforms in
Sent: Monday, April 7, 2014 9:53 AM
Subject: RE: Patent Easement Abandonment Ordinance

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Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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Subject:

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Leon Spiro, SFC-
E7 (Retired) U. S. Army.

Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Sunday, March 23, 2014 3:49 PM
To: blebovitz@scottsdaleaz.gov
Cc: leon_spiro@yahoo.com; cjagger@scottsdaleaz.gov; amogel@blm.gov; bheick@blm.gov; Dan Brenden; Joseph Domanico; Darren Gerard - PLANDEVX; Wayne Peck; chh@pima.gov; Tom Manos - CAOx; tfleming@azleg.gov; btownsend@azleg.gov; john@reactionresearch.com; John Hauskins - MCDOTX; john@saaronline.com; sam@samjwest.com; sfarley@azleg.gov; sscott@scottsdaleaz.gov; savemtrose@earthlink.net; santhony@lasvegasnevada.gov; scott.egan@pima.gov; john@reactionresearch.com; jburgess@azleg.gov; jmurillo@scottsdaleaz.gov; jpadilla@scottsdaleaz.gov; Stephen Chucri - DIST2X; chh@pima.gov; citycouncil@scottsdaleaz.gov; copperphillips@cox.net; chris.coppola@arizonarepublic.com; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; Joseph Domanico; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; fixscottsdale@hotmail.com; ggriffin@azleg.gov; gphillips@scottsdaleaz.gov; Clinton Hickman - DIST4X; howard.myers@cox.net; info@goldwaterinstitute.org; kniederer@scottsdaleaz.gov; kward@scottsdaleaz.gov; Lynn Favour - PLANDEVX; markstuart1001@cox.net; miggi1@q.com; Mitch Wagner - MCDOTX; mugenti@azleg.gov; Mike Freeman - PLANDEVX; MaryRose Wilcox - DIST5X; murray_snow@azd.uscourts.gov; ndranias@goldwaterinstitute.org; omaramin@aol.com; ortegarchi@cox.net; officeofthemayor@lasvegasnevada.gov; Katie Prendergast - DIST2X; pdial@azleg.gov; sfarley@azleg.gov; sscott@scottsdaleaz.gov; scott@outbackpropertyservices.com; renocop@earthlink.net; tcurtis@scottsdaleaz.gov
Subject: 2014-03-23 - Spiro -- Abandonment Case #3-AB-2013 of Federal Patent Easement.

On Sunday, March 23, 2014 9:27 PM, leon spiro <leon_spiro@yahoo.com> wrote: Brian Leibovitz, Staff Contact, Abandonment Case #3-AB-2013: Mr, Leibovitz: I reference my last E Mail to you regarding this case for which I never received a reply: "This abandonment request by the applicant, is a Legal Issue and not a Scottsdale City Council judgement call".. An important question asked of you was "Will the release of the City Interest Only Agreement City Request Form", be required of the applicant, and / or present owner and lenders, even though the "Staff may have authorized, at that time, this encroachment upon these Small Tract Act of 1938 deeded roadway and public utilities easements", for the builder and owner of the property, at that time? You owe this courtesy to the present owner and the applicant. I request all correspondence sent to you be included in all Staff Reports for this case so that all may be informed of "possible city creation of this problem" for this uninformed purchaser of this property and for similar properties eager for development. I believe there may be others, as well as the U.S. Government, that may have an investment interest in this and other similar properties in this same neighborhood, It is time that you availed yourself of the right to seek from the Scottsdale City Attorney, Bruce Washburn, the answer to the questions "asked of you" that require the opinion and / approval of City Attorney Washburn. I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U.S. Army and a Small Tract Act of 1938 Federal Land Patent Parcel Homeowner.

On Saturday, February 1, 2014 2:16 AM, leon spiro <leon_spiro@yahoo.com> wrote:

Mitch Wagner: I want to thank you for helping me as much as you could. It is an interesting issue. My intense involvement is because the City of Scottsdale has made my front street into a 15 foot alley trail. Again my thanks. This a much bigger problem than just eaements. I will keep you copied . Again my thanks. Leon Spiro.

----- Forwarded Message -----e my front stretoot alley trail. into a 15 fe

From: leon spiro <leon_spiro@yahoo.com>

To: "blebovitz@scottsdaleaz.gov" <blebovitz@scottsdaleaz.gov>

Cc: "cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>; "citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>; "citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>; "bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "jmurillo@scottsdaleaz.gov" <jmurillo@scottsdaleaz.gov>; "jpadilla@scottsdaleaz.gov" <jpadilla@scottsdaleaz.gov>; "domanicoj@mcao.maricopa.gov" <domanicoj@mcao.maricopa.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "sam@samjwest.com" <sam@samjwest.com>; "sfarley@azleg.gov" <sfarley@azleg.gov>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "tmanos@mail.maricopa.gov" <tmanos@mail.maricopa.gov>; "tcurtis@scottsdaleaz.gov" <tcurtis@scottsdaleaz.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "chh@pima.gov" <chh@pima.gov>; "district1@pima.gov" <district1@pima.gov>; "darrengerard@mail.maricopa.gov" <darrengerard@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "ggriffin@azleg.gov" <ggriffin@azleg.gov>; "john@reactionresearch.com" <john@reactionresearch.com>; "jburges@azleg.gov" <jburges@azleg.gov>

Sent: Friday, January 31, 2014 5:56 PM

Subject: Fw: Active ,Abandonment Case #3-AB-2013.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "blebovitz@scottsdaleaz.gov" <blebovitz@scottsdaleaz.gov>; "tcurtis@scottsdaleaz.gov" <tcurtis@scottsdaleaz.gov>

Cc: "cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>; "citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>; "citycouncil@lasvegasnevada.gov" <citycouncil@lasvegasnevada.gov>; "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>; "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>; "ed.montini@arizonarepublic.com" <ed.montini@arizonarepublic.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "hickmanc@mail.maricopa.gov" <hickmanc@mail.maricopa.gov>; "howard.myers@sensor-tech.com" <howard.myers@sensor-tech.com>; "copperphillips@cox.net" <copperphillips@cox.net>; "chris.coppola@arizonarepublic.com" <chris.coppola@arizonarepublic.com>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "darrengerard@mail.maricopa.gov" <darrengerard@mail.maricopa.gov>; "bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "jmurillo@scottsdaleaz.gov" <jmurillo@scottsdaleaz.gov>; "jpadilla@scottsdaleaz.gov" <jpadilla@scottsdaleaz.gov>; "bcoffin@lasvegasnevada.gov" <bcoffin@lasvegasnevada.gov>; "barneyd@mail.maricopa.gov" <barneyd@mail.maricopa.gov>; "bbridges@lasvegasnevada.gov" <bbridges@lasvegasnevada.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>

Sent: Friday, January 31, 2014 3:07 PM

Subject: Fw: Active ,Abandonment Case #3-AB-2013. Suggest reading carefully Arizona Appellate Court Case #1 CA-CV 06-0756 and Dessenting Opinion of Judge Murray Snow.--- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "blebovitz@scottsdaleaz.gov" <blebovitz@scottsdaleaz.gov>

Cc: "jmurillo@scottsdaleaz.gov" <jmurillo@scottsdaleaz.gov>;
"jpadilla@scottsdaleaz.gov" <jpadilla@scottsdaleaz.gov>;
"citycouncil@scottsdaleaz.gov" <citycouncil@scottsdaleaz.gov>;
"cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>;
"leon_spiro@yahoo.com" <leon_spiro@yahoo.com>;
"bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>;
"sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>;
"tcurtis@scottsdaleaz.gov" <tcurtis@scottsdaleaz.gov>;
"dmeinhardt@scottsdaleaz.gov" <dmeinhardt@scottsdaleaz.gov>;
"bcarr@scottsdaleaz.gov" <bcarr@scottsdaleaz.gov>;
"chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>;
"mugenti@azleg.gov" <mugenti@azleg.gov>; "ggriffin@azleg.gov"
ggriffin@azleg.gov,

Sent: Tuesday, January 28, 2014 4:32 AM

Subject:

Active Roadway Abandonment Case-#3-AB-2013.

Brandon Leibovitz, Staff Contact, Abandonment Request Case #3-AB-2013. Mr. Leibovitz: Is Case #3-AB-2013 still an active case? I am of the understanding that a continuation request letter is required of the applicant? Has this continuation been officially requested?. Will the Release of City Interest Only Agreement, City Request Form, be required of the applicant even though the Staff may have authorized this encroachment upon this Small Tract Act of 1938 Roadway and Public Utilities Easements for a previous owner? May I call your attention to a recent Ordinance Request Change being in the approval process submitted by MCDOT which the County believes will abandon these easements "in total". I await your reply. Leon Spiro, A Citizen of Scottsdale and a Federal Land Patent Parcel Homeowner of a Small Tract Act of 1938 Parcel. I understand that this home was built in 1993 when Ordinance #1386 was controlling.

correspondence. It is now handled electronically and the Department receives an email notification from the White House. It probably is similar to the Bureau of Land Management (BLM) process. The BLM uses an electronic document tracking system (DTS) to assign and track incoming correspondence. Attached is the DTS email notification that our office received from the BLM Washington Office that directed Arizona BLM to respond directly to you. Note that the Subject box states the following: "White House referral: land patent in Scottsdale, Arizona " and that the Action box directs the Arizona BLM State Director to respond directly to you. You now have all the BLM records regarding your email request to the White House.

Regards,Angela Mogel

Angela MogelAZ Realty Program LeadU.S. Bureau of Land ManagementArizona State OfficeOne North Central Avenue, Suite 800
Phoenix, AZ 85004-4427Phone: 602-417-9536Email: amogel@blm.gov

On Wed, Feb 12, 2014 at 4:35 AM, leon spiro <leon_spiro@yahoo.com> wrote:

Angela Mogel, Arizona Real Estate Program Leader, BLM, State Office, Phoenix; Mrs. Mogel: Thanks for your reply to my last question. Now, will you please "provide me a copy of your memorandum request" to the BLM Washington Office. It appears that someone in the chain is ignoring this simple request? I await your reply and / or your acknowledgement of this correspondence. Many thanks. Leon Spiro, SFC-E7 (Retired) U. S. Army.

On Monday, February 10, 2014 11:41 PM, "Mogel, Angela" <amogel@blm.gov> wrote:

Hello Mr. Sprio,I am writing to confirm that I received your email. Unfortunately I have no new information to tell you yet. I will be sure to email you as soon as I have an update.

Regards,Angela Mogel

Angela MogelAZ Realty Program LeadU.S. Bureau of Land ManagementArizona State OfficeOne North Central Avenue, Suite 800

Phoenix, AZ 85004-4427Phone: 602-417-9536Email: amogel@blm.gov

On Mon, Feb 10, 2014 at 2:48 PM, leon spiro <leon_spiro@yahoo.com> wrote:

Angela Mogel, Arizona Realty Program Leader, BLM, State Office , Phoenix, AZ. ; Mrs. Mogel: I reference my correspondence to you of 4 February 2014 in which you replied, "We are checking with our Washington, D. C. Ooffice regarding your request": May I ask, Mrs , Mogel, what is the reason for this delay in replying? I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U. S. Army.

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Regards,Angela Mogel

Angela MogelAZ Realty Program LeadU.S. Bureau of Land ManagementArizona State OfficeOne North Central Avenue, Suite 800

Phoenix, AZ 85004-4427Phone: 602-417-9536Email: amogel@blm.gov

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Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Wednesday, January 15, 2014 5:10 AM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com
Subject: 2014-01-15 - SPiro - Fw: Question, DOT.02-2013. . Spiro to Towdsend #2. Fw: HB 2031opa Count

Mitch Wagner: Sorry about th
is duplication, but latest reply to your letter was wiped
out. Computer acting up. But stil Lead Attorneys name that
provided you r reply. Many thanks. L.Spiro.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "ggriffin@azleg.gov" <ggriffin@azleg.gov>;
"tfleming@azleg.gov" <tfleming@azleg.gov>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "sfarley@azleg.gov"
<sfarley@azleg.gov>; "tadams@az.leg" <tadams@az.leg>; "akunasek@mail.maricopa.gov"
<akunasek@mail.maricopa.gov>; "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>;
"akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "barneyd@mail.maricopa.gov"
<barneyd@mail.maricopa.gov>; "hickmanc@mail.maricopa.gov" <hickmanc@mail.maricopa.gov>;
"chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "mrwilcox@mail.maricopa.gov"
<mrwilcox@mail.maricopa.gov>; "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>;
"peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "chucris@mail.maricopa.gov"
<chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>;
"jdial@azleg.gov" <jdial@azleg.gov>; "chh@pima.gov" <chh@pima.gov>; "tmanos@mail.maricopa.gov"
<tmanos@mail.maricopa.gov>; "johnhauskins@mail.maricopa.gov" <johnhauskins@mail.maricopa.gov>
Sent: Tuesday, January 14, 2014 10:12 AM
Subject: Question, DOT.02-2013. . Spiro to Towdsend #2. Fw: HB 2031opa Count

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>
To: 'leon spiro' <leon_spiro@yahoo.com>
Sent: Wednesday, January 8, 2014 3:05 PM
Subject: RE: Spiro to Towdsend #2. Fw: HB 2031opa Count

Mr. Spiro ... As you note in your email, mine is not a legal position but rather the staff member tasked with responding to inquiries on behalf of the Department of Transportation. I have shared with you the information we have received from the County Attorney's Office. This proposed ordinance will be discussed at the January 21, 2014 Transportation Advisory Board meeting. It is anticipated that it will be heard by the Board of Supervisors at their April 9, 2014 meeting. A member of the County Attorney's Office will be present at both meetings to advise the TAB members and the supervisors regarding any legal issues related to this proposed ordinance. You are certainly welcome to attend these meeting and share your concerns. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Tuesday, January 07, 2014 5:24 PM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; ggriffin@azleg.gov; tforese@azleg.gov; tfleming@azleg.gov; jburgess@azleg.gov; chucris@mail.maricopa.com; Katie Prendergast - DIST2X; Andrew Kunasek - DIST3X; barredondo@azleg.gov; Denny Barney - DIST1X; Clinton Hickman - DIST4X; MaryRose Wilcox - DIST5X; chh@pima.gov; Tom Manos - CAO; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; Mike Freeman - PLANDEVX; sam@samjwest.com; sfarley@azleg.gov; sfarley@azleg.gov

Subject: Fw: Spiro to Towdsend #2. Fw: HB 2031opa Count

Mitch Wagner, Liason Maricopa County Department of Transportatipn, Arizona; Mr. Wagner: I want to thank you for your 6 January 2014 correspondence reply to my question of County right to abandon "Small Tract Act of 1938" patent r easements " in total" . or "only the Counties interest" in these deeded easemen? Is it fair to say that you wrote this letter of explanation, because of yourr title stamp. We,as Small Tract Act parcel homeowners do not believe that this is fair to ask you to provide the explanation as to the reasoning behind this abandonment action to be granted with approval of an abandonment request, it should have been written by a member of the team that authored this Ordinance change. Mr. Wagner, will you please provide me the name of the Deputy Attorney that provided you this material and if you are unable then one must assume that this explanation has the approval of Maricopa County Attorney Bill Montgomery . I now have another question to ask of the Lead Attorney in this Patent Easement Abandonment Ordinance change request. It should be asked of the Lead Attorney, for I view this ordinance change as a "property right taking ordinance". I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U, S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: 'leon spiro' <leon_spiro@yahoo.com>

Sent: Monday, January 6, 2014 2:04 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031opa Count

Mr. Spiro ... I am not aware of any formal written County Attorney opinion on this issue. Below is further clarification from the County Attorney's office:

The question Mr. Spiro raised is "whether permission has been given to abandon these patent roadway and public utilities easements 'in total' or of 'only the counties interest?'"

The question demonstrates a misunderstanding of patent easements, because the county has no "interest" in a patent easement. Patent easements were given to the public. The "interest" held by the county is that delegated by the federal government, as the original grantor, to the State of Arizona, which has now delegated that authority to the counties. As the original grantor of an easement, the county has the right to abandon or revoke an easement. Of course, permission of the grantee is also required. Because the grantee is the "public," the entity that acts on behalf of the public is, in this case, also the county. So if the county desires to extinguish a patent easement, it has the power to do so. No individual member of the public has any "interest" in a patent easement.

The recently adopted legislation which has triggered the propose ordinance provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally.

Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, January 05, 2014 4:51 PM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; Katie Prendergast - DIST2X; Joseph Domanico; Dan Brenden; Wayne Peck; chucris@mail.maricopa.com; fleming@azleg.gov; John Hauskins - MCDOTX; Darren Gerard - PLANDEVX; Charles Hart

Mitch Wagner, Liason Officer, MCDOT, Arizona; Mr. Wagner: My sincere thanks for informing me of the next step in Maricopa County's procedure for abandon ing a Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easement for Small Tract Act parcels, sold to individual Citizens. You mention the statement of "abandonment of these patented easements "in total" is attributed to a decision of County Attorney Bill Montgomery .can anyone produce this document , with his signature? Supervisor Chucris Chief of Staff Katie Prendergrast is unable to produce a coonfirmation copy for that statement made. County Attorney Bill Montgomery is a U. S. Military West Point gr aduate who abided by the Military Code of , "FIRM AND FAIR". I assume that this fairness trait has not left County Attorney Mongomery. This "patent easement issue" is a "legal issue and not a judgement call". We view this "abandonment 'in total' a property right taking". Please read the "original Federal Land Patent with the specifed easement loocation". We understand that this original "patent (deed) provides dominant tenement easement rights and servient tenement easement obligations " that remain in perpetuity. It is advised "due dillegence". Why take the risk? Remind everyone concerned, to read Deputy Director Lynn Favor's Memorandum regarding Small Tract Act of 1938 Patent Roadway and Public Utilities Easements and Planning and Development Department Directive DD 2011-05, which is also about Federal Patent Roadway and Public Utilities Easements. Governor Jan Brewer has also addressed this same issue when she was a member of the Maricopa Board of Supervisor's. . Has the Legislation been changed? .May I call to your attention Arizona Appellate Court Case titled Neal V, Brown, #1 CA-CV 06-0756, which

was decisioned on a "fence construction placement for which there was a "required pre-construction inspection, which, I believe, was never ordered by the property owner" nor was one made . It is hard to believe that this fact was not uncovered by one of the Attorneys and Judges involved? This Appellaate Court Case #1 CA-CV 06-0756 , now, I understand is "Case Law" and is being referenced, most recently in Alaska. If we are correct, was the Court duped? One wonders, if this is correct, what does the Arizona Justice System do about a case like this? As a Citizen of Maricopa County, I "oppose this Ordinance change as I believe , as others do, that this abandonment is a "property right taking" . Small Tract Act of 1938 Patent (deeded) Roadway and Public Utilities Easements are different in that they were placed there by the Federal Government. Please, if you are permitted, see that this correspondence to you is seen by the by the Transortation Advisory Bo Also, we believe, they can not be legally assembled. If abandoned of city, town or county interest, these roadway easements then become "private roadways ". Leon Spiro, SFC-E7 (Retired) U. S, Army.

----- Forwarded Message -----

From: Katie Prendergast - DIST2X <prendergastk@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Friday, October 11, 2013 3:43 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031

Hello Mr. Spiro,

Thank you for your reply. No, I am not an attorney and received information on the question you posed to Supervisor Chucri from the Maricopa County Attorney's Office. Below please find that information:

The recently adopted legislation to which you made reference provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

Abandonment of a patent easement by a county will extinguish the patent easement totally.

Please let me know if you have additional questions and I am happy to assist you.

Best regards,

Katie

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Thursday, October 10, 2013 10:00 AM
To: Katie Prendergast - DIST2X
Cc: leon_spiro@yahoo.com
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Sorry. Spiro

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "pendergastk@mail.maricopa.gov" <pendergastk@mail.maricopa.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>
Sent: Thursday, October 10, 2013 4:44 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Katie Pendergast, Deputy Chief of Staff, Maricopa County; Mrs. Pendergast: Thank you for your reply to Supervisor Chucris's request. May I ask, are you an Attorney? I am presently not in Arizona. E Mail is the best and only way to communicate at this time. I understand that E Mail communication is also for the record, and this is good regarding this legal issue. So that you may become more familiar with this issue now before you, may I suggest that you become familiar with Maricopa County Planning Department Memorandum #DD2011-05, Arizona Appellate Court Case #1 CA-CV 06-0756. Please read or listen to Professor / Attorney Gary Birnbaum's 1 March 2005 Study Session Presentation given to the City of Scottsdale City Council. City Clerk Carolyn Jagger, I am sure still, will be pleased to provide you with a written and audio copy of this session. Please note also, the City Of Scottsdale's position regarding these Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easements. I am not a Lawyer. I will be pleased to provide you with any material that I may have regarding this issue. I see the answer to this question as being, "a yes, or a no". Many thanks for your reply. Leon Spiro, SFC-E7 (Retired) U. S. Army PS: The City of Scottsdale has "abandoned its interest in my front street which should be 66 feet wide and has made it into a 15 foot wide alley trail. The City of Scottsdale has not as yet permitted encroachment upon these abandoned portions. LS. ----- Forwarded d only -----

From: leon spiro mailto:leon_opyspiro@yahoo.com
To: "btownsend@azleg.gov" <btownsend@azleg.gov>
Cc: "mugenti@azleg.gov" <mugenti@azleg.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "jburgess@azleg.gov" <jburgess@azleg.gov>; "ag.inquiries@azag.gov" <ag.inquiries@azag.gov>
Sent: Sunday, August 11, 2013 10:25 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend, Senior Policy and Operations Advisor to the Majority; Mr. Townsend: I reference my last E Mail to you dated 7 August 2013. Sir, would you please acknowledge receipt of this E Mail correspondence as I assume it may take you a while to answer questions asked of you. I await

your reply.. Leon Spiro, SFC-E7 (Retired) U.S. Army. @scottsdaleaz.gov"
<bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "mugenti@azleg.gov"
<mugenti@azleg.gov>

Sent: Wednesday, August 7, 2013 5:05 AM

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend; Mr. Townsend, I am of the understanding that E Mail correspondence is "for the record". And this, then, will then be a perfect means for referencing. And so, the question once again is whether newly passed HB2031, 2013, regarding the Small Tract Act of 1938 Federal patent easements, "abandons this deeded roadway and public utilities easement "in total" after the Counties abandonment procedure? I reference the "private property right of all owners of Federal Patent property sold under the Classification Order that created this neighborhood." We believe that this can not be abandoned. As the Senior Policy and Operation Advisor to the Majority, was this issue explained to all Representatives. This should be a recorded document. May I have a copy. Once again, I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756. Make sure you are familiar with the decenting opinion of Judge Murray Snow. I await your reply. This is a much better way to communicate which will make all involved, accountable. Leon Spiro, SFC-E7 (Retired) U.S. Army. Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Tuesday, August 6, 2013 11:53 AM

Subject: RE: Spiro to Townsend #1. Fw: HB 2031

Mr. Spiro,

It may be easier to communicate over the phone to address your question regarding the meaning of certain terms. If you can provide me a phone number I am happy to call you or we can set up a specific time to talk so we do not miss each other. Just let me know.

Thanks,
Brian

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Tuesday, August 06, 2013 11:10 AM

To: Brian Townsend

Cc: leon_spiro@yahoo.com

Subject: Spiro to Townsend #1. Fw: HB 2031

Mr. Brian Townsend: I have your E Mail for which I thank you. I am presently out of Arizona and contacting you by phone may be difficult. E Mail may be a better way to communicate at this time. I have asked the question of Representative Ugenti and I assume that you will provide the answer? I am more than willing to ----answer all questions asked of me. In the meantime, may I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756 which may contain some interesting material regarding Small TRact Act of 1938 roadway easements.. May I ask, "are you an Attorney"? I await your reply. Leon Spiro. SFC-E7 (Retired) U. S. Army -

Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>

To: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>

Sent: Monday, August 5, 2013 3:00 PM

Subject: HB 2031

Mr Spiro,

Representative Ugenti asked me to contact you regarding your email to her about HB 2031. Please call me at your earliest convenience at 602-926-3958.

ich

Thank you,

Brian Townsend

Senior Policy and Operations Advisor to the Majority

Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Tuesday, January 14, 2014 10:13 AM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; ggriffin@azleg.gov; tfleming@azleg.gov; btownsend@azleg.gov; sfarley@azleg.gov; tadams@az.leg; Andrew Kunasek - DIST3X; Dan Brenden; Andrew Kunasek - DIST3X; Denny Barney - DIST1X; Clinton Hickman - DIST4X; Stephen Chucri - DIST2X; MaryRose Wilcox - DIST5X; Dan Brenden; Wayne Peck; Stephen Chucri - DIST2X; Katie Prendergast - DIST2X; jdial@azleg.gov; chh@pima.gov; Tom Manos - CAO; John Hauskins - MCDOTX
Subject: 2014-01-14 - Spiro - Question, DOT.02-2013. . Spiro to Towdsend #2. Fw: HB 2031opa Count

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>
To: 'leon spiro' <leon_spiro@yahoo.com>
Sent: Wednesday, January 8, 2014 3:05 PM
Subject: RE: Spiro to Towdsend #2. Fw: HB 2031opa Count

Mr. Spiro ... As you note in your email, mine is not a legal position but rather the staff member tasked with responding to inquiries on behalf of the Department of Transportation. I have shared with you the information we have received from the County Attorney's Office. This proposed ordinance will be discussed at the January 21, 2014 Transportation Advisory Board meeting. It is anticipated that it will be heard by the Board of Supervisors at their April 9, 2014 meeting. A member of the County Attorney's Office will be present at both meetings to advise the TAB members and the supervisors regarding any legal issues related to this proposed ordinance. You are certainly welcome to attend these meeting and share your concerns. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; ggriffin@azleg.gov; tforese@azleg.gov; tfleming@azleg.gov; jburgess@azleg.gov; chucris@mail.maricopa.com; Katie Prendergast - DIST2X; Andrew Kunasek - DIST3X; barredondo@azleg.gov; Denny Barney - DIST1X; Clinton Hickman - DIST4X; MaryRose Wilcox - DIST5X; chh@pima.gov; Tom Manos - CAO; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; Mike Freeman - PLANDEVX; sam@samjwest.com; sfarley@azleg.gov; sfarley@azleg.gov
Subject: Fw: Spiro to Towdsend #2. Fw: HB 2031opa Count

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question of County right to abandon "Small Tract Act of 1938" patent easements "in total" or "only the Counties interest" in these deeded easements? Is it fair to say that you wrote this letter of explanation, because of your title stamp. We, as Small Tract Act parcel homeowners do not believe that this is fair to ask you to provide the explanation as to the reasoning behind this abandonment action to be granted with approval of an abandonment request, it should have been written by a member of the team that authored this Ordinance change. Mr. Wagner, will you please provide me the name of the Deputy Attorney that provided you this material and if you are unable then one must assume that this explanation has the approval of Maricopa County Attorney Bill Montgomery. I now have another question to ask of the Lead Attorney in this Patent Easement Abandonment Ordinance change request. It should be asked of the Lead Attorney, for I view this ordinance change as a "property right taking ordinance". I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U, S. Army.

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To: 'leon spiro' <leon_spiro@yahoo.com>

Sent: Monday, January 6, 2014 2:04 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031opa Count

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The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally.

Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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Sent: Sunday, January 05, 2014 4:51 PM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; Katie Prendergast - DIST2X; Joseph Domanico; Dan Brenden; Wayne Peck; chucris@mail.maricopa.com; fleming@azleg.gov; John Hauskins - MCDOTX; Darren Gerard - PLANDEVX; Charles Hart - PLANDEVX; chh@pima.gov; chris.coppola@arizonarepublic.com

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031opa Count

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Prendergrast is unable to produce a confirmation copy for that statement made. County Attorney Bill Montgomery is a U. S. Military West Point graduate who abided by the Military Code of , "FIRM AND FAIR". I assume that this fairness trait has not left County Attorney Montgomery. This "patent easement issue" is a "legal issue and not a judgement call". We view this "abandonment 'in total' a property right taking". Please read the "original Federal Land Patent with the specified easement location". We understand that this original "patent (deed) provides dominant tenement easement rights and servient tenement easement obligations " that remain in perpetuity. It is advised "due diligence". Why take the risk? Remind everyone concerned, to read Deputy Director Lynn Favor's Memorandum regarding Small Tract Act of 1938 Patent Roadway and Public Utilities Easements and Planning and Development Department Directive DD 2011-05, which is also about Federal Patent Roadway and Public Utilities Easements. Governor Jan Brewer has also addressed this same issue when she was a member of the Maricopa Board of Supervisor's. . Has the Legislation been changed? .May I call to your attention Arizona Appellate Court Case titled Neal V, Brown, #1 CA-CV 06-0756, which was decisioned on a "fence construction placement for which there was a "required pre-construction inspection, which, I believe, was never ordered by the property owner" nor was one made . It is hard to believe that this fact was not uncovered by one of the Attorneys and Judges involved? This Appellaate Court Case #1 CA-CV 06-0756 , now, I understand is "Case Law" and is being referenced, most recently in Alaska. If we are correct, was the Court duped? One wonders, if this is correct, what does the Arizona Justice System do about a case like this? As a Citizen of Maricopa County, I "oppose this Ordinance change as I believe , as others do, that this abandonment is a "property

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Leon Spiro, SFC-E7 (Retired) U. S, Army.

----- Forwarded Message -----

From: Katie Prendergast - DIST2X <prendergastk@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Friday, October 11, 2013 3:43 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031

Hello Mr. Spiro,

Thank you for your reply. No, I am not an attorney and received information on the question you posed to Supervisor Chucri from the Maricopa County Attorney's Office. Below please find that information:

The recently adopted legislation to which you made reference provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

Abandonment of a patent easement by a county will extinguish the patent easement totally.

Please let me know if you have additional questions and I am happy to assist you.

Best regards,

Katie

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Thursday, October 10, 2013 10:00 AM

To: Katie Prendergast - DIST2X

Cc: leon_spiro@yahoo.com

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Sorry. Spiro

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "pendergast@mail.maricopa.gov" <pendergast@mail.maricopa.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>;
"mugenti@azleg.gov" <mugenti@azleg.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>;
"chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>
Sent: Thursday, October 10, 2013 4:44 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Katie Pendergast, Deputy Chief of Staff, Maricopa County; Mrs. Pendergast: Thank you for your reply to Supervisor Chucris's request. May I ask, are you an Attorney? I am presently not in Arizona. E Mail is the best and only way to communicate at this time. I understand that E Mail communication is also for the record, and this is good regarding this legal issue. So that you may become more familiar with this issue now before you, may I suggest that you become familiar with Maricopa County Planning Department Memorandum #DD2011-05, Arizona Appellate Court Case #1 CA-CV 06-0756. Please read or listen to Professor / Attorney Gary Birnbaum's 1 March 2005 Study Session Presentation given to the City of Scottsdale City Council. City Clerk Carolyn Jagger, I am sure still, will be pleased to provide you with a written and audio copy of this session. Please note also, the City Of Scottsdale's position regarding these Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easements. I am not a Lawyer. I will be pleased to provide you with any material that I may have regarding this issue. I see the answer to this question as being, "a yes, or a no". Many thanks for your reply. Leon Spiro, SFC-E7 (Retired) U. S. Army PS: The City of Scottsdale has "abandoned its interest in my front street which should be 66 feet wide and has made it into a 15 foot wide alley trail. The City of Scottsdale has not as yet permitted encroachment upon these abandoned portions. LS. ----- Forwarded d only -----

From: leon spiro mailto:leon_opyspiro@yahoo.com
To: "btownsend@azleg.gov" <btownsend@azleg.gov>
Cc: "mugenti@azleg.gov" <mugenti@azleg.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>;
"jburgess@azleg.gov" <jburgess@azleg.gov>; "ag.inquiries@azag.gov" <ag.inquiries@azag.gov>
Sent: Sunday, August 11, 2013 10:25 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend, Senior Policy and Operations Advisor to the Majority; Mr. Townsend: I reference my last E Mail to you dated 7 August 2013. Sir, would you please acknowledge receipt of this E Mail correspondence as I assume it may take you a while to answer questions asked of you. I await your reply.. Leon Spiro, SFC-E7 (Retired) U.S. Army. @scottsdaleaz.gov
<bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>
Sent: Wednesday, August 7, 2013 5:05 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend; Mr. Townsend, I am of the understanding that E Mail correspondence is "for the record". And this, then, will then be a perfect means for referencing. And so, the question once again is whether newly passed HB2031, 2013, regarding the Small Tract Act of 1938 Federal patent easements, "abandons this deeded roadway and public utilities easement "in total" after the Counties abandonment procedure? I reference the "private property right of all owners of Federal Patent property sold under the Classification Order that created this neighborhood." We believe that this can not be abandoned. As the Senior Policy and Operation Advisor to the Majority, was this issue explained to all Representatives. This should be a recorded document. May I have a copy. Once again, I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756. Make sure you are familiar with the decenting opinion of Judge Murray Snow. I await your reply. This is a much better way to communicate which will make all involved, accountable. Leon Spiro, SFC-E7 (Retired) U.S. Army. Forwarded Message -----
From: Brian Townsend <BTownsend@azleg.gov>
To: leon spiro <leon_spiro@yahoo.com>

Sent: Tuesday, August 6, 2013 11:53 AM
Subject: RE: Spiro to Townsend #1. Fw: HB 2031

Mr. Spiro,

It may be easier to communicate over the phone to address your question regarding the meaning of certain terms. If you can provide me a phone number I am happy to call you or we can set up a specific time to talk so we do not miss each other. Just let me know.

Thanks,
Brian

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Tuesday, August 06, 2013 11:10 AM
To: Brian Townsend
Cc: leon_spiro@yahoo.com
Subject: Spiro to Townsend #1. Fw: HB 2031

Mr. Brian Townsend: I have your E Mail for which I thank you. I am presently out of Arizona and contacting you by phone may be difficult. E Mail may be a better way to communicate at this time. I have asked the question of Representative Ugenti and I assume that you will provide the answer? I am more than willing to ----answer all questions asked of me. In the meantime, may I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756 which may contain some interesting material regarding Small TRact Act of 1938 roadway easements.. May I ask, "are you an Attorney"? I await your reply. Leon Spiro. SFC-E7 (Retired) U. S. Army -

Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>
To: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Monday, August 5, 2013 3:00 PM
Subject: HB 2031

Mr Spiro,

Representative Ugenti asked me to contact you regarding your email to her about HB 2031. Please call me at your earliest convenience at 602-926-3958.

ich

Thank you,
Brian Townsend
Senior Policy and Operations Advisor to the Majority

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Wednesday, January 08, 2014 3:05 PM
To: 'leon spiro'
Subject: 2014-01-08 - Spiro - RE: Spiro to Towdsend #2. Fw: HB 2031opa Count

Mr. Spiro ... As you note in your email, mine is not a legal position but rather the staff member tasked with responding to inquiries on behalf of the Department of Transportation. I have shared with you the information we have received from the County Attorney's Office. This proposed ordinance will be discussed at the January 21, 2014 Transportation Advisory Board meeting. It is anticipated that it will be heard by the Board of Supervisors at their April 9, 2014 meeting. A member of the County Attorney's Office will be present at both meetings to advise the TAB members and the supervisors regarding any legal issues related to this proposed ordinance. You are certainly welcome to attend these meeting and share your concerns. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

CONFIDENTIALITY NOTICE: This message, with any attachments, is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential and exempt from disclosure. If you are not the intended recipient, any dissemination, distribution, or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by return E-mail and delete this message and all attachments. Thank you.

Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Tuesday, January 07, 2014 5:24 PM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; ggriffin@azleg.gov; tforese@azleg.gov; tfleming@azleg.gov; jburgess@azleg.gov; chucris@mail.maricopa.com; Katie Prendergast - DIST2X; Andrew Kunasek - DIST3X; barredondo@azleg.gov; Denny Barney - DIST1X; Clinton Hickman - DIST4X; MaryRose Wilcox - DIST5X; chh@pima.gov; Tom Manos - CAO; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; Mike Freeman - PLANDEVX; sam@samjwest.com; sfarley@azleg.gov; sfarley@azleg.gov
Subject: Fw: Spiro to Towdsend #2. Fw: HB 2031opa Count

Mitch Wagner, Liason Maricopa County Department of Transportatipn, Arizona; Mr. Wagner: I want to thank you for your 6 January 2014 correspondence reply to my question of County right to abandon "Small Tract Act of 1938" patent r easements " in total" . or "only the Counties interest" in these dedeed easemen? Is it fair to say that you wrote this letter of explanation, because of yourr title stamp. We,as Small Tract Act parcel homeowners do not believe that this is fair to ask you to provide the explanation as

to the reasoning behind this abandonment action to be granted with approval of an abandonment request, it should have been written by a member of the team that authored this Ordinance change. Mr. Wagner, will you please provide me the name of the Deputy Attorney that provided you this material and if you are unable then one must assume that this explanation has the approval of Maricopa County Attorney Bill Montgomery . I now have another question to ask of the Lead Attorney in this Patent Easement Abandonment Ordinance change request. It should be asked of the Lead Attorney, for I view this ordinance change as a "property right taking ordinance". I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U, S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: 'leon spiro' <leon_spiro@yahoo.com>

Sent: Monday, January 6, 2014 2:04 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031opa Count

Mr. Spiro ... I am not aware of any formal written County Attorney opinion on this issue. Below is further clarification from the County Attorney's office:

The question Mr. Spiro raised is "whether permission has been given to abandon these patent roadway and public utilities easements 'in total' or of 'only the counties interest?'"

The question demonstrates a misunderstanding of patent easements, because the county has no "interest" in a patent easement. Patent easements were given to the public. The "interest" held by the county is that delegated by the federal government, as the original grantor, to the State of Arizona, which has now delegated that authority to the counties. As the original grantor of an easement, the county has the right to abandon or revoke an easement. Of course, permission of the grantee is also required. Because the grantee is the "public," the entity that acts on behalf of the public is, in this case, also the county. So if the county desires to extinguish a patent easement, it has the power to do so. No individual member of the public has any "interest" in a patent easement.

The recently adopted legislation which has triggered the propose ordinance provides a procedure for abandonment of a patent easement. In order to abandon a patent

easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally.

Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

CONFIDENTIALITY NOTICE: This message, with any attachments, is intended only for the use of the individual or entity to which it is addressed, and may contain information that is confidential and exempt from disclosure. If you are not the intended recipient, any dissemination, distribution, or copying of this message or any attachment is strictly prohibited. If you have received this message in error, please notify the original sender immediately by return E-mail and delete this message and all attachments. Thank you.

Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, January 05, 2014 4:51 PM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; Katie Prendergast - DIST2X; Joseph Domanico; Dan Brenden; Wayne Peck; chucris@mail.maricopa.com; tfleming@azleg.gov; John Hauskins - MCDOTX; Darren Gerard - PLANDEVX; Charles Hart - PLANDEVX; chh@pima.gov; chris.coppola@arizonarepublic.com

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031opa Count

Mitch Wagner, Liason Officer, MCDOT, Arizona; Mr. Wagner: My sincere thanks for informing me of the next step in Maricopa County's procedure for abandon ing a Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easement for Small Tract Act parcels, sold to individual Citizens. You mention the statement of "abandonment of these patented easements "in total" is attributed to a decision of County Attorney Bill Montgomery .can anyone produce this document , with his signature? Supervisor Chucris's Chief of Staff Katie Prendergrast is unable to produce a coonfirmation copy for that statement made. County Attorney Bill Montgomery is a U. S. Military West Point gr aduate who abided by the Military Code of , "FIRM AND FAIR". I assume that this fairness trait has not left County Attorney Mongomery. This "patent easement issue" is a "legal issue and not a judgement call". We view this

"abandonment 'in total' a property right taking". Please read the "original Federal Land Patent with the specified easement location". We understand that this original "patent (deed) provides dominant tenement easement rights and servient tenement easement obligations " that remain in perpetuity. It is advised "due diligence". Why take the risk? Remind everyone concerned, to read Deputy Director Lynn Favor's Memorandum regarding Small Tract Act of 1938 Patent Roadway and Public Utilities Easements and Planning and Development Department Directive DD 2011-05, which is also about Federal Patent Roadway and Public Utilities Easements. Governor Jan Brewer has also addressed this same issue when she was a member of the Maricopa Board of Supervisor's. . Has the Legislation been changed? .May I call to your attention Arizona Appellate Court Case titled Neal V, Brown, #1 CA-CV 06-0756, which was decisioned on a "fence construction placement for which there was a "required pre-construction inspection, which, I believe, was never ordered by the property owner" nor was one made . It is hard to believe that this fact was not uncovered by one of the Attorneys and Judges involved? This Appellaate Court Case #1 CA-CV 06-0756 , now, I understand is "Case Law" and is being referenced, most recently in Alaska. If we are correct, was the Court duped? One wonders, if this is correct, what does the Arizona Justice System do about a case like this? As a Citizen of Maricopa County, I "oppose this Ordinance change as I believe , as others do, that this abandonment is a "property right taking" . Small Tract Act of 1938 Patent (deeded) Roadway and Public Utilities Easements are different in that they were placed there by the Federal Government. Please, if you are permitted, see that this correspondence to you is seen by the by the Transortation Advisory Bo Also, we believe, they can not be legally assembled. If abandoned of city, town or county

interest, these roadway easements then become "private roadways".
Leon Spiro, SFC-E7 (Retired) U. S, Army.

----- Forwarded Message -----

From: Katie Prendergast - DIST2X <prendergastk@mail.maricopa.gov>
To: leon spiro <leon_spiro@yahoo.com>
Sent: Friday, October 11, 2013 3:43 PM
Subject: RE: Spiro to Townsend #2. Fw: HB 2031

Hello Mr. Spiro,

Thank you for your reply. No, I am not an attorney and received information on the question you posed to Supervisor Chucris from the Maricopa County Attorney's Office. Below please find that information:

The recently adopted legislation to which you made reference provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is no longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

Abandonment of a patent easement by a county will extinguish the patent easement totally.

Please let me know if you have additional questions and I am happy to assist you.

Best regards,

Katie

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Thursday, October 10, 2013 10:00 AM
To: Katie Prendergast - DIST2X
Cc: leon_spiro@yahoo.com
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Sorry. Spiro

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>
Sent: Thursday, October 10, 2013 4:44 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Katie Prendergast, Deputy Chief of Staff, Maricopa County; Mrs. Prendergast: Thank you for your reply to Supervisor Chucris's request. May I ask, are you an Attorney? I am presently not in

Arizona. E Mail is the best and only way to communicate at this time. I understand that E Mail communication is also for the record, and this is good regarding this legal issue. So that you may become more familiar with this issue now before you, may I suggest that you become familiar with Maricopa County Planning Department Memorandum #DD2011-05, Arizona Appellate Court Case #1 CA-CV 06-0756. Please read or listen to Professor / Attorney Gary Birnbaum's 1 March 2005 Study Session Presentation given to the City of Scottsdale City Council. City Clerk Carolyn Jagger, I am sure still, will be pleased to provide you with a written and audio copy of this session. Please note also, the City Of Scottsdale's position regarding these Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easements. I am not a Lawyer. I will be pleased to provide you with any material that I may have regarding this issue. I see the answer to this question as being, "a yes, or a no". Many thanks for your reply. Leon Spiro, SFC-E7 (Retired) U. S. Army PS: The City of Scottsdale has "abandoned its interest in my front street which should be 66 feet wide and has made it into a 15 foot wide alley trail. The City of Scottsdale has not as yet permitted encroachment upon these abandoned portions. LS. ----- Forwarded d only -----

From: leon spiro mailto:leon_opyspiro@yahoo.com

To: "btownsend@azleg.gov" <btownsend@azleg.gov>

Cc: "mugenti@azleg.gov" <mugenti@azleg.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>;

"jburgess@azleg.gov" <jburgess@azleg.gov>; "ag.inquiries@azag.gov" <ag.inquiries@azag.gov>

Sent: Sunday, August 11, 2013 10:25 AM

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend, Senior Policy and Operations Advisor to the Majority; Mr. Townsend: I reference my last E Mail to you dated 7 August 2013. Sir, would you please acknowledge receipt of this E Mail correspondence as I assume it may take you a while to answer questions asked of you. I await your reply.. Leon Spiro, SFC-E7 (Retired) U.S. Army. @scottsdaleaz.gov

<bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>

Sent: Wednesday, August 7, 2013 5:05 AM

Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend; Mr. Townsend, I am of the understanding that E Mail correspondence is "for the record". And this, then, will then be a perfect means for referencing. And so, the question once again is whether newly passed HB2031, 2013, regarding the Small Tract Act of 1938 Federal patent easements, "abandons this deeded roadway and public utilities easement "in total" after the Counties abandonment procedure? I reference the "private property right of all owners of Federal Patent property sold under the Classification Order that created this neighborhood." We believe that this can not be abandoned. As the Senior Policy and Operation Advisor to the Majority, was this issue explained to all Representatives. This should be a recorded document. May I have a copy. Once again, I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756. Make sure you are familiar with the decenting opinion of Judge Murray Snow. I await your reply. This is a much better way to communicate which will make all involved, accountable. Leon Spiro, SFC-E7 (Retired) U.S. Army. Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Tuesday, August 6, 2013 11:53 AM

Subject: RE: Spiro to Townsend #1. Fw: HB 2031

Mr. Spiro,

It may be easier to communicate over the phone to address your question regarding the meaning of certain terms. If you can provide me a phone number I am happy to call you or we can set up a specific time to talk so we do not miss each other. Just let me know.

Thanks,

Brian

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Tuesday, August 06, 2013 11:10 AM
To: Brian Townsend
Cc: leon_spiro@yahoo.com
Subject: Spiro to Townsend #1. Fw: HB 2031

Mr. Brian Townsend: I have your E Mail for which I thank you. I am presently out of Arizona and contacting you by phone may be difficult. E Mail may be a better way to communicate at this time. I have asked the question of Representative Ugenti and I assume that you will provide the answer? I am more than willing to ----answer all questions asked of me. In the meantime, may I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756 which may contain some interesting material regarding Small TRact Act of 1938 roadway easements.. May I ask, "are you an Attorney"? I await your reply. Leon Spiro. SFC-E7 (Retired) U. S. Army -

Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>
To: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Monday, August 5, 2013 3:00 PM
Subject: HB 2031

Mr Spiro,

Representative Ugenti asked me to contact you regarding your email to her about HB 2031. Please call me at your earliest convenience at 602-926-3958.

ich

Thank you,
Brian Townsend
Senior Policy and Operations Advisor to the Majority

Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Sunday, January 05, 2014 3:23 PM
To: Denny Barney - DIST1X
Cc: Mitch Wagner - MCDOTX; leon_spiro@yahoo.com
Subject: 2014-01-06 - Spiro-Barney - Fw: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Supervisor Barney: FYI. This Ordinance change DOT 02-2013 should be especially interesting to you as a Lawyer and as a Realtor. Will you excuse yourself from the vote? L. Spiro

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "ggriffin@azleg.gov" <ggriffin@azleg.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>; "chucris@mail.maricopa.com" <chucris@mail.maricopa.com>; "chh@pima.gov" <chh@pima.gov>; "dbarney@mail.maricopa.gov" <dbarney@mail.maricopa.gov>; "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>; "hickmanc@mail.maricopa.gov" <hickmanc@mail.maricopa.gov>; "sfarley@azleg.gov" <sfarley@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "noel@noelhebets.com" <noel@noelhebets.com>; "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "johnhauskins@mail.maricopa.gov" <johnhauskins@mail.maricopa.gov>; "mikefreeman@mail.maricopa.gov" <mikefreeman@mail.maricopa.gov>; "john@saaronline.com" <john@saaronline.com>; "john@reactionresearch.com" <john@reactionresearch.com>; "markstuart1001@cox.net" <markstuart1001@cox.net>; "sam@samjwest.com" <sam@samjwest.com>; "jburgess@azleg.gov" <jburgess@azleg.gov>; "fmccarro@mail.maricopa.gov" <fmccarro@mail.maricopa.gov>; "tmanos@mail.maricopa.gov" <tmanos@mail.maricopa.gov>; "mikefreeman@mail.maricopa.gov" <mikefreeman@mail.maricopa.gov>; "markwheaton@mail.maricopa.gov" <markwheaton@mail.maricopa.gov>; "charleshart@mail.maricopa.gov" <charleshart@mail.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Sunday, January 5, 2014 3:03 PM
Subject: Fw: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "ggriffin@azleg.gov" <ggriffin@azleg.gov>
Sent: Saturday, January 4, 2014 3:13 PM
Subject: Fw: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t
Senator Griffin: As of this date, I have received no reply to question asked. I await your reply and / or acknowledgement of receipt of this correspondence. The Small TRact Act of 1938 parcel owners throughout Arizona are deserving of an answer to this question and the Governing Body of Maricopa County is deserving of this reply before approving an Ordinance change, titled Patent Easement Abandonment #DOT - 02-2013. I am not a Lawyer, but I believe everyone of stature in Government, involved in this issue, should become aware of Maricopa County Planning and Development Department Memorandum #DD2011-05 which is the Maricopa County Attorneys documented, I presume, "opinion" regarding these "special Federal Land Patent Roadway(not public roadway) and public utilities easements. Has the Legislation

changed? I do not think so. but it appears Maricopa County Department of Transportation thinks so. Also, I suggest everyone become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756, Neal v. Brown, and try to understand how this could happen and why this happened with MCDOT the controlling Departmental Agency which adheres to the Maricopa County Zoning Ordinance for its guidance and conduct?.

Once again we ask, does the recently passed HB2031,2013, titled Patent easement Abandonment authorize the Arizona Countys to abandon Small Tract Act of 1938 Patent Roadway and Public Utilities Easements "in total" or "only the countys interest in these easements"? We await your reply. Leon Spiro, SFC-E7 (Retired) U.S. Army.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>

Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>

Sent: Saturday, December 21, 2013 5:15 PM

Subject: Property Right Taking by Legislature? HB#2031,2013Fw: Request for answer.. Spiro to Sen. Griffibn #3.

Gail Griffin. Senator , Arizona State Legislature; Senator Griffin: I have received your letter dated 18 December 2013 which was a reply to my request to my correspondence of 29 November 2013. You asked for my address and I live at 7814 E. Oberlin Way, Scottsdale . 85266. I first made a similar request to Representative Michelle Ugenti who then requested Mr. Brian Townsend, Senior Policy Adviser to the Arizona Legislature for a response. I requested E Mail correspondence rather than the phone mainly because of a hearing disability. It appears this question asked of Representative Ugenti ,Chairwoman of the Government Affairs Committee will never be replied to. Others have been asked this same question that has been asked of you. I have come to you, the the presenter of the Griffin Amendment, the Legislator, who I believe, is the most knowledgeable, and I ask once again, is House Bill #2031,2013, permitting the Arizona Countys to "abandon these Small Tract Act of 1938 Patent Roadway and Public Utilities Easements "in total" or permitting the Arizona Counties to abandon only "the countys interest" in the patent (deeded) roadway annd public utilities easements? Simple question to an issue that was addressed with the passage of Arizona State Statute #9-500.24 . but do the Cities and Towns

abandon "in total"? The City of Scottsdale, I believe only abandons the "City of Scottsdale's interest" in these Small Tract Act of 1938 Patent Roadway and Public Utilities Easements. If anyone tells you differently, I suggest you read the Resolution Document and required "Agreement Documents required of each property owner" for the correct answer. Please forward any of my correspondence, but please, answer the question asked of you so that I may go forward. The answer is either "the Arizona Legislature is permitting the abandonment of the Small Tract Act of 1938 Patent Roadway and Public Utilities Easements "in total" or the Arizona State Legislature is permitting all Arizona Counties to only abandon the "counties interest" in these Small Tract Act of 1938 Roadway and Public Utilities Easements. As a Federal Small Tract Act of 1938 Parcel Owner we believe that with the cities, towns, and county abandonment of these patent easements, these patent roadway easements then can no longer be used by the public but are once again private roadways for use by only Small Tract Act of 1938 parcel owners. These roadway easements can not be encroached upon for anything other than a roadway. All owners of land that was created by the Classification Order that created these neighborhoods are permitted access to go from area to area. All Small Tract Act of 1938 Parcel Owners have "dominate tenement easement rights and servient tenement easement obligations". Leon Spiro, SFC-EE7 (Retired) U. S. Army. PS: I suggest that you read carefully the expired BLM Instructional Memorandum #91-196 that is so often referenced. LS.

----- Forwarded Message -----

From: Gail Griffin <GGriffin@azleg.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Wednesday, December 18, 2013 11:48 AM

Subject: RE: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Leon,

Please provide me with your address and I will refer your email to your senator.

Thank you.

Gail Griffin

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Friday, December 13, 2013 8:34 AM

To: Gail Griffin

Cc: leon_spiro@yahoo.com; Tim Fleming; tadams@az.leg; Brian Townsend; chh@pima.gov; tmanos@mail.maricopa.gov; brendend@mcao.maricopa.gov; domanico@mcao.maricopa.gov; dolsen@goldwaterinstitute.org; peckw@mcao.maricopa.gov; mitchwagner@mail.maricopa.gov; darrengerard@mail.maricopa.gov; mikefreeman@mail.maricopa.gov; joyrich@mail.maricopa.gov; Tim Fleming; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; john@reactionresearch.com; john@saaronline.com; johnhauskins@mail.maricopa.gov; mikefreeman@mail.maricopa.gov; mitchwagner@mail.maricopa.gov; markstuart1001@cox.net; Michelle Ugenti; Steve Farley; leon_spiro@yahoo.com; lynnffavour@mail.maricopa.gov; laurie.roberts@arizonarepublic.com; lmilhaven@scottsdaleaz.gov; citycouncil@scottsdaleaz.gov; chucris@mail.maricopa.com; chris.coppola@arizonarepublic.com; jerbeck@lasvegasnevada.gov; john@reactionresearch.com; Jeff Dial; Judy M. Burges; savemtrose@earthlink.net; sam@samjwest.com; ortegarchi@cox.net; Tom Forese
Subject: Fw: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Gail Griffin, Senator, Arizona State Legislature; Senator Griffin: I reference my E Mail "question correspondence" to you dated 29 November 2013, for which I asked if the newly passed House Bill 2031,20.113 was permitting the Small Tract Act of 1938 Patent Roadway and Public Utilities Easements , as deeded in each Land Patent issued at time of sale of these land parcels, by the U. S. Government , was permitting all Arizona Counties to abandon these "patent roadway and public utilities easements in total" or only "permitting only the Arizona 'Counties interest' in these roadway and public utilities easements to be abandoned"? As of this date I have received no reply to my question, nor have I received correspondence acknowledging receipt of my correspondence, from I assume, the most knowledgeable of all Legislators regarding this Small Tract Act of 1938. I await your reply to the question that affects so many homeowners and parcel owners of these Small Tract Act of 1938 Patented Parcels that were sold by the Federal Government to United States Citizens. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "ggriffin@azleg.gov" <ggriffin@azleg.gov>

Cc: "tfleming@azleg.gov" <tfleming@azleg.gov>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>

Sent: Friday, November 29, 2013 7:36 AM

Subject: Request for answer. Fw: Patent Easement Abandonment. DOT-o2-2013

Gail, Gtiffin; Senator, Arizona State Legislature; Senator Griffin: II reference recently passed HB 2031, 2013, titled Patent Easement Abandonment, for which you were the presenter of the "Griffin Admendment". As, one of many, of the Arizona Small Tract Act of 1938 Federal Land Patent Parcel Homeowners and parcel owners affected by the passage of this legislation, I ask of you, because you may be the most knowledgeable regarding the intent of this legislation, I ask, is this Arizona Roadway and Public Utilities Easements abandonment legislation, "abandoning this Federal Land Patent Roadway and Public Utilities Easements", "in total" or "only abandoning the Counties interest" in these easements? We see this issue of "total abandonment" as a "private property right taking issue", which may be a future "State liability issue", as well. II await your reply and / or your acknowledgement of this correspondence. Many thanks. Leon Spiro, SFC-E7 (Retired) U.S. Army.

----- Forwarded Message -----zona

From: leon spiro <leon_spiro@yahoo.com>

To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>

Cc: "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>; "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "dominaco@mail.maricopa.gov" <dominaco@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "lynnfavour@mail.maricopa.gov" <lynnfavour@mail.maricopa.gov>; "jburgess@azleg.gov" <jburgess@azleg.gov>; "darrengerard@mail.maricopa.gov" <darrengerard@mail.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "tmanos@mail.maricopa.gov" <tmanos@mail.maricopa.gov>; "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "aubuchonlaw@cox.net" <aubuchonlaw@cox.net>; "noel@noelhebets.com" <noel@noelhebets.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "tadams@azleg.gov" <tadams@azleg.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "mikefreeman@mail.maricopa.gov" <mikefreeman@mail.maricopa.gov>; "cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>; "district1@pima.gov" <district1@pima.gov>; "district2@pima.gov" <district2@pima.gov>; "district3@pima.gov" <district3@pima.gov>; "district4@pima.gov" <district4@pima.gov>; "district5@pima.gov" <district5@pima.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "jerbeck@lasvegasnevada.gov" <jerbeck@lasvegasnevada.gov>; "john@saaronline.com" <john@saaronline.com>; "johnhauskins@mail.maricopa.gov" <johnhauskins@mail.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "paulmcneil@mail.maricopa.gov" <paulmcneil@mail.maricopa.gov>; "scott@outbackinspections.com" <scott@outbackinspections.com>; "scott@outbackpropertyervices.com" <scott@outbackpropertyervices.com>; "pneal@q.com" <pneal@q.com>; "jpadilla@scottsdaleaz.gov" <jpadilla@scottsdaleaz.gov>; "bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>

Sent: Wednesday, November 27, 2013 4:53 AM

Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Department of Transportation, frMaricopa County, Arizona; Mr. Wagner: Many thanks for for presenting my comments to the Transportation Advisory Board. I hope that this comment material will be mentioned in the Minutes, as being presented to the Board at this meeting. Mr. Wagner, may I ask, if by E Mail request, to have comment material presented and read to the Transportation Advisory Board during the "Public Comment period", which will be for the record, regarding this same issue, of what we

believe to be, a "property right taking" by the Appellate Court in Case #1 CA-CV 06-0756, Neal v. Brown, because of possible Planning and Development Department and MCDOT errors in permitting construction of a fence in a "Small Tract Act of 1938 Patent Roadway and Public Utilities Easement, without property owner, I believe, of ever receiving MCDOT approval, as per permit instructions?..How could this have ever happened, if true? I make this request because of not being able to attend any meetings at this time. Many thanks. I await your reply and / or your acknowledgement of this correspondence, Leon Spiro, SFC -E7 (Retired) U.S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>omment

To: leon spiro <leon_spiro@yahoo.com>

Cc: "chucris@mail.maricopa.com" <chucris@mail.maricopa.com>; Andrew Kunasek - DIST3X <AKunasek@mail.maricopa.gov>; Dan Brenden <brendend@mcao.maricopa.gov>; Joseph Domanico <domanico@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "john@reactionresearch.com" <john@reactionresearch.com>; "john@saaronline.com" <john@saaronline.com>; John Hauskins - MCDOTX <johnhauskins@mail.maricopa.gov>; Wayne Peck <peckw@mcao.maricopa.gov>; Mike Freeman - PLANDEVX <MikeFreeman@mail.maricopa.gov>; "miggi1@q.com" <miggi1@q.com>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "jburgess@azleg.gov" <jburgess@azleg.gov>

Sent: Monday, November 25, 2013 9:24 AM

Subject: RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... Your email was provided to the Transportation Advisory Board at their last meeting on November 19. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Saturday, November 23, 2013 7:43 AM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; chucris@mail.maricopa.com; Andrew Kunasek - DIST3X; Dan Brenden; Joseph Domanico; chh@pima.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; Wayne Peck; Mike Freeman - PLANDEVX; miggi1@q.com; mugenti@azleg.gov; jburgess@azleg.gov

Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Depart

ment of Transportation , Maricopa County. Mr. Wagner: I do hope you received my reply to your E Mail correspondence? If the Advisory Board received the correspondence sent, we have done our job and alerted the County. L. Spiro.

----- Forwarded Message -----**To:** "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>

Cc: "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>

Sent: Wednesday, November 20, 2013 3:01 AM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

FYI.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>

Cc: "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "markstuart1001@cox.net" <markstuart1001@cox.net>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>; "noel@noelhebets.com" <noel@noelhebets.com>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>

Sent: Monday, November 18, 2013 2:08 PM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Liaison, Department of Transportation, Maricopa County; Mr. Wagner: I have your reply for which I thank you. It will be much appreciated to have my comments mentioned to the Advisory Board. Mr. Wagner, if permitted, can you provide me the name of the "Lead Attorney" of the Maricopa County Attorneys Office who is responsible for authoring this Small Tract Act of 1938 Patent Easement Ordinance change? If not, am I to assume that this Ordinance change will have the approval of County Attorney Bill Montgomery? The Board of supervisors has in the past abandoned these Small Tract Act Patent Easements but in the Resolution, states that there will be no encroachment in the patent easement. May I suggest that you engage the services of Professor Gary Birnbaum and Attorney Noel Hebets to present their legal opinions regarding this proposed Ordinance change. If the abandonment of these "patent easements is in total" as stated in this draft, we view this as being a "property right taking". I have no idea what the opinions are of these Attorneys? My sincere thanks for presenting this issue to the Advisory Board. In the future, I would like to present to the Advisory Board some interesting material regarding Appellate Court Case #1 CA-CV 06-0756. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Monday, November 18, 2013 9:11 AM

Subject: RE: Patent Easement Abandonment. DOT-02-2013

Mr. Spiro ... I appreciate your contacting the Maricopa County Department of Transportation regarding this item. I will share your comments with the Transportation Advisory Board at tomorrow's meeting. Please note that this ordinance was drafted by the County Attorney's office. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, November 17, 2013 3:08 PM

To: Mitch Wagner - MCDOTX

Cc: noel@noelhebets.com; leon_spiro@yahoo.com; Stephen Chucris - DIST2X; chh@pima.gov; Andrew Kunasek - DIST3X; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; john@reactionresearch.com; markstuart1001@cox.net; annwallack@gmail.com; aubuchonlaw@cox.net; noel@noelhebets.com; Tom Manos - CAO; tadams@azleg.gov; tfleming@azleg.gov; tom.horne@azag.gov; Dan Brenden; barredondo@azleg.gov; bjerbic@lasvegasnevada.gov; citycouncil@lasvegasnevada.gov; debra.lopez@azag.gov; dominaco@mail.maricopa.gov; Joseph Domanico; dguerin@goldwaterinstitute.gov; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; jborges@azleg.gov; jerbeck@lasvegasnevada.gov; jmurillo@scottsdaleaz.gov; john@saaronline.com; sam@samjwest.com; ortegarchi@cox.net; renocop@earthlink.net; tforese@azleg.gov; mugenti@azleg.gov

Subject: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Board Liason, Maricopa County; Mr. Wagner. Please read the following comment to the Transportation Advisory Board regarding #DOT-02-2013, Patent Easement Abandonment. Please be advised that we believe that the Small Tract Act of 1938 does not permit anyone to abandon these roadway and public utilities easements in total., but only their interest. Please read Planning Department Department Directive Memorandum #dDD 2011-05. Has there been a change ? Before going forward with this request, why not get the approval of Maricopa County Attorney Bill Montgomery. Thank you for presenting this comment to all those in attendance. I await your acknowledgemnt of this correspondence. Leon Spiro, SFC-E7 (.Re.tired) U.S. Army

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Monday, January 06, 2014 2:04 PM
To: 'leon spiro'
Subject: 2014-01-06 - Spiro - RE: Spiro to Townsend #2. Fw: HB 2031opa Count

Mr. Spiro ... I am not aware of any formal written County Attorney opinion on this issue. Below is further clarification from the County Attorney's office:

The question Mr. Spiro raised is "whether permission has been given to abandon these patent roadway and public utilities easements 'in total' or of 'only the counties interest?'"

The question demonstrates a misunderstanding of patent easements, because the county has no "interest" in a patent easement. Patent easements were given to the public. The "interest" held by the county is that delegated by the federal government, as the original grantor, to the State of Arizona, which has now delegated that authority to the counties. As the original grantor of an easement, the county has the right to abandon or revoke an easement. Of course, permission of the grantee is also required. Because the grantee is the "public," the entity that acts on behalf of the public is, in this case, also the county. So if the county desires to extinguish a patent easement, it has the power to do so. No individual member of the public has any "interest" in a patent easement.

The recently adopted legislation which has triggered the propose ordinance provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally.

Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Sunday, January 05, 2014 4:51 PM
To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; Katie Prendergast - DIST2X; Joseph Domanico; Dan Brenden; Wayne Peck; chucris@mail.maricopa.com; tfleming@azleg.gov; John Hauskins - MCDOTX; Darren Gerard - PLANDEVX; Charles Hart - PLANDEVX; chh@pima.gov; chris.coppola@arizonarepublic.com
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031opa Count

Mitch Wagner, Liason Officer, MCDOT, Arizona; Mr. Wagner: My sincere thanks for informing me of the next step in Maricopa County's procedure for abandon ing a Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easement for Small Tract Act parcels, sold to individual Citizens. You mention the statement of "abandonment of these patented easements "in total" is attributed to a decision of County Attorney Bill Montgomery .can anyone produce this document , with his signature? Supervisor Chucris's Chief of Staff Katie Prendergrast is unable to produce a coonfirmation copy for that statement made. County Attorney Bill Montgomery is a U. S. Military West Point gr aduate who abided by the Military Code of , "FIRM AND FAIR". I assume that this fairness trait has not left County Attorney Mongomery. This "patent easement issue" is a "legal issue and not a judgement call". We view this "abandonment 'in total' a property right taking". Please read the "original Federal Land Patent with the specifed easement loocation". We understand that this original "patent (deed) provides dominant tenement easement rights and servient tenement easement obligations " that remain in perpetuity. It is advised "due dillegence". Why take the risk? Remind everyone concerned, to read Deputy Director Lynn Favor's Memorandum regarding Small Tract Act of 1938 Patent Roadway and Public Utilities Easements and Planning and Development Department Directive DD 2011-05, which is also about Federal Patent Roadway and Public Utilities Easements. Governor Jan Brewer has also addressed this same issue when she was a member of the Maricopa Board of Supervisor's. . Has the Legislation been changed? .May I call to your attention Arizona Appellate Court

Case titled Neal V, Brown, #1 CA-CV 06-0756, which was decisioned on a "fence construction placement for which there was a "required pre-construction inspection, which, I believe, was never ordered by the property owner" nor was one made . It is hard to believe that this fact was not uncovered by one of the Attorneys and Judges involved? This Appellaate Court Case #1 CA-CV 06-0756 , now, I understand is "Case Law" and is being referenced, most recently in Alaska. If we are correct, was the Court duped? One wonders, if this is correct, what does the Arizona Justice System do about a case like this? As a Citizen of Maricopa County, I "oppose this Ordinance change as I believe , as others do, that this abandonment is a "property right taking" . Small Tract Act of 1938 Patent (deeded) Roadway and Public Utilities Easements are different in that they were placed there by the Federal Government. Please, if you are permitted, see that this correspondence to you is seen by the by the Transortation Advisory Bo Also, we believe, they can not be legally assembled. If abandoned of city, town or county interest, these roadway easements then become "private roadways ". Leon Spiro, SFC-E7 (Retired) U. S, Army.

----- Forwarded Message -----

From: Katie Prendergast - DIST2X <prendergastk@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Friday, October 11, 2013 3:43 PM

Subject: RE: Spiro to Townsend #2. Fw: HB 2031

Hello Mr. Spiro,

Thank you for your reply. No, I am not an attorney and received information on the question you posed to Supervisor Chucri from the Maricopa County Attorney's Office. Below please find that information:

The recently adopted legislation to which you made reference provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

Abandonment of a patent easement by a county will extinguish the patent easement totally.

Please let me know if you have additional questions and I am happy to assist you.

Best regards,

Katie

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Thursday, October 10, 2013 10:00 AM
To: Katie Prendergast - DIST2X
Cc: leon_spiro@yahoo.com
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Sorry. Spiro

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "pendergastk@mail.maricopa.gov" <pendergastk@mail.maricopa.gov>
Cc: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>
Sent: Thursday, October 10, 2013 4:44 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Katie Pendergast, Deputy Chief of Staff, Maricopa County; Mrs. Pendergast: Thank you for your reply to Supervisor Chucris's request. May I ask, are you an Attorney? I am presently not in Arizona. E Mail is the best and only way to communicate at this time. I understand that E Mail communication is also for the record, and this is good regarding this legal issue. So that you may become more familiar with this issue now before you, may I suggest that you become familiar with Maricopa County Planning Department Memorandum #DD2011-05, Arizona Appellate Court Case #1 CA-CV 06-0756. Please read or listen to Professor / Attorney Gary Birnbaum's 1 March 2005 Study Session Presentation given to the City of Scottsdale City Council. City Clerk Carolyn Jagger, I am sure still, will be pleased to provide you with a written and audio copy of this session. Please note also, the City Of Scottsdale's position regarding these Small Tract Act of 1938 Federal Patent Roadway and Public Utilities Easements. I am not a Lawyer. I will be pleased to provide you with any material that I may have regarding this issue. I see the answer to this question as being, "a yes, or a no". Many thanks for your reply. Leon Spiro, SFC-E7 (Retired) U. S. Army PS: The City of Scottsdale has "abandoned its interest in my front street which should be 66 feet wide and has made it into a 15 foot wide alley trail. The City of Scottsdale has not as yet permitted encroachment upon these abandoned portions. LS. ----- Forwarded d only -----

From: leon spiro mailto:leon_opyspiro@yahoo.com
To: "btownsend@azleg.gov" <btownsend@azleg.gov>
Cc: "mugenti@azleg.gov" <mugenti@azleg.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "jburgess@azleg.gov" <jburgess@azleg.gov>; "ag.inquiries@azag.gov" <ag.inquiries@azag.gov>
Sent: Sunday, August 11, 2013 10:25 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend, Senior Policy and Operations Advisor to the Majority; Mr. Townsend: I reference my last E Mail to you dated 7 August 2013. Sir, would you please acknowledge receipt of this E

Mail correspondence as I assume it may take you a while to answer questions asked of you. I await your reply.. Leon Spiro, SFC-E7 (Retired) U.S. Army. @scottsdaleaz.gov"
<bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>
Sent: Wednesday, August 7, 2013 5:05 AM
Subject: Fw: Spiro to Townsend #2. Fw: HB 2031

Brian Townsend; Mr. Townsend, I am of the understanding that E Mail correspondence is "for the record". And this, then, will then be a perfect means for referencing. And so, the question once again is whether newly passed HB2031, 2013, regarding the Small Tract Act of 1938 Federal patent easements, "abandons this deeded roadway and public utilities easement "in total" after the Counties abandonment procedure? I reference the "private property right of all owners of Federal Patent property sold under the Classification Order that created this neighborhood." We believe that this can not be abandoned. As the Senior Policy and Operation Advisor to the Majority, was this issue explained to all Representatives. This should be a recorded document. May I have a copy. Once again, I suggest that you become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756. Make sure you are familiar with the decenting opinion of Judge Murray Snow. I await your reply. This is a much better way to communicate which will make all involved, accountable. Leon Spiro, SFC-E7 (Retired) U.S. Army. Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>
To: leon spiro <leon_spiro@yahoo.com>
Sent: Tuesday, August 6, 2013 11:53 AM
Subject: RE: Spiro to Townsend #1. Fw: HB 2031

Mr. Spiro,

It may be easier to communicate over the phone to address your question regarding the meaning of certain terms. If you can provide me a phone number I am happy to call you or we can set up a specific time to talk so we do not miss each other. Just let me know.

Thanks,
Brian

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Tuesday, August 06, 2013 11:10 AM
To: Brian Townsend
Cc: leon_spiro@yahoo.com
Subject: Spiro to Townsend #1. Fw: HB 2031

Mr. Brian Townsend: I have your E Mail for which I thank you. I am presently out of Arizona and contacting you by phone may be difficult. E Mail may be a better way to communicate at this time. I have asked the question of Representative Ugenti and I assume that you will provide the answer? I am more than willing to ----answer all questions asked of me. In the meantime, may I suggest that you become familiar with Ariizona Appellate Court Case #1 CA-CV 06-0756 which may contain some interesting material regarding Small TRact Act of 1938 roadway easements.. May I ask, "are you an Attorney"? I await your reply. Leon Spiro. SFC-E7 (Retired) U. S. Army -
Forwarded Message -----

From: Brian Townsend <BTownsend@azleg.gov>
To: "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Monday, August 5, 2013 3:00 PM
Subject: HB 2031

Mr Spiro,

Representative Ugenti asked me to contact you regarding your email to her about HB 2031. Please call me at your earliest convenience at 602-926-3958.

ich

Thank you,

Brian Townsend

Senior Policy and Operations Advisor to the Majority

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Friday, January 03, 2014 2:23 PM
To: 'leon spiro'
Subject: 2014-01-03 - Spiro - Property Right Taking by Legislatuure? Fw. Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Mr. Spiro ... I note that you included me on the email you sent to Senator Griffin and numerous others. I will leave it to Senator Griffin to respond to your questions and issues related to actions taken by the legislature. Your correspondence will be included in the staff report to the Transportation Advisory Board for their January 21st meeting when *DOT-02-2013 Patent Easement Abandonment Ordinance* is considered for recommendation to the Board of Supervisors for approval. As It appears that you have two primary concerns. First, whether a patent easement that is currently in use by a utility or other party will be abandoned. Second, whether the interest in the patent easement is abandoned "in total" or just "the county's interest." For the answer to both these issues, I would refer you to the earlier email you received from Supervisor Chucri's office that summarized the County Attorney's Office response as follows:

The recently adopted legislation to which you made reference provides a procedure for abandonment of a patent easement. In order to abandon a patent easement a county must specifically find that the patent easement is not being used and is on longer needed. Therefore, for example, if a utility had its lines or equipment in a patent easement, it is being used, so abandonment would be inappropriate. Likewise, if people were actually using a patent easement as a right of way, or can demonstrate they need to use it as the means of access to property, abandonment would be inappropriate.

Abandonment of a patent easement by a county will extinguish the patent easement totally.

Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Sunday, December 22, 2013 3:40 AM
To: ggriffin@azleg.gov
Cc: leon_spiro@yahoo.com; tfleming@azleg.gov; mugenti@azleg.gov; btownsend@azleg.gov; jburgess@azleg.gov; ag.inquiries@azag.gov; Joseph Domanico; Dan Brenden; montgomeryb@mcao.maricopa.gov; Wayne Peck; Stephen Chucri - DIST2X; Katie Prendergast - DIST2X; Andrew Kunasek - DIST3X; chh@pima.gov; sfarley@azleg.gov; tadams@azleg.gov; cjagger@scottsdaleaz.gov; citycouncil@scottsdaleaz.gov; citycouncil@lasvegasnevada.gov; Tom

Manos - CAOx; Mitch Wagner - MCDOTX; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; Dan Brenden; blebovitz@scottsdaleaz.gov; bwashburn@scottsdaleaz.gov; bcoffin@lasvegasnevada.gov; bbateman@utah.gov; citycouncil@scottsdaleaz.gov; copperphillips@cox.net; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; gkamp@azleg.gov; Clinton Hickman - DIST4X; jburgess@azleg.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; jmurillo@scottsdaleaz.gov; jpadilla@scottsdaleaz.gov; korte@kortescottsdale.com; laurie.roberts@arizonarepublic.com; MaryRose Wilcox - DIST5X; noel@noelhebets.com; nanette.francella@wellsfargo.com; Katie Prendergast - DIST2X; pdial@azleg.gov; pNeal@q.com; renocop@earthlink.net; rbarlow@lasvegasnevada.gov; rebecca.floyes@pima.gov; sam@samjwest.com; sscott@scottsdaleaz.gov; sfarley@azleg.gov; santhony@lasvegasnevada.gov; scott@outbackinspections.com; tcurtis@scottsdaleaz.gov; Terri Hogan - PLANDEVX; dolsen@goldwaterinstitute.org; chris.coppola@arizonarepublic.com; Lynn Favour - PLANDEVX
Subject: 2013-12-22 - Spiro - Property Right Taking by Legislature? Fw. Request for answer.. Spiro to Sen. Griffibrn #2.
Fw: Patent Easement Abandonment. DOT-o2-2013t

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

Sent: Saturday, December 21, 2013 5:15 PM

Subject: Fw: Request for answer.. Spiro to Sen. Griffibrn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Gail Griffin. Senator , Arizona State Legislature; Senator Griffin: I have received your letter dated 18 December 2013 which was a reply to my request to my correspondence of 29 November 2013. You asked for my address and I live at 7814 E. Oberlin Way, Scottsdale . 85266. I first made a similar request to Representative Michelle Ugenti who then requested Mr. Brian Townsend, Senior Policy Adviser to the Arizona Legislature for a response. I requested E Mail correspondence rather than the phone mainly because of a hearing disability. It appears this question asked of Representative Ugenti ,Chairwoman of the Government Affairs Committee will never be replied to. Others have been asked this same question that has been asked of you. I have come to you, the the presenter of the Griffin Amendment, the Legislator, who I believe, is the most knowledgeable, and I ask once again, is House Bill #2031,2013, permitting the Arizona Countys to "abandon these Small Tract Act of 1938 Patent Roadway and Public Utilities Easements "in total" or permitting the Arizona Counties to abandon only "the countys interest" in the patent (deeded) roadway annd public utilities easements? Simple question to an issue that was addressed with the passage of Arizona State Statute #9-500.24 . but do the Cities and Towns abandon "in total"? The City of Scottsdale , I believe only

abandons th "City oof Scottsdales interest" in these Small Tract Act of 1938 Patent Roadway and Public Utilities Easements. If anyone tells you differently, I suggest you read the Resolution Document and required "Agreement Documents required of each property owner" for the correct answer. Please forwad any of my correspondence , but please, answer the question asked of you so that I may go forward. The answer is either "the Arizona Legislature is permitting the abandonment of the Small Tract Act of 1938 Patent Roadway and Public Utilities Easements "in total" or the Arizona State Legislature is permitting all Arizona Counties to only abandon the "counties interest' in these Small Tract Act of 1938 Roadway and Public Utilitiess Easements. As a Federal Small TRact Act of 1938 Parcel Owner we believe that with the citys, towns, and county abandonment of these patent easements, these patent roadway eeasements then can no longer be used by the public but are once again private roadways for use by only Small Tract Act of 1938 parcel owners. These roadway easements can not be encroached upon for anyting other than a roadway. All owners of land that was created by the Classification Order that creatted these neighborhoods are permitted access to go from area to area. All Small Tract Act oof 1938 Parcel Owners have "dominate tenament easement rights and servient tenament easement obligations". Leon Spiro, SFC-EE7 (Retired) U. S. Army. PS: I suggest that you read carefully the expired BLM Instructionl Memradum #91-196 that is so often referenced. LS.

----- Forwarded Message -----

From: Gail Griffin <GGriffin@azleg.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Wednesday, December 18, 2013 11:48 AM

Subject: RE: Request for answer.. Spiro to Sen. Griffibn #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Leon,

Please provide me with your address and I will refer your email to your senator.

Thank you.

Gail Griffin

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Friday, December 13, 2013 8:34 AM

To: Gail Griffin

Cc: leon_spiro@yahoo.com; Tim Fleming; tadams@az.leg; Brian Townsend; chh@pima.gov; tmanos@mail.maricopa.gov; brendend@mcao.maricopa.gov; domanico@mcao.maricopa.gov; dolsen@goldwaterinstitute.org; peckw@mcao.maricopa.gov; mitchwagner@mail.maricopa.gov; darrengerard@mail.maricopa.gov; mikefreeman@mail.maricopa.gov; joyrich@mail.maricopa.gov; Tim Fleming; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; john@reactionresearch.com; john@saaronline.com; johnhauskins@mail.maricopa.gov; mikefreeman@mail.maricopa.gov; mitchwagner@mail.maricopa.gov; markstuart1001@cox.net; Michelle Ugenti; Steve Farley; leon_spiro@yahoo.com; lynnfavour@mail.maricopa.gov; laurie.roberts@arizonarepublic.com; lmilhaven@scottsdaleaz.gov; citycouncil@scottsdaleaz.gov; chucris@mail.maricopa.gov; chris.coppola@arizonarepublic.com; jerbeck@lasvegasnevada.gov; john@reactionresearch.com; Jeff Dial; Judy M. Burges; savemtrose@earthlink.net; sam@samiwest.com; ortegarchi@cox.net; Tom Forese

Subject: Fw: Request for answer.. Spiro to Sen. Griffin #2. Fw: Patent Easement Abandonment. DOT-o2-2013t

Gail Griffin, Senator, Arizona State Legislature; Senator Griffin: I reference my E Mail "question correspondence" to you dated 29 November 2013, for which I asked if the newly passed House Bill 2031,20.113 was permitting the Small Tract Act of 1938 Patent Roadway and Public Utilities Easements , as deeded in each Land Patent issued at time of sale of these land parcels, by the U. S. Government , was permitting all Arizona Counties to abandon these "patent roadway and public utilities easements in total" or only "permitting only the Arizona 'Counties interest' in these roadway and public utilities easements to be abandoned"? As of this date I have received no reply to my question, nor have I received correspondence acknowledging receipt of my correspondence, from I assume, the most knowledgeable of all Legislators regarding this Small Tract Act of 1938. I await your reply to the question that affects so many homeowners and parcel owners of these Small Tract Act of 1938 Patented Parcels that were sold by the Federal Government to United States Citizens. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "ggriffin@azleg.gov" <ggriffin@azleg.gov>

Cc: "tfleming@azleg.gov" <tfleming@azleg.gov>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>

Sent: Friday, November 29, 2013 7:36 AM

Subject: Request for answer. Fw: Patent Easement Abandonment. DOT-o2-2013

Gail, Gtiffin; Senator, Arizona State Legislature; Senator Griffin: II reference recently passed HB 2031, 2013, titled Patent Easement Abandonment, for which you were the presenter of the "Griffin Admendment". As, one of many, of the Arizona Small Tract Act of 1938 Federal Land Patent Parcel Homeowners and parcel owners affected by the passage of this legislation, I ask of you, because you may be the most knowledgeable regarding the intent of this legislation, I ask, is this Arizona Roadway and Public Utilities Easements abandonment legislation, "abandoning this Federal Land Patent Roadway and Public Utilities Easements", "in total" or "only abandoning the Counties interest" in these easements? We see this issue of "total abandonment" as a "private property right taking issue", which may be a future "State liability issue", as well. II await your reply and / or your acknowledgement of this correspondence. Many thanks. Leon Spiro, SFC-E7 (Retired) U.S. Army.

----- Forwarded Message -----zona

From: leon spiro <leon_spiro@yahoo.com>

To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>

Cc: "brendend@mcao.maricopa.gov" <brendend@mcao.maricopa.gov>; "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>; "dominaco@mail.maricopa.gov" <dominaco@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "lynnfavour@mail.maricopa.gov" <lynnfavour@mail.maricopa.gov>; "jburgess@azleg.gov" <jburgess@azleg.gov>; "darrengerard@mail.maricopa.gov" <darrengerard@mail.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "tmanos@mail.maricopa.gov" <tmanos@mail.maricopa.gov>; "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "aubuchonlaw@cox.net" <aubuchonlaw@cox.net>; "noel@noelhebets.com" <noel@noelhebets.com>; "btownsend@azleg.gov" <btownsend@azleg.gov>; "tadams@azleg.gov" <tadams@azleg.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "mikefreeman@mail.maricopa.gov" <mikefreeman@mail.maricopa.gov>; "cjagger@scottsdaleaz.gov" <cjagger@scottsdaleaz.gov>; "district1@pima.gov" <district1@pima.gov>; "district2@pima.gov" <district2@pima.gov>; "district3@pima.gov" <district3@pima.gov>; "district4@pima.gov" <district4@pima.gov>; "district5@pima.gov" <district5@pima.gov>; "murray_snow@azd.uscourts.gov" <murray_snow@azd.uscourts.gov>; "jerbeck@lasvegasnevada.gov" <jerbeck@lasvegasnevada.gov>; "john@saaronline.com" <john@saaronline.com>; "johnhauskins@mail.maricopa.gov" <johnhauskins@mail.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>; "paulmcneil@mail.maricopa.gov" <paulmcneil@mail.maricopa.gov>; "scott@outbackinspections.com" <scott@outbackinspections.com>; "scott@outbackpropertyervices.com" <scott@outbackpropertyervices.com>; "pneal@q.com" <pneal@q.com>; "jpadilla@scottsdaleaz.gov" <jpadilla@scottsdaleaz.gov>; "bwashburn@scottsdaleaz.gov" <bwashburn@scottsdaleaz.gov>; "sscott@scottsdaleaz.gov" <sscott@scottsdaleaz.gov>

Sent: Wednesday, November 27, 2013 4:53 AM

Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Department of Transportation, frMaricopa County, Arizona; Mr. Wagner: Many thanks for for presenting my comments to the Transportation Advisory Board. I hope that this comment material will be mentioned in the Minutes, as being presented to the Board at this meeting. Mr. Wagner, may I ask, if by E Mail request, to have comment material presented and read to the Transportation Advisory Board during the "Public Comment period", which will be for the record, regarding this same issue, of what we believe to be, a "property right taking" by the Appellate Court in Case #1 CA-CV 06-0756, Neal v. Brown, because of possible Planning and Development Department and MCDOT errors in permitting construction of a fence in

a "Small Tract Act of 1938 Patent Roadway and Public Utilities Easement, without property owner, I believe, of ever receiving MCDOT approval, as per permit instructions?..How could this have ever happened, if true? I make this request because of not being able to attend any meetings at this time. Many thanks. I await your reply and / or your acknowledgement of this correspondence, Leon Spiro, SFC -E7 (Retired) U.S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>omment
To: leon spiro <leon_spiro@yahoo.com>
Cc: "chucris@mail.maricopa.com" <chucris@mail.maricopa.com>; Andrew Kunasek - DIST3X <AKunasek@mail.maricopa.gov>; Dan Brenden <brendend@mcao.maricopa.gov>; Joseph Domanico <domanico@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "john@reactionresearch.com" <john@reactionresearch.com>; "john@saaronline.com" <john@saaronline.com>; John Hauskins - MCDOTX <johnhauskins@mail.maricopa.gov>; Wayne Peck <peckw@mcao.maricopa.gov>; Mike Freeman - PLANDEVX <MikeFreeman@mail.maricopa.gov>; "miggi1@q.com" <miggi1@q.com>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "jburgess@azleg.gov" <jburgess@azleg.gov>
Sent: Monday, November 25, 2013 9:24 AM
Subject: RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... Your email was provided to the Transportation Advisory Board at their last meeting on November 19. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Saturday, November 23, 2013 7:43 AM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; chucris@mail.maricopa.com; Andrew Kunasek - DIST3X; Dan Brenden; Joseph Domanico; chh@pima.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; Wayne Peck; Mike Freeman - PLANDEVX; miggi1@q.com; mugenti@azleg.gov; jburgess@azleg.gov
Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Depart

ment of Transportation , Maricopa County. Mr. Wagner: I do hope you received my reply to your E Mail correspondence? If the Advisory Board received the correspondence sent, we have done our job and alerted the County. L. Spiro.

----- Forwarded Message -----**To:** "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>
Cc: "jdomanico@mcao.maricopa.gov" <jdomanico@mcao.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>
Sent: Wednesday, November 20, 2013 3:01 AM
Subject: Fw: Patent Easement Abandonment. DOT-02-2013

FYI.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>
To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>
Cc: "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "markstuart1001@cox.net" <markstuart1001@cox.net>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>;

"noel@noelhebets.com" <noel@noelhebets.com>; "tfleming@azleg.gov" <tfleming@azleg.gov>;
"prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov"
<peckw@mcao.maricopa.gov>

Sent: Monday, November 18, 2013 2:08 PM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Liason, Department of Transportation, Maricopa County; Mr. Wagner: I have your reply for which I thank you. It will be much appreciated to have my comments mentioned to the Advisory Board. Mr. Wagner, if permitted, can you provide me the name of the "Lead Attorney" of the Maricopa county's Attorneys Office who is responsible for authoring this Small Tract Act of 1938 Patent Easement Ordinance change? If not, am I to assume that this Ordinance change will have the approval of County Attorney Bill Montgomery? The Board of supervisors has in the past abandoned these Small Tract Act Patent Easements but in the Resolution, states that there will be no encroachment in the patent easement. May I suggest that you engage the services of Professor Gary Birnbaum and Attorney Noel Hebets to present their legal opinions regarding this proposed Ordinance change. If the abandonment of these "patent easements in total" as stated in this draft, we view this as being a "property right taking". I have no idea what the opinions are of these Attorneys? My sincere thanks for presenting this issue to the Advisory Board. In the future, I would like to present to the Advisory Board some interesting material regarding Appellate Court Case #1 CA-CV 06-0756. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Monday, November 18, 2013 9:11 AM

Subject: RE: Patent Easement Abandonment. DOT-02-2013

Mr. Spiro ... I appreciate your contacting the Maricopa County Department of Transportation regarding this item. I will share your comments with the Transportation Advisory Board at tomorrow's meeting. Please note that this ordinance was drafted by the County Attorney's office. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, November 17, 2013 3:08 PM

To: Mitch Wagner - MCDOTX

Cc: noel@noelhebets.com; leon_spiro@yahoo.com; Stephen Chucri - DIST2X; chh@pima.gov; Andrew Kunasek - DIST3X; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; john@reactionresearch.com; markstuart1001@cox.net; annwallack@gmail.com; aubuchonlaw@cox.net; noel@noelhebets.com; Tom Manos - CAO; tadams@azleg.gov; tfleming@azleg.gov; tom.horne@azag.gov; Dan Brenden; barredondo@azleg.gov; bjerbic@lasvegasnevada.gov; citycouncil@lasvegasnevada.gov; debra.lopez@azag.gov; dominaco@mail.maricopa.gov; Joseph Domanico; dguerin@goldwaterinstitute.gov; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; jborges@azleg.gov; jerbeck@lasvegasnevada.gov; jmurillo@scottsdaleaz.gov; john@saaronline.com; sam@samjwest.com; ortegarchi@cox.net; renocop@earthlink.net; tforese@azleg.gov; mugenti@azleg.gov

Subject: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Board Liaison, Maricopa County; Mr. Wagner. Please read the following comment to the Transportation Advisory Board regarding #DOT-02-2013, Patent Easement Abandonment. Please be advised that we believe that the Small Tract Act of 1938 does not permit anyone to abandon these roadway and public utilities easements in total., but

only their interest. Please read Planning Department Department Directive Memorandum #dDD 2011-05. Has there been a change? Before going forward with this request, why not get the approval of Maricopa County Attorney Bill Montgomery. Thank you for presenting this comment to all those in attendance. I await your acknowledgment of this correspondence. Leon Spiro, SFC-E7 (.Retired) U.S. Army

Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Saturday, December 07, 2013 6:12 AM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com
Subject: 2013-12-07 - Spiro - Fw: RE: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents
Attachments: Appeal_and_Interpretation.pdf

Mitch Wagner, Liason, Maricopa County Department of Transportation Department; Mr. Wagner: As referenced, below is an E Mail Chain of correspondence that describes actions taken to correct inaction by Supervisory Personnel regarding this "fence encroachment " within a "Federal Patent Roadway and Public Utilities Easement." Maricopa County Assistant Attorney Wayne Peck is to be commended for his presentation at both hearings regarding this case, Suggest reading the Minutes for BOA Case BA 2011020 , , listenning to the audio and reading the 23 pages of presented written material. Has Chairman Hayes usurped hiis authority regarding Board of Adjustment instructions? I am able to answer any questions you may by E Mail. Leon Spiro, SFC-E7 (Retired) U. S. Army.

Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.coTo: markwheatoord audion@mail.maricopa.gov
Cc: leon_spiro@yahoo.com; charleshart@mail.maricopa.gov; joyrich@mail.maricopa.gov; lynnfavour@mail.maricopa.gov; darrengerard@mail.maricopa.gov; akunasek@mail.maricopa.gov; dstapley@mail.maricopa.gov; fbrock@mail.maricopa.gov; mwwilson@mail.maricopa.gov; mrwilcox@mail.maricopa.gov; johnhauskins@mail.maricopa.gov; davidrsmith@mail.maricopa.gov; brendend@mcao.maricopa.gov; domanico@mcao.maricopa.gov; dominaco@mail.maricopa.gov; sam@samjwest.com; copperphillips@cox.net; susan.burgess@mail.maricopa.gov; shazellet@mail.maricopa.gov; lthomas@mail.maricopa.gov; bpoppe@mail.maricopa.gov; lmthomas@mail.maricopa.gov; mnorris@mail.maricopa.gov; kserrich@mail.maricopa.gov
Sent: Thursday, April 5, 2012 7:50 PM
Subject: Fw: RE: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents

Mark Wheaton, Senior Planner, Planning and Development Department , Maricopa County; Mr. Wheaton: I referenc heard, decisioned and approved by the Board of Supervisors on 9 November 2011. I reference "approved Minutes" author of the Staff Report and provider of the important Attachment written documents provided relating to this c: in order for these members to make an honest decision regarding this "Vaiance Fence Set-back Request Case". Al for Departmental "approval and / or disapproval of this request. Listed in the attachments, Suzan Hazallett,P.E. : "MCESD "raised no objections". "Stipulations: None" And also stating in the last paragraph of this letter, "It shou project. Final approval authority for this variance rests with the Maricopa County Board of Adjustment". Also prec Maricopa County Development Department stated in this departmental letter reply , "Drainage Plan Review has no p noted that several other Maricopa County agencies must review this project . final approval for the variance rests wit letter, Lynn M. Thomas, P.E., CFM, Technical Review Branch Manager, Flood Control District of Maricopa County subject request, however, other county ordinances will have to be complied with". I ask, did anyone from Maricopa attachment from Maricopa County Department of Transportation" within the "attachment material documents presen Adjustment, for Fence Variance Set-back Request Case #BA2011020, under the paragrah FINDINGS: Line #20, it TRANSPORTATION (MCDOT) : NO COMMENT". Mr. Wheaton, what is meant by this "NO COMMENT the Maricopa County Department of Transportation replies "NO COMMENT", or was there never a reply to your re patent easement, by Director John Hauskins or his subordinates? Have you taken the liberty to assume that failure Department of Transportation personnel, was reason for a "NO COMMENT" statement attributed to that departr Department Directive #DD 2011-5 signed by Director Joy Rich, stating PURPOSE: " To ensure consistent t

"appears to have been ignored" ? I await your reply and / or your acknowledgement of this correspondence regarding

--- On **Thu, 4/5/12**, **leon spiro** <leon_spiro@yahoo.com> wrote:

From: leon spiro <leon_spiro@yahoo.com>
Subject: Fw: RE: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for
To: susanburgess@mail.maricopa.gov
Cc: leon_spiro@yahoo.com, mikefreeman@mail.maricopa.gov, markwheaton@mail.maricopa.gov, charleshart@mail.maricopa.gov
Date: Thursday, April 5, 2012, 3:02 PM

Susan Burgess, Secretary , Board of Adjustment, Maricopa County; Mrs. Burgess: I wish to compliment you for your minutes for Variance Request Case #BA2011020 , that was heard, decisioned and approved by 3 members of the Board. However, should the mention of the 23 pages of "written material documents" presented to the Board of Adjustment in the approved Minutes? Or should this presented material been placed into the "attachments" for this case? Another "Minutes" for cases prior to 2006? Many thanks for a job well done. Leon Spiro, SFC-E7 (Retired) U.S. Army. H

--- On **Mon, 4/2/12**, **leon spiro** <leon_spiro@yahoo.com> wrote:

From: leon spiro <leon_spiro@yahoo.com>
Subject: Fw: RE: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for
To: charleshart@mail.maricopa.gov
Cc: pmcneil@mail.maricopa.gov, akunasek@mail.maricopa.gov, fbrock@mail.maricopa.gov, dstapley@mail.maricopa.gov, leon_spiro@yahoo.com, nanette.slusser@pima.gov, chh@pima.gov, davidrsmith@mail.maricopa.gov, joyrich@mail.maricopa.gov, ardyn.fekin@azag.gov, maryd.williams@azag.gov, barredondo@azleg.gov, burboa2012@gmail.com, domanico@mail.maricopa.gov, mikefreeman@mail.maricopa.gov, markwheaton@mail.maricopa.gov, copperphillips@cox.net, margart@earthlink.net, district1@pima.gov, district2@pima.gov, district3@pima.gov, district4@pima.gov, district5@pima.gov
Date: Monday, April 2, 2012, 11:39 PM

Charles Hart, Code Enforcement Manager, Planning and Development Department , Maricopa County, Arizona; Manager I have never received a reply nor have I received an acknowledgement from you of my correspondence. It appears my words in Complaint #V201101837 and Code Violation Complaint #V201101838 has confused the issue of "a fence constructed within a 10 foot setback" which has caused a delay in the correcting of the "second incorrect" Code Enforcement decision, for this same "fence encroachment case". . The delay in 2012, and I quote: "it appears that this correspondence is being ignored by the Code Enforcement Manager regarding my request for a review of the questionable "comment decision statements made in this "invalid decisioning " for Code Violation Complaints #V210001837 and #V210001838. I do not understand why these Code Violation Complaints, which should have been reviewed and approved by you, was not forwarded to the Board of Adjustment or others to make them aware of this "fence construction in a "patent roadway and public utilities easement" which, I believe, "neither the Planning and Development and "some may complement" Deputy Director Gerard for attempting to protect his subordinates. But I believe that the Small Tract Act of 1938 Parcel Owners that are now affected and burdened because of this "permitted fence encroachment", which construction and placement is in violation of the Maricopa County Zoning Ordinance , I believe. Please see the attached for more information. I am not compromised. I await your reply and /or your acknowledgement of this correspondence. It is hard to understand why Maricopa County when this Department was informed of this "fence encroachment " , within a "patent easement"? Once again, I await your reply. "Nothing is concealed that will not be revealed or secret that will not be known".

--- On **Mon, 3/26/12**, **Darren Gerard - PLANDEVX** <DarrenGerard@mail.maricopa.gov> wrote:

From: Darren Gerard - PLANDEVX <DarrenGerard@mail.maricopa.gov>
Subject: RE: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents
To: "leon spiro" <leon_spiro@yahoo.com>
Cc: "Charles Hart - PLANDEVX" <CharlesHart@mail.maricopa.gov>, "Wayne Peck" <peckw@mcao.maricopa.gov>
Date: Monday, March 26, 2012, 7:02 AM

Sir: attached is the application packet should you wish to appeal a staff determination to the Board of Adjustment. Appeals must be made within a specific timeframe. The matter you reference is not eligible for appeal. You've

Darren V. Gérard, AICP, Deputy Director
Maricopa County Planning & Development Department
501 N. 44th St. # 200 Phoenix, AZ 85008
602-506-7139, 602-506-3711 (fax)
darrengerard@mail.maricopa.gov
www.maricopa.gov/planning
www.mygreengovernment.com
www.CleanAirMakeMore.com

Our office is located three blocks north of the 44th St. Light Rail Station, and along Bus Route 44

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, March 25, 2012 9:41 PM

To: Charles Hart - PLANDEVX

Cc: Darren Gerard - PLANDEVX; Paul McNeil - PLANDEVX; leon_spiro@yahoo.com; Mike Freeman - PLANDEVX; Mark W
davidrsmith@mail.maricopa.gov; John Hauskins - MCDOTX; pNeal@q.com; scott@outbackinspections.com; chh@pima.g
district3@pima.gov; district4@pima.gov; district5@pima.gov; Andrew Kunasek - DIST3X; Fulton Brock - DIST1X; FBusch@
Wilcox - DIST5X; Dan Brenden; Joseph Domanico; Wayn

Subject: Fw: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Ger

Charles Hart, Code Enforcement Manager, Planning & Development Department , Maricopa County, Arizona; Man
to you dated 18 March 2012. I assume that this correspondence never reached you and I have submitted this corres
reply to my "appeal request". Many thanks. Leon Spiro, SFC-E7 (Retired) U.S. Army.

--- On Sun, 3/18/12, leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com> wrote

From: leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>

Subject: Fw: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File]

To: <http://us.mc1260.mail.yahoo.com/mc/compose?to=charleshart@mail.maricopa.gov>

Cc: <http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=markwheaton@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=johnhauskins@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=lynnfavour@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=domanico@mcao.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.slusser@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=district2@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=district4@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=akunasek@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=fbrock@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=mrwilcox@mail.maricopa.gov>

Date: Sunday, March 18, 2012, 9:50 PM

Charles Hart, Code Enforcement Manager, Planning & Development Department, Maricopa County, Arizona; Code Enforcem
which I have "received no reply" nor have I "received an acknowledgement of receipt of my correspondence to you. . Please
request" for this "fence placement within a patent easement, by a property owner", which I believe, is in violation of the Maric
Code Violation Complaint #V201101838 were submitted on 27 December 2011 and were declared as "invalid" by Code Enfor
Mailed you my "appeal correspondence" and it appears that this correspondence is being ignored by the Code Enforcem
Officer based on the questionable statements made in this "invalid decision" for Code Violation Complaints #V201101837 an
abide by the requirements of this Fence Permit, that was issued in error. I believe that you will be in error, because of the "
this decision be "reviewed by a Hearing Officer" as is Maricopa County Policy in cases of this severity. I await your reply and
) U.S. Army. PS: In the event that there is "memo correspondence" between you and your Superiors, am I entitled to view th
<http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com> wrote:

From: leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
Subject: Fw: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents
To: <http://us.mc1260.mail.yahoo.com/mc/compose?to=charleshart@mail.maricopa.gov>
Cc: <http://us.mc1260.mail.yahoo.com/mc/compose?to=joyrich@mail.maricopa.gov>, http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com, <http://us.mc1260.mail.yahoo.com/mc/compose?to=lynnfavour@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=mwwilson@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=akunasek@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=FBusch@thomastitle.com>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=mrwilcox@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=district1@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=district3@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=district5@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=peckw@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=domanico@mcao.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=pneal@q.com>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=scott@out>
Date: Saturday, March 10, 2012, 11:21 PM

Charles Hart, Code Enforcement Manager, Maricopa County, Arizona; Mr. Hart: I reference my last reply to you dated 4 March 2012 still awaiting your reply to my "appeal request" to Code Enforcement Officer Paul McNeil's "invalid decision" for submitted Complaint #V201101837 on 27 December 2011. for "construction of a fence" in a "patent roadway and public utilities easement", by a property owner, for fence construction is in violation of the Maricopa County Zoning Ordinance and I reference once again Planning and Development Department's last paragraph of this information directive which states: "MARICOPA COUNTY REQUIRES STRUCTURES TO MAINTAIN A CLEAR YARD FROM PUBLIC EASEMENTS RESERVED FOR INGRESS AND EGRESS, INCLUDING PATENT EASEMENTS.. YARD LINE". If you, as Manager of the Code Enforcement Department, agree with the "comment statements" of Code Enforcement Complaints are truly "invalid", in all fairness to all concerned, these Violation Complaints, #V201101837 and #V201101838, are in violation of County policy. May I also ask, has your Director Joy Rich informed the Board of Supervisor's of this "patent easement roadway" acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retired) U.S. Army. --- On Sun, 3/4/12, leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>

From: leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
Subject: Fw: RE: Spiro to County Mgr. #2. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents
To: <http://us.mc1260.mail.yahoo.com/mc/compose?to=charleshart@mail.maricopa.gov>
Cc: <http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=mikefreeman@mail.maricopa.gov>
Date: Sunday, March 4, 2012, 10:20 PM

Charles Hart, Code Enforcement Manager, Planning and Development Department, Maricopa County; Manager Hart: I hope you are feeling better. Fence Code Violation Complaint #V201101837 and #V201101838 referenced construction of Patent Roadway and Public Utilities Easement, which is, I believe, in violation of the Maricopa County Zoning Ordinance and I reference once again Planning and Development Department's last paragraph of this information directive which states: "MARICOPA COUNTY REQUIRES STRUCTURES TO MAINTAIN A CLEAR YARD FROM PUBLIC EASEMENTS RESERVED FOR INGRESS AND EGRESS, INCLUDING PATENT EASEMENTS.. YARD LINE". I believe Code Enforcement Officer Paul McNeil erred. It is only fair to all concerned, that the Code Enforcement policy. May I suggest that you seek an opinion higher up the chain in the Maricopa County Attorney's office regarding this correspondence. Leon Spiro.

--- On Thu, 3/1/12, Charles Hart - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=CharlesHart@mail.maricopa.gov>>

From: Charles Hart - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=CharlesHart@mail.maricopa.gov>>
Subject: RE: FSpiro to County Mgr. #1. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents
To: "leon spiro" <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
Date: Thursday, March 1, 2012, 8:53 AM

Mr. Spiro,

I've been out of the office the past few days a bit under the weather. I will review and reply to your e-mail as soon as possible. Thank you for your patience in this matter.

Chip

Charles Hart, AICP

Principal Planner
Maricopa County Planning & Development Dept.

From: leon spiro [http://us.mc1260.mail.yahoo.com/mc/compose?to=\[mailto:leon_spiro@yahoo.com\]](http://us.mc1260.mail.yahoo.com/mc/compose?to=[mailto:leon_spiro@yahoo.com])
Sent: Sunday, February 26, 2012 3:15 PM
To: Charles Hart - PLANDEVX
Cc: <http://us.mc1260.mail.yahoo.com/mc/compose?to=davidrsmith@mail.maricopa.gov>; Joy Rich - PLANDEVX; Lynn Favour - http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com; Mike Freeman - PLANDEVX; Mark Wheaton - PLA Wayne Peck - CAO; Andrew Kunasek - DIST3X; Fulton Brock - DIST1X; Don Stapley - DIST2X; Max Wilson - DIST4X; MaryR <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>; <http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.s> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district2@pima.gov>; <http://us.mc1260.mail.yahoo.com/mc/compose?to=distri> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district3@pima.gov>; <http://us.mc1260.mail.yahoo.com/mc/compose?to=distri> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district5@pima.gov>; Dan Brenden; Joseph Domanico; <http://us.mc1260.mail> http://us.mc1260.mail.yahoo.com/mc/compose?to=murray_snow@azd.uscourts.gov; <http://us.mc1260.mail.yahoo.com/mc/com> <http://us.mc1260.mail.yahoo.com/mc/compose?to=scott@outbackinspections.com>
Subject: Fw: FSpiro to County Mgr. #1. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Documents

Charles Hart, Code Enforcement Manager, Maricopa Planning and Development Department; Manager Hart: referencing "fence construction within a Federal Patent Easement" which "is in violation of Maricopa County's Z Violation Complaint #V201101838, were decisioned by assigned Code Enforcement Officer Paul McNeil, as bein cases to be heard by a "Hearing Officer" , as is the present policy. It is fair to assume that you have overlooked n an acknowledgement of that correspondence. Will you please honor this request as the "Leader of the Code Enforce this correspondence. Leon Spiro, SFC-E7 (Retired) U.S. Army .

--- On Sat, 2/18/12, leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com> wrote:

From: leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
Subject: Fw: FSpiro to County Mgr. #1. RE: Spiro to Hart/McNeil #2. RE: Spiro to Gerard . RE: Request for File Do
To: <http://us.mc1260.mail.yahoo.com/mc/compose?to=charleshart@mail.maricopa.gov>
Cc: http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com, <http://us.mc1260.mail.yahoo.com/mc> <http://us.mc1260.mail.yahoo.com/mc/compose?to=lynnfavour@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com> <http://us.mc1260.mail.yahoo.com/mc/compose?to=davidrsmith@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.co> <http://us.mc1260.mail.yahoo.com/mc/compose?to=mikefreeman@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.c> <http://us.mc1260.mail.yahoo.com/mc/compose?to=brendend@mcao.maricopa.gov>, <http://us.mc1260.mail.yahoo.com> <http://us.mc1260.mail.yahoo.com/mc/compose?to=johnhauskins@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.c> <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compose?tc> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district2@pima.gov>, <http://us.mc1260.mail.yahoo.com/mc/compo> [http://us.mc1260.mail.yahoo.com/mc/compo](http://us.mc1260.mail.yahoo.com/mc/compose?to=district4@pima.gov) <http://us.mc1260.mail.yahoo.com/mc/compose?to=darrengerard@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.c> <http://us.mc1260.mail.yahoo.com/mc/compose?to=fbrock@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/mc> <http://us.mc1260.mail.yahoo.com/mc/compose?to=mrwilcox@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/> <http://us.mc1260.mail.yahoo.com/mc/compose?to=dstapley@mail.maricopa.gov>, <http://us.mc1260.mail.yahoo.com/n> <http://us.mc1260.mail.yahoo.com/mc/compose?to=pneal@q.com>, <http://us.mc1260.mail.yahoo.com/mc/compose?to=>
Date: Saturday, February 18, 2012, 9:48 PM

Charles Hart, Manager, Code Enforcement Department, Maricopa County Planning and Development Department; Manager One Stop Shop Office at 501 N. 44th Street on 15 February 2012. I reference once again Code Violation Complaints #V2011 Fence Construction within a "patent easement" which is "in violation of the Maricopa County Zoning Ordinance". A "fence se heard and decisioned by Hearing Officer Rod Jarvis on 18 March 2011, This Code Violation Complaint, #V201000351, found violation complaint was reviewed and decisioned by Hearing Officer Jarvis, and the decision made was for removal of this fe owner then applied to the Board of Adjustment for a "zero (0) feet Variance Setback Request, #BA2011020, which would p on 9 November 2011, and the property owner was granted approval for fence placement on the "property line for Parcel #211- decision for approval of this "setback request" according to the rules governing a variance request under ARS#11-816 and the Code Violation Complaint #V201101838 were submitted on 27 December 2011, for violation of Maricopa County's Zoning Ord owner". I appeal Code Enforcement Officer Paul McNeil's ruling that Code Violation complaint is "invalid". Code Enforcement

reference". I await your reply and / or your acknowledgement of this correspondence. Leon Spiro, SFC-E7 (Retire

--- On Mon, 1/23/12, Paul McNeil - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@r>

> From: Paul McNeil - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@mail.maricop>

> Subject: RE: Spiro to Hart/Neil #1. RE: Spiro to Gerard . RE: Request for File Documents

> To: "leon spiro" <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>

> Cc: "Charles Hart - PLANDEVX" <<http://us.mc1260.mail.yahoo.com/mc/compose?to=CharlesHart@mail.maricop>

> Date: Monday, January 23, 2012, 7:07 AM

> Sir,

> The complaints have closed as having already been addressed

> through the permitting process. Copies of the files

> are available through a 'public records request' from our

> website, www.maricopa.gov/planning.

>

> Respectfully,

> Paul McNeil

>

>

> -----Original Message-----

> From: leon spiro [mailto:http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com]

> Sent: Saturday, January 21, 2012 10:18 PM

> To: Charles Hart - PLANDEVX; Paul McNeil - PLANDEVX

> Cc: http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com;

> Joy Rich - PLANDEVX; Lynn Favour - PLANDEVX; John Hauskins -

> MCDOTX; <http://us.mc1260.mail.yahoo.com/mc/compose?to=davidrsmith@mail.maricopa.gov>;

> Mike Freeman - PLANDEVX; Mark Wheaton - PLANDEVX; <http://us.mc1260.mail.yahoo.com/mc/compose?to=r>

> Andrew Kunasek - DIST3X; Fulton Brock - DIST1X; Don Stapley

> - DIST2X; Max Wilson - DIST4X; MaryRose Wilcox - DIST5X; <http://us.mc1260.mail.yahoo.com/mc/compose?to>

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>; [http://us.mc1260.mail.yahoo.com/mc/compose?](http://us.mc1260.mail.yahoo.com/mc/compose?to)

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district3@pima.gov>;

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district4@pima.gov>;

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=district5@pima.gov>;

> http://us.mc1260.mail.yahoo.com/mc/compose?to=murray_snow@azd.uscourts.gov;

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=mflatten@goldwaterinstitute.org>;

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=sam@samjwest.com>;

> <http://us.mc1260.mail.yahoo.com/mc/compose?to=pneal@q.com>; <http://us.mc1260.mail.yahoo.com/mc/compose?to>

> Subject: Fw: Spiro to Hart/Neil #1. RE: Spiro to Gerard .

> RE: Request for File Documents

>

> Charles Hart, Code Enforcement Manager, Maricopa County and

> Paul McNeil, Code Enforcement Officer, Maricopa

> County; Manager Hart and Officer McNeil: I

> reference my E Mail Correspondence to you dated 17

> January 2012. As of this date I have not received any reply

> regarding my request for a "paper copy of this

> decision". As high positioned Civil Servant

> Code Enforcement Officers, one would believe that one would

> at least receive acknowledgement of this

> correspondence. Am I correct in assuming that

> Code Violation Complaint #V201101837 and Code Violation

> Complaint #V201101838, presented on 27 December 2011, "has
> not yet been decided by your Department", as of this
> date? I await your reply as to the "copy of
> this Departmental Decision" and / or your acknowledgement of
> this correspondence. Leon Spiro , SFC-E7 (
> Retired) U.S. Army.
>
> --- On Tue, 1/17/12, leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
> wrote:
>
>> From: leon spiro <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
>> Subject: Spiro to Hart/Neil #1. RE: Spiro to Gerard .
> RE: Request for File Documents
>> To: <http://us.mc1260.mail.yahoo.com/mc/compose?to=charleshart@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=paulmcneil@mail.maricopa.gov>
>> Cc: http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=joyrich@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=lynnfavour@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=davidrsmith@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=peckw@mcao.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=domanico@mcao.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=brendend@mcao.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=akunasek@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=fbrock@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=dstapley@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=mwwilson@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=mrwilcox@mail.maricopa.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=gkamp@azleg.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.slusser@pima.gov>,
> <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>, [http://us.mc1260.mail.yahoo.com/mc/compose?](http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com)
>> Date: Tuesday, January 17, 2012, 10:59 PM
>> Charles Hart, Maricopa County
>> Code Enforcement Manager; Paul McNeil, Maricopa County
> Code
>> Enforcement Officer; Manager Hart and
> Officer
>> McNeil: Enclosed correspondence from Deputy
> Director
>> Darren Gerard is for your
> information. I
>> have no correspondence from either of you regarding
> Code
>> Violation Complaint #V201101837 and Code Violation
> Complaint
>> #V201101838, submitted on 27 December 2011, which
> references
>> fence construction placement within a "patent
> easement". I
>> have been informed that these Code Violation
> Complaints have
>> been decided by your office as being an "invalid

>>>
>>> -----Original Message-----
>>> From: leon spiro [mailto:[http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com](mailto:leon_spiro@yahoo.com)]
>>>
>>> Sent: Friday, January 13, 2012 10:03 AM
>>> To: Darren Gerard - PLANDEVX
>>> Cc: [http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com](mailto:leon_spiro@yahoo.com);
>>> Joy Rich - PLANDEVX; Lynn Favour - PLANDEVX; Dan
>> Brenden;
>>> Joseph Domanico; Mike Freeman - PLANDEVX; Mark
> Wheaton
>> -
>>> PLANDEVX; Andrew Kunasek - DIST3X; Fulton Brock
> -
>> DIST1X;
>>> Don Stapley - DIST2X; Max Wilson - DIST4X;
> MaryRose
>> Wilcox -
>>> DIST5X; [http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.slusser@pima.gov](mailto:nanette.slusser@pima.gov);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov](mailto:chh@pima.gov); [http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com](mailto:leon_spiro@yahoo.com);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=district2@pima.gov](mailto:district2@pima.gov);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=district3@pima.gov](mailto:district3@pima.gov);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=district4@pima.gov](mailto:district4@pima.gov);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=district5@pima.gov](mailto:district5@pima.gov);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=jhildalgo@rgi.com](mailto:jhildalgo@rgi.com);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=sam@samjwest.com](mailto:sam@samjwest.com);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=john@reactionresearch.com](mailto:john@reactionresearch.com);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=savemtrose@earthlink.net](mailto:savemtrose@earthlink.net);
>>> [http://us.mc1260.mail.yahoo.com/mc/compose?to=mikefreeman@mail.maricopa.gov](mailto:mikefreeman@mail.maricopa.gov);
>>> Wayne Peck - CAOX
>>> Subject: Fw: RE: Spiro to Gerard . RE: Request
> for
>> File
>>> Documents
>>>
>>> Darren Gerard, Deputy Director, Planning and
>> Development
>>> Department, Maricopa County,
> Az.; Director
>> Gerard: I
>>> have your E Mail correspondence of 9
> January 2012,
>> which
>>> was in response to my correspondence of 8
> January
>> 2012, for
>>> which I thank you. You make the statement
> that
>> "there is
>>> no violation on parcel #211-44-073C". "The
> fences

> > have
> > > benefit of approved Variance for the location
> and
> > finalled
> > > construction permit". If you recall, at the
> Hearing
> > for
> > > Code Violation Case #V201100351, on 18 March
> 2011,
> > Hearing
> > > Officer Jarvis, "decisioned that the fence
> was to
> > be
> > > removed". At that meeeting Maricopa County
> Senior
> > Attorney
> > > Wayne Peck, stated that the "fence construction"
> "was
> > never
> > > finalled". This can be heard on the audio of
> that
> > session.
> > > The document that you are referencing as a
> "finalled
> > > construction permit", could this possibly be the
> > "final
> > > for drainage" issued by the Flood Control
> District of
> > > Maricopa County on 21 July
> 2006? I ask, how
> > > can a fence, constructed in a proposed roadway
> be
> > finalled
> > > unless all Departments approve of this fence
> > > construction? I believe,
> "Maricopa County
> > Department of
> > > Transportation never approved of this fence
> > construction or
> > > authorized this fence construction, in these
> patent
> > > easements". Regarding the approval by the
> Board of
> > > Adjustment, I believe, they "completely
> ignored the
> > > "variance rules that regulate the conduct
> and duty
> > > required of the Board of Adjustment"
> This can be
> > > verified by listening to the audio of this
> session for

>> this
>>> case, #BA2011020, which was heard on 9 November
>> 2011.
>>> This case is a comedy of errors with many
>>> participating. You state "Recent
> complaints have
>> been
>>> researched and the violation cases closed
> as invalid
>> due
>>> to the finalled permit". Again I
> ask, what
>> "finalled
>>> permit" are you referencing? Please
> provide
>>> the "closure documents"
> for Violation
>> Complaint
>>> #V201101837 and #V201101838,
> indicating the
>> reason
>>> for "Violation
>>> Complaint closure", for each
> complaint. I will
>> send the
>>> amount due when informed of the charge for this
>> service. I
>>> await your reply and / or your acknowledgement
> of
>> this
>>> correspondence. Leon Spiro, SFC-E7 (
> Retired)
>> U.S.
>>> Army. PS: I ask, was Planning and Development
>> Department
>>> Director Joy Rich consulted regarding
> your last
>>> correspondence sent to me? Was the
> Legal Opinion
>> of the
>>> Maricopa County Attorney requested in this
> closure
>> action
>>> decision for Code Violation Complaints
> #V201101837
>> and
>>> #V201101838, by any involved Staff member
> or the
>> Code
>>> Enforcemnt Officer regarding these Code
> Violation

>>> Complaints? Have you
> informed the Members of
>>> the Board of Supervisors of
> this
>>> encroachment in a patent easement for this
> property
>> which is
>>> in violation of the Maricopa County Zoning
>> Ordinance?
>>> LS.
>>>
>>> --- On Mon, 1/9/12, Darren Gerard - PLANDEVX
> <<http://us.mc1260.mail.yahoo.com/mc/compose?to=DarrenGerard@mail.maricopa.gov>>
>>> wrote:
>>>
>>>> From: Darren Gerard - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=DarrenGerard@mail.maricopa.gov>>
>>>> Subject: RE: Spiro to Gerard . RE: Request
> for
>> File
>>> Documents
>>>> To: "leon spiro" <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
>>>> Date: Monday, January 9, 2012, 2:34 PM
>>>> Sir: please be aware there is no
>>>> violation on parcel 211-44-073C. The
> fences
>> have
>>> benefit of approved
>>>> Variance for the location and finalled
>> construction
>>> permit. Recent
>>>> complaints have been researched and the
>> violation
>>> cases closed as
>>>> invalid due to the finalled permit.
> There is
>> no
>>> record, V2011010.
>>>> The period for an aggrieved party to appeal
> the
>> BOA
>>> decision re
>>>> BA2011020 to the Superior Court has
> lapsed. You
>> may
>>> always submit a
>>>> public record request to schedule an
> appointment
>> to
>>> review a specific
>>>> public record, but at this point there is no
> new

>>> record material to
>>>> provide you. Darren
>>>>
>>>> -----Original Message-----
>>>> From: leon spiro [mailto:http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com]
>>>>
>>>> Sent: Sunday, January 08, 2012 11:30 PM
>>>> To: Darren Gerard - PLANDEVX
>>>> Cc: http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com;
>>>> Joy Rich - PLANDEVX; Lynn Favour -
> PLANDEVX;
>> Mark
>>> Wheaton - PLANDEVX;
>>>> Mike Freeman - PLANDEVX; Andrew Kunasek -
> DIST3X;
>> Max
>>> Wilson - DIST4X;
>>>> MaryRose Wilcox - DIST5X; Fulton Brock
>>>> - DIST1X; Don Stapley - DIST2X; <http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.slusser@pima>
>>>>
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>; <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>;
>>> Dan Brenden;
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=domanaco@mail.maricopa.gov>;
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=sam@samjwest.com>;
>>>>
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=john@reactionresearch.com>;
>>>> John Hauskins - MCDOTX;
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=margart@earthlink.com>;
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=sscott@scottsdaleaz.gov>;
>>>>
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=jpadilla@scottsdaleaz.gov>
>>>> Subject: Spiro to Gerard . RE: Request for
> File
>>> Documents
>>>>
>>>> Darren Gerard, Deputy Director, Planning
> and
>>> Development Department,
>>>> Maricopa County; Director Gerard:
> I
>> reference
>>> your correspondence of
>>>> 4 January 2012. I thank you for the
> resume of
>>> Case File content for
>>>> this property, 5638 E. Skinner Drive,
> Cave
>> Creek,
>>>> 85331, Parcel
>>>> #211-44-073C. From this
> resume, it appears

>> that
>>> I may have "lost
>>>> or misplaced some important documents"
>>>> regarding this "unauthorized fence
> construction,
>> at or
>>> near a
>>>> property line, within a Small Tract Act of
> 1938
>>> Patent Easement". I
>>>> would like to return once more to view
> the
>>> Files for this case, but
>>>> this time, I will schedule a viewing
> with a
>>> member of your Staff in
>>>> attendance during the viewing.
> Also, I would
>>> like to call your
>>>> attention to Code Violation Cases
> #V201101837
>>> and #V201101838, which
>>>> you should become aware of. I
> wish to take
>> this
>>> time to thank Mike
>>>> Freeman and Mark Wheaton of your Staff,
> in
>>> providing me with the
>>>> Audio Copies of Code Violation
> Hearing
>>> #V2011020, which
>>>> decisioned that the "misplaced fence
> was to be
>>> removed", and the
>>>> Audio copy of the Board of Adjustment
>> Variance
>>> Request Hearing,
>>>> #BA2011020, in which the Board of
> Adjustment
>>> decisioned that the
>>>> "fence could
> remain". If one has the time
>> to
>>> listen to these
>>>> recordings, I do believe that one might
> question
>>> the "approval
>>>> decisioning" by the members of the Board of
>>> Adjustment? If one would
>>>> consider the Board of Adjustment Rules

> for
>>> Decisioning a Variance
>>>> Request, as written in the Board of
> Adjustment
>>> By-Laws, one might
>>>> question whether the members
> of the
>> Board,
>>> two were Lawyers, were
>>>> confused by the complexity of this
> case? I
>>> thank you once again for
>>>> your reminder. Leon
> Spiro, SFC-E7 (
>>> Retired) U.S. Army.
>>>>
>>>>> --- On Wed, 1/4/12, Darren Gerard -
> PLANDEVX
>>>>> <<http://us.mc1260.mail.yahoo.com/mc/compose?to=DarrenGerard@mail.maricopa.gov>>
>>>>> wrote:
>>>>>
>>>>>> From: Darren Gerard - PLANDEVX <<http://us.mc1260.mail.yahoo.com/mc/compose?to=DarrenGerard@mail.maricopa.gov>>
>>>>>> Subject: RE: Request for File
> Documents
>>>>>> To: "leon spiro" <http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com>
>>>>>> Date: Wednesday, January 4, 2012, 4:53
> PM
>> Mr.
>>> Spiro:
>>>> on 12/28/11 you
>>>>> submitted two public record requests.
>> A20111304
>>> was a
>>>> request for all
>>>>> documents/records/memos relating to
>> V201000351.
>>> That
>>>> material was
>>>>> provide. A20111305 was a request
> for audio
>> copy
>>> of
>>>> the 11/9/11 BOA
>>>>> hearing regarding BA2011020.
>>>>>> That material was previously provided
> when
>> you
>>>> requested audio copy of
>>>>> the 11/9/11 BOA hearing per A20111195.
>>>>>> Your email below references a
> "Violation

>> case
>>> for...
>>>> Parcel
>>>>> #211-44-073C... all documents contained
> in
>> this
>>> Case
>>>> File from the
>>>>> year 2005....." The parcel in
> question has
>> the
>>>> following post 1999
>>>>> permitting and zoning records post
>>>>> 1999:
>>>>>
>>>>> V201101838 5638
>>>>> E SKINNER
> FENCE BUILT IN
>>>>> PATENT EASEMENT ALONG THE EAST BOUNDRY
> OF
>> THE
>>> PARCEL
>>>> WITH PERMIT
>>>>> B200512360 WITHOUT POSSIBLE OBTAINING
> ALL
>>> CLEARANCES
>>>>> V201101837 5638
>>>>> E SKINNER
> FENCE BUILT IN
>>>>> PATENT EASEMENT ALONG THE SOUTH BOUNDRY
> OF
>> THE
>>> PARCEL
>>>> WITH PERMIT
>>>>> B200512360 WITHOUT POSSIBLE OBTAINING
> ALL
>>> CLEARANCES
>>>>> V201000731 5638
>>>>> E SKINNER DR
> Split Rail
>>>>> Fence built in Patent easement
> B200512360
>>>>> V201000351 5638
>>>>> E SKINNER DR
> Split Rail
>>>>> Fence built in Patent easement
> B200512360
>>>>> PA2011152 5638
>>>>> E SKINNER DR
> Variance
>>>>> for fence on south side of property.

>>>> BA2011020 5638
>>>> E SKINNER
> VARIANCE FENCE
>>>> LOCATION
>>>>
>>>>
>>>>
>>>>
>>>>
> -----
>>>>>
>>>>
>>>>
>>>>
>>>>
>>>>
>>>>
> -----Records
>>>>> above this line are in PP. Records
> below
>> this
>>> line in
>>>>>
>>>>>
>>>>>
>>>>>
>>>>>
>>>>>
> AA-----
>>>>>
>>>>>
>>>>>
>>>>>
> -----
>>>>> -----
>>>>> B200512360
>>>>>
>>>>> SPLIT THREE RAIL FENCE 4' X 403 LF
>>>>> B200600373
>>>>>
>>>>> HORSE BARN
>>>>> V200501403
>>>>>
>>>>> GRADING OF SKINNER DRIVE WITHOUT
> PERMIT
>>>>> V200501950
>>>>>
>>>>> POSSIBLE BLOCKAGE OF ROADWAY
>>>>>
>>>>>
>>>>> You've already received copies of all
>> available
>>> records. You were
>>>>> sent material for V200401403
>>>>> &
>>>>> V200401950 per public record request
>> A20100490.

>>> You were sent
>>>> material for V201000351 &
>>>> V201000731
>>>> per A20100863. In addition to
> these four,
>>> you've
>>>> made
>>>> six other public record requests in
> regard
>> to
>>> the
>>>> property
>>>> in question.
>>>>>
>>>>> The only change to any record for
> parcel
>>> 2011-44-073
>>>> since
>>>>> your previous public record requests is
> that
>> the
>>>> status of
>>>>> violation case V201000731 was changed
> to
>> Closed
>>> after
>>>> BOA
>>>>> approval of BA2011020.
>>>>>
>>>>>
>>>>> Darren V. Gérard, AICP, Deputy
> Director
>> Maricopa
>>> County Planning &
>>>> Development Department
>>>>> 501 N. 44th St. # 200 Phoenix, AZ
> 85008
>>> 602-506-7139, 602-506-3711
>>>>> (fax) <http://us.mc1260.mail.yahoo.com/mc/compose?to=darrengerard@mail.maricopa.gov>
>>>> www.maricopa.gov/planning
>>>>> <http://www.mygreengovernment.com/>
>>>>> <http://www.cleanairmakemore.com/>
>>>>>
>>>>>> Our office is located three blocks
> north of
>> the
>>> 44th
>>>> St.
>>>>>> Light Rail Station, and along Bus Route
> 44.
>> See

>>> <http://www.valleymetro.org/>
>>>> for trip information.
>>>>>
>>>>>
>>>>>
>>>>>
>>>>>
>>>>> -----Original Message-----
>>>>> From: leon spiro [mailto:http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com]
>>>>>
>>>>> Sent: Wednesday, January 04, 2012 2:02
> PM
>>>>> To: Charles Hart - PLANDEVX
>>>>> Cc: http://us.mc1260.mail.yahoo.com/mc/compose?to=leon_spiro@yahoo.com;
>>>>> Mike Freeman - PLANDEVX; Mark Wheaton
> -
>> PLANDEVX;
>>> Joy
>>>> Rich -
>>>>> PLANDEVX; Lynn Favour - PLANDEVX; Wayne
> Peck
>> -
>>> CAOx;
>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=davidrsmith@mail.maricopa.gov>;
>>>>> Andrew Kunasek - DIST3X; <http://us.mc1260.mail.yahoo.com/mc/compose?to=dstapely@mail.maricopa.g>
>>> Fulton Brock -
>>>>> DIST1X; Max Wilson - DIST4X; MaryRose
>>>>> Wilcox
>>>>> - DIST5X; <http://us.mc1260.mail.yahoo.com/mc/compose?to=pneal@q.com>; [http://us.mc1260.mail.yahoo.](http://us.mc1260.mail.yahoo)
>>> Dan Brenden;
>>>>> Joseph Domanico; <http://us.mc1260.mail.yahoo.com/mc/compose?to=jhildalgo@rgi.com>;
>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=savemtrose@earthlink.net>;
>>>>
>>>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=nanette.slusser@pima.gov>;
>>> <http://us.mc1260.mail.yahoo.com/mc/compose?to=chh@pima.gov>
>>>>> Subject: Request for File Documents
>>>>>
>>>>> Charles Hart, Code Enforcement
> Manager,
>> Maricopa
>>>> County
>>>>> Planning Department, Arizona.;
> Mr. Hart:
>> I
>>>> reference
>>>>> an ongoing Maricopa County Code Fence
>> Placement
>>>> Violation
>>>>> Case for property at 5638 E. Skinner
> Drive,
>> Cave



Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Thursday, December 05, 2013 2:04 PM
To: Mitch Wagner - MCDOTX
Cc: leon_spiro@yahoo.com; Stephen Chucri - DIST2X; Katie Prendergast - DIST2X; John Hauskins - MCDOTX; Wayne Peck; Dan Brenden; Joseph Domanico; Andrew Kunasek - DIST3X; MaryRose Wilcox - DIST5X; Clinton Hickman - DIST4X; jdomanico@mcao.maricopa.gov; jdial@azleg.gov; Wayne Peck; pneal@q.com; sscott@scottsdaleaz.gov; jburgess@azleg.gov; jbrewer@azleg.gov; ggriffin@azleg.gov; btownsend@azleg.gov; tadams@azleg.gov; chh@pima.gov; Joseph Domanico; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; jpadilla@scottsdaleaz.gov; jpadilla@scottsdaleaz.gov; john@reactionresearch.com; john@saaronline.com; noel@noelhebets.com; bwashburn@scottsdaleaz.gov; sscott@scottsdaleaz.gov; leon_spiro@yahoo.com; sam@samjwest.com; sfarley@azleg.gov; mugi@azleg.gov; murray_snow@azd.uscourts.gov
Subject: 2013-12-05 - Spiro - Fw: Patent Esemident Abandonment. DOT-o2-2013

Mitch Miller, Ldison, Maricopa County department of Transportation; Mr. Wagner: I have your your reply to question asked for which I thank you. The Open Meeting Law Statute does not address this request and do not be disappointed if the Maricopa County Attorney Bill Montgomery's Office will decline comment. Those of us who are unable to attend meetings to present material to a Governing Body are denied a voice in the goernmental process. Someday, this denial will be addressed and corrected? Many thanks for forwarding this request. Leon Spiro, SFC-E7 (Retired) U. S. Army. PS: Mr. Wagner: I will forward you an E Mail chain that will explain the issue of what we believe to be "this property right taking". I am able to respond by E Mail to any questions asked of me. May I say, I have a lot of respect for Maricopa County Assistant Attorney Wayne Peck who attempted to correct this abuse. LS.

Mr. Spiro ... I have forwarded your email to the County Attorney's Office for review. Thank you ... Mi

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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Public Disclosure Notice: This message and any messages in response to the sender of this message may be subject to a public records request.

From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Wednesday, November 27, 2013 4:53 AM

To: Mitch Wagner - MCDOTX

Cc: Dan Brenden; Joseph Domanico; dominaco@mail.maricopa.gov; Wayne Peck; tfleming@azleg.gov; Lynn Favour - PLANDEVX; jburgess@azleg.gov; Darren Gerard - PLANDEVX; chh@pima.gov; Stephen Chucri - DIST2X; mugi@azleg.gov; Tom Manos - CAO; Andrew Kunasek - DIST3X; aubuchonlaw@cox.net; noel@noelhebets.com; btownsend@azleg.gov; tadams@azleg.gov; Katie Prendergast - DIST2X; Mike Freeman - PLANDEVX; cjagger@scottsdaleaz.gov; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; murray_snow@azd.uscourts.gov; jerbeck@lasvegasnevada.gov; john@saaronline.com; John Hauskins - MCDOTX; leon_spiro@yahoo.com; Paul McNeil - PLANDEVX; scott@outbackinspections.com; scott@outbackpropertyservices.com; pneal@q.com; jpadilla@scottsdaleaz.gov; bwashburn@scottsdaleaz.gov; sscott@scottsdaleaz.gov

Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Department of Transportation, frMaricopa County, Arizona; Mr. Wagner: Many thanks for for presenting my comments to the Transportation Advisory Board. I hope that this comment material will be mentioned in the Minutes, as being presented to the Board at this meeting. Mr. Wagner, may I ask, if by E Mail request, to have comment material presented and read to the Transportation Advisory Board during the "Public Comment period", which will be for the record, regarding this same issue, of what we believe to be, a "property right taking" by the Appellate Court in Case #1 CA-CV 06-0756, Neal v. Brown, because of possible Planning and Development Department and MCDOT errors in permitting construction of a fence in a "Small Tract Act of 1938 Patent Roadway and Public Utilities Easement, without property owner, I believe, of ever receiving MCDOT approval, as per permit instructions?..How could this have ever happened, if true? I make this request because of not being able to attend any meetings at this time. Many thanks. I await your reply and / or your acknowledgement of this correspondence, Leon Spiro, SFC -E7 (Retired) U.S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>omment

To: leon spiro <leon_spiro@yahoo.com>

Cc: "chucris@mail.maricopa.com" <chucris@mail.maricopa.com>; Andrew Kunasek - DIST3X <AKunasek@mail.maricopa.gov>; Dan Brenden <brendend@mcao.maricopa.gov>; Joseph Domanico <domanico@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "john@reactionresearch.com" <john@reactionresearch.com>; "john@saaronline.com" <john@saaronline.com>; John Hauskins - MCDOTX <johnhauskins@mail.maricopa.gov>; Wayne Peck <peckw@mcao.maricopa.gov>; Mike Freeman - PLANDEVX <MikeFreeman@mail.maricopa.gov>; "miggi1@q.com" <miggi1@q.com>; "mugenti@azleg.gov" <mugenti@azleg.gov>; "jburgess@azleg.gov" <jburgess@azleg.gov>

Sent: Monday, November 25, 2013 9:24 AM

Subject: RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... Your email was provided to the Transportation Advisory Board at their last meeting on November 19. Thank you.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Saturday, November 23, 2013 7:43 AM

To: Mitch Wagner - MCDOTX

Cc: leon_spiro@yahoo.com; chucris@mail.maricopa.com; Andrew Kunasek - DIST3X; Dan Brenden; Joseph Domanico; chh@pima.gov; john@reactionresearch.com; john@saaronline.com; John Hauskins - MCDOTX; Wayne Peck; Mike Freeman - PLANDEVX; miggi1@q.com; mugenti@azleg.gov; jburgess@azleg.gov

Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Depart

ment of Transportation, Maricopa County. Mr. Wagner: I do hope you received my reply to your E Mail correspondence? If the Advisory Board received the correspondence sent, we have done our job and alerted the County. L. Spiro.

----- Forwarded Message -----**To:** "domanico@mcao.maricopa.gov" <domanico@mcao.maricopa.gov>

Cc: "jdomanico@mcao.maricopa.gov" <jdomanico@mcao.maricopa.gov>; "leon_spiro@yahoo.com" <leon_spiro@yahoo.com>

Sent: Wednesday, November 20, 2013 3:01 AM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

FYI.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: "mitchwagner@mail.maricopa.gov" <mitchwagner@mail.maricopa.gov>

Cc: "akunasek@mail.maricopa.gov" <akunasek@mail.maricopa.gov>; "chucris@mail.maricopa.gov" <chucris@mail.maricopa.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>; "chh@pima.gov" <chh@pima.gov>; "markstuart1001@cox.net" <markstuart1001@cox.net>; "mrwilcox@mail.maricopa.gov" <mrwilcox@mail.maricopa.gov>; "noel@noelhebets.com" <noel@noelhebets.com>; "tfleming@azleg.gov" <tfleming@azleg.gov>; "prendergastk@mail.maricopa.gov" <prendergastk@mail.maricopa.gov>; "peckw@mcao.maricopa.gov" <peckw@mcao.maricopa.gov>

Sent: Monday, November 18, 2013 2:08 PM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Liaison, Department of Transportation, Maricopa County; Mr. Wagner: I have your reply for which I thank you. It will be much appreciated to have my comments mentioned to the Advisory Board. Mr. Wagner, if permitted, can you provide me the name of the "Lead Attorney" of the Maricopa county's Attorneys Office who is responsible for authoring this Small Tract Act of 1938 Patent Easement Ordinance change? If not, am I to assume that this Ordinance change will have the approval of County Attorney Bill Montgomery? The Board of supervisors has in the past abandoned these Small Tract Act Patent Easements but in the Resolution, states that there will be no encroachment in the patent easement. May I suggest that you engage the services of Professor Gary Birnbaum and Attorney Noel Hebets to present their legal opinions regarding this proposed Ordinance change. If the abandonment of these "patent easements is in total" as stated in this draft, we view this as being a "property right taking". I have no idea what the opinions are of these Attorneys? My sincere thanks for presenting this issue to the Advisory Board. In the future, I would like to present to the Advisory Board some interesting material regarding Appellate Court Case #1 CA-CV 06-0756. Leon Spiro, SFC-E7 (Retired) U. S. Army.

----- Forwarded Message -----

From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>

To: leon spiro <leon_spiro@yahoo.com>

Sent: Monday, November 18, 2013 9:11 AM

Subject: RE: Patent Easement Abandonment. DOT-02-2013

Mr. Spiro ... I appreciate your contacting the Maricopa County Department of Transportation regarding this item. I will share your comments with the Transportation Advisory Board at tomorrow's meeting. Please note that this ordinance was drafted by the County Attorney's office. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]

Sent: Sunday, November 17, 2013 3:08 PM

To: Mitch Wagner - MCDOTX

Cc: noel@noelhebets.com; leon_spiro@yahoo.com; Stephen Chucris - DIST2X; chh@pima.gov; Andrew Kunasek - DIST3X; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; john@reactionresearch.com; markstuart1001@cox.net; annwallack@gmail.com; aubuchonlaw@cox.net; noel@noelhebets.com; Tom Manos - CAOX; tadams@azleg.gov; tfleming@azleg.gov; tom.horne@azag.gov; Dan Brenden; barredondo@azleg.gov; bjrbic@lasvegasnevada.gov; citycouncil@lasvegasnevada.gov; debra.lopez@azag.gov; dominaco@mail.maricopa.gov;

Joseph Domanico; dguerin@goldwaterinstitute.gov; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; jborges@azleg.gov; jerbeck@lasvegasnevada.gov; jmurillo@scottsdaleaz.gov; john@saaronline.com; sam@samjwest.com; ortegarchi@cox.net; renocop@earthlink.net; tforese@azleg.gov; mugenti@azleg.gov

Subject: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Board Liason, Maricopa County; Mr. Wagner. Please read the following comment to the Transportation Advisory Board regarding #DOT-02-2013, Patent Easement Abandonment. Please be advised that we believe that the Small Tract Act of 1938 does not permit anyone to abandon these roadway and public utilities easements in total., but only their interest. Please read Planning Department Department Directive Memorandum #dDD 2011-05. Has there been a change ? Before going forward with this request, why not get the approval of Maricopa County Attorney Bill Montgomery. Thank you for presenting this comment to all those in attendance. I await your acknowledgemnt of this correspondence. Leon Spiro, SFC-E7 (.Re.tired) U.S. Army

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Wednesday, December 04, 2013 9:34 AM
To: 'leon spiro'
Subject: 2013-12-04 - Spiro - RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... I have forwarded your email to the County Attorney's Office for review. Thank you ...
Mitch

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Wednesday, November 27, 2013 4:53 AM
To: Mitch Wagner - MCDOTX
Cc: Dan Brenden; Joseph Domanico; dominaco@mail.maricopa.gov; Wayne Peck; tfleming@azleg.gov; Lynn Favour - PLANDEVX; jburges@azleg.gov; Darren Gerard - PLANDEVX; chh@pima.gov; Stephen Chucris - DIST2X; mugenti@azleg.gov; Tom Manos - CAO; Andrew Kunasek - DIST3X; aubuchonlaw@cox.net; noel@noelhebets.com; btownsend@azleg.gov; tadams@azleg.gov; Katie Prendergast - DIST2X; Mike Freeman - PLANDEVX; cjagger@scottsdaleaz.gov; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; murray_snow@azd.uscourts.gov; jerbeck@lasvegasnevada.gov; john@saaronline.com; John Hauskins - MCDOTX; leon_spiro@yahoo.com; Paul McNeil - PLANDEVX; scott@outbackinspections.com; scott@outbackpropertyservices.com; pneal@q.com; jpadilla@scottsdaleaz.gov; bwashburn@scottsdaleaz.gov; sscott@scottsdaleaz.gov
Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Department of Transportation, frMaricopa County, Arizona; Mr.
Wagner: Many thanks for for presenting my comments to the Transportation Advisory Board. I hope that this comment material will be mentioned in the Minutes, as being presented to the Board. at this meeting. Mr. Wagner, may I ask, if by E Mail request, to have comment material presented and read to the Transportation Advisory Board during the "Public Comment period", which will be for the record, regarding this same issue, of what we believe to be, a "property right taking" by the Appellate Court in Case #1 CA-CV 06-0756, Neal v. Brown, because of possible Planning and Development Department and MCDOT errors in permitting construction of a fence in a "Small Tract Act of 1938 Patent Roadway and Public Utilities Easement, without property owner, I believe, of ever receiving MCDOT approval, as per permit instructions?..How could this have ever happened, if true? I make this request because of not being able to attend any meetings at this time. Many thanks. I await your reply and / or your acknowledgement of this correspondence, Leon Spiro, SFC -E7 (Retired) U.S. Army.

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From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>omment
To: leon spiro <leon_spiro@yahoo.com>
Cc: "chucris@mail.maricopa.com" <chucris@mail.maricopa.com>; Andrew Kunasek - DIST3X <AKunasek@mail.maricopa.gov>; Dan Brenden <brendend@mcao.maricopa.gov>; Joseph Domanico

<domanico@mcao.maricopa.gov>; <chh@pima.gov>; <john@reactionresearch.com>
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<MikeFreeman@mail.maricopa.gov>; <miggi1@q.com>; <mugenti@azleg.gov>;
<jburgess@azleg.gov>

Sent: Monday, November 25, 2013 9:24 AM

Subject: RE: Patent Easement Abandonment. DOT-o2-2013

Mr. Spiro ... Your email was provided to the Transportation Advisory Board at their last meeting on November 19. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

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Subject: Fw: Patent Easement Abandonment. DOT-o2-2013

Mitch Wagner, Liason, Depart

ment of Transportation , Maricopa County. Mr. Wagner: I do hope you received my reply to your E Mail correspondence? If the Advisory Board received the correspondence sent, we have done our job and alerted the County. L. Spiro.

----- Forwarded Message -----To: <domanico@mcao.maricopa.gov>

Cc: <jdomanico@mcao.maricopa.gov>; <leon_spiro@yahoo.com>

Sent: Wednesday, November 20, 2013 3:01 AM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

FYI.

----- Forwarded Message -----

From: leon spiro <leon_spiro@yahoo.com>

To: <mitchwagner@mail.maricopa.gov>

Cc: <akunasek@mail.maricopa.gov>; <chucris@mail.maricopa.gov>; <prendergastk@mail.maricopa.gov>; <peckw@mcao.maricopa.gov>; <chh@pima.gov>; <markstuart1001@cox.net>; <mrwilcox@mail.maricopa.gov>; <noel@noelhebets.com>; <tfleming@azleg.gov>; <prendergastk@mail.maricopa.gov>; <peckw@mcao.maricopa.gov>

Sent: Monday, November 18, 2013 2:08 PM

Subject: Fw: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Liason, Department of Transportation, Maricopa County; Mr. Wagner: I have your reply for which I thank you. It will be much appreciated to have my comments mentioned to the Advisory Board. Mr. Wagner, if permitted, can you provide me the name of the "Lead Attorney" of the Maricopa county's Attorneys Office who is responsible for authoring this Small Tract Act of 1938 Patent Easement Ordinance change? If not, am I to assume that this Ordinance change will have the approval of County Attorney Bill

Montgomery? The Board of supervisors has in the past abandoned these Small TRact Act Patent Easements but in the Resolution, states that there will be no encroachment in the patent easement. May I suggest that you engage the services of Professor Gary Birnbaum and Attorney Noel Hebets to present their legal opinions regarding this proposed Ordinance change. If the abandonment of these "patent easements is in total" as stated in this draft, we view this as being a "property right taking". I have no idea what the opinions are of these Attorneys? My sincere thanks for presenting this issue to the Advisory Board. In the future, I would like to present to the Advisory Board some interesting material regarding Appellate Court Case #1 CA-CV 06-0756. Leon Spiro, SFC-E7 (Retired) U. S. Army.

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From: Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov>
To: leon spiro <leon_spiro@yahoo.com>
Sent: Monday, November 18, 2013 9:11 AM
Subject: RE: Patent Easement Abandonment. DOT-02-2013

Mr. Spiro ... I appreciate your contacting the Maricopa County Department of Transportation regarding this item. I will share your comments with the Transportation Advisory Board at tomorrow's meeting. Please note that this ordinance was drafted by the County Attorney's office. Thank you.

Mitch Wagner, Board Liaison

Maricopa County Department of Transportation

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Sent: Sunday, November 17, 2013 3:08 PM
To: Mitch Wagner - MCDOTX
Cc: noel@noelhebets.com; leon_spiro@yahoo.com; Stephen Chucri - DIST2X; chh@pima.gov; Andrew Kunasek - DIST3X; Darren Gerard - PLANDEVX; Mike Freeman - PLANDEVX; john@reactionresearch.com; markstuart1001@cox.net; annwallack@gmail.com; aubuchonlaw@cox.net; noel@noelhebets.com; Tom Manos - CAOX; tadams@azleg.gov; tfleming@azleg.gov; tom.horne@azag.gov; Dan Brenden; barredondo@azleg.gov; bjerbic@lasvegasnevada.gov; citycouncil@lasvegasnevada.gov; debra.lopez@azag.gov; dominaco@mail.maricopa.gov; Joseph Domanico; dguerin@goldwaterinstitute.gov; ed.montini@arizonarepublic.com; Fran McCarroll - COBX; jborges@azleg.gov; jerbeck@lasvegasnevada.gov; jmurillo@scottsdaleaz.gov; john@saaronline.com; sam@samjwest.com; ortegarchi@cox.net; renocop@earthlink.net; tforese@azleg.gov; mugenti@azleg.gov
Subject: Patent Easement Abandonment. DOT-02-2013

Mitch Wagner, Board Liason, Maricopa County; Mr. Wagner. Please read the following comment to the Transportation Advisory Board regarding #DOT-02-2013, Patent Easement Abandonment. Please be advised that we believe that the Small Tract Act of 1938 does not permit anyone to abandon these roadway and public utilities easements in total., but only their interest. Please read Planning Department Department Directive Memorandum #dDD 2011-05. Has there been a change? Before going forward with this request, why not get the approval of Maricopa County Attorney Bill Montgomery. Thank you for presenting this comment to all those in attendance. I await your acknowledgedment of this correspondence. Leon Spiro, SFC-E7 (.Re.tired) U.S. Army

Mitch Wagner - MCDOTX

From: Fritz Koenig <fritzkoenig@hushmail.com>
Sent: Wednesday, May 07, 2014 3:44 PM
To: Mitch Wagner - MCDOTX
Subject: Re: DOT-02-2013 - Patent Easement Abandonment Ordinance

Thanks.

On May 7, 2014, at 3:40 PM, Mitch Wagner - MCDOTX wrote:

Mr. Koenig ... Your comments were provided to the Board of Supervisors prior to the meeting this morning. Thank you ... Mitch

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: Fritz Koenig [mailto:fritzkoenig@hushmail.com]
Sent: Wednesday, May 07, 2014 5:38 AM
To: Mitch Wagner - MCDOTX; Denny Barney - DIST1X
Cc: Steve Chucri - DIST2X; Clinton Hickman - DIST4X; Andrew Kunasek - DIST3X; MaryRose Wilcox - DIST5X; amogel@blm.gov; aubuchonlaw@cox.net; aruggiero@lasvegasnevada.gov; Dan Brenden; btownsend@azleg.gov; bwashburn@scottsdaleaz.gov; Denny Barney - DIST1X; bheick@blm.gov; bcoffin@lasvegasnevada.gov; bcarr@scottsdaleaz.gov; bbateman@utah.gov; bbeers@lasvegasnevada.gov; bbridges@lasvegasnevada.gov; chh@pima.gov; cjagger@scottsdaleaz.gov; citycouncil@scottsdaleaz.gov; copperphillips@cox.net; chris.coppola@arizonarepublic.com; Charles Hart - PLANDEVX; Joseph Domanico; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; ed.moncini@arizonarepublic.com; emeyer@azleg.gov; Fritz Koenig; FBusch@thomastitle.com; Fran McCarroll - COBX; ggriffin@azleg.gov; gkamp@azleg.gov; gkamps@azleg.gov; gphillips@scottsdaleaz.gov; guyrphillips@gmail.com; howard.myers@cox.net; info@goldwaterinstitute.org; john@reactionresearch.com; jburgess@azleg.gov; jdial@azleg.gov; jmurillo@scottsdaleaz.gov; John Hauskins - MCDOTX; jpadilla@scottsdaleaz.gov; jbarnes@scottsdaleaz.gov; kniederer@scottsdaleaz.gov; ken@wondervalley92277.com; khobbs@azleg.gov; kschlott@goldwaterinstitute.org; Lynn Favour - PLANDEVX; laurie.roberts@arizonarepublic.com; miggil@q.com; markstuart1001@cox.net; Mike Freeman - PLANDEVX; mugenti@azleg.gov; murray.snow@azd.uscourts.gov; nanette.slusser@pima.gov; ndranias@goldwaterinstitute.org; ortegarchi@cox.net; officeofthemayor@lasvegasnevada.gov; Katie Prendergast - DIST2X; Wayne Peck; richard.w.cacini@us.army.mil; renocop@earthlink.net; ramon.valadez@pima.gov; ray.carroll@pima.gov; rbarlow@lasvegasnevada.gov; rebecca.floyes@pima.gov; reschioppa@yahoo.com; sam@samjwest.com; sfarley@azleg.gov; sscott@scottsdaleaz.gov; scott@outbackinspections.com; savemtrose@earthlink.net; santhony@lasvegasnevada.gov; tfleming@azleg.gov; Tom Manos - CAO; tcurtis@scottsdaleaz.gov; tadams@azleg.gov; tforese@azleg.gov; thomas.collins@azag.gov
Subject: 2014-05-07 - Koenig - DOT-02-2013 - Patent Easement Abandonment Ordinance

Fritz Koenig

1819 Polk Street, # 227
San Francisco, CA 94109
310-508-8794
fritzkoenig@hushmail.com

May 7, 2014

VIA EMAIL

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

Re: DOT-02-2013 - Patent Easement Abandonment Ordinance
Private right of use can not be extinguished by County of Maricopa

Dear Mr. Wagner:

Please inform the County of Maricopa Board of Supervisors of the following so that they may be fully informed about DOT-02-2013 - Patent Easement Abandonment Ordinance:

Claims that any act of the County of Maricopa "will extinguish the patent easement totally" is patently false according Arizona decisional law as follows:

1) On January 24, 2014, I requested a copy of the documents which stated,

"As the original grantor of an easement, the county has the right to abandon or revoke an easement." and,

"The answer to the direct question is that abandonment of a patent easement by a county will extinguish the patent easement totally."

2) I received a reply from Cynthia Robinson - MCDOTX stating the document was Attorney-Client Privileged and the department was not subject to disclosure.

3) While disclosure of said documents may not be mandatory, the Department could have disclosed the documents. Apparently the department has chosen not to disseminate the documents to the public.

4) The statements cited in paragraph one above are false in Arizona as can be found in the decision of Bernal v. Loeks, 997 P. 2d 1192 - Ariz: Court of Appeals, 2nd Div., Dept. B 2000. There the appeal court found Arizona private citizens vested with a right *independent of the public* to enforce the right-of-way provisions of the Small Tract Act,

"Initially, we find misplaced the trial court's reliance on case law to support its conclusion that private parties could not use or enforce the right-of-way provisions reserved in the federal patents. The handful of cases that have addressed these provisions, two of which are from Arizona, were all brought or defended by either a government entity seeking to build a public roadway, ..." page 1194

"The subsection allows for roadway use without qualification. Had the Secretary intended that, like utilities, the rights-of-way be limited to public street and road purposes, such language easily could have been included." page 1194

"That the Secretary did not modify the phrase "street and road purposes" with the word "public," therefore, evinces a clear intent that such roadways are not limited to those that are publicly built and maintained." page 1194,

"We cannot, therefore, conclude that the Secretary intended that patent holders be denied access to their parcels, effectively landlocking them, until such time as the government funds and constructs roadways providing such access." page 1194

"We conclude the trial court erred in finding Bernal precluded from using and enforcing the rights-of-way located on the defendants' properties." page 1195

"Initially, we find misplaced the trial court's reliance on case law to support its conclusion that private parties could not use or enforce the right-of-way provisions reserved in the federal patents. The handful of cases that have addressed these provisions, two of which are from Arizona, were all brought or defended by either a government entity seeking to build a public roadway, ..." page 1194

and in the subsequent Arizona case of Neal v. Brown, 191 P. 3d 1030 - Ariz: Court of Appeals, 1st Div., Dept. A 2008, the Court of Appeal summarized Bernal v. Loeks as

"In Bernal v. Loeks, 196 Ariz. 363, 997 P.2d 1192 (App.2000), we held that a landlocked parcel owner could enforce a right-of-way reserved for roadway purposes under land patents issued by the United States pursuant to the Small Tract Act (the Act), 43 U.S.C. § 682a, repealed October 1976." page 1031

Arizona has decided that private citizens—private parties standing alone—can **"use** or enforce the right-of-way provisions". As such, Maricopa County has zero jurisdiction to abandon that privately held power of use and enforcement power.

Finally, the County of Maricopa was not and is not the "the original grantor of an [Small Tract Act] easement", the original grantor was the federal government. The County of Maricopa represents only the interests of the public and can therefore abandon only that which was public.

Sincerely,

Fritz Koenig
San Francisco, California

Mitch Wagner - MCDOTX

From: leon spiro <leon_spiro@yahoo.com>
Sent: Wednesday, May 07, 2014 1:52 AM
To: Mitch Wagner - MCDOTX; Denny Barney - DIST1X; Clinton Hickman - DIST4X; Steve Chucri - DIST2X; Andrew Kunasek - DIST3X; MaryRose Wilcox - DIST5X; chh@pima.gov
Subject: 2014-05-07 - Spiro - Fw: Your email

On Wednesday, May 7, 2014 2:11 AM, Mitch Wagner - MCDOTX <mitchwagner@mail.maricopa.gov> wrote:
Mr. Spiro ... I received your most recent email. It appears that you are raising the same concerns that were previously addressed. Thank you ... Mitch

&nbs

p;
Mitch Wagner, Board of Transportation Liaison, Maricopa County: Mr. Wagner: Thank you for your acknowledgement of receipt of my "opposition letter" for DOT 02-2013 which is being decided today. "They listen but do not hear". Leon Spiro, SFC-E7 (Retired) U. S. Army.

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Tuesday, May 06, 2014 5:59 AM
To: Mitch Wagner - MCDOTX; Denny Barney - DIST1X; Steve Chucri - DIST2X; Clinton Hickman - DIST4X; Andrew Kunasek - DIST3X; MaryRose Wilcox - DIST5X; amogel@blm.gov; aubuchonlaw@cox.net; aruggiero@lasvegasnevada.gov; Dan Brenden; btownsend@azleg.gov; bwashburn@scottsdaleaz.gov; Denny Barney - DIST1X; bheick@blm.gov; bcoffin@lasvegasnevada.gov; bcarr@scottsdaleaz.gov; bbateman@utah.gov; bbeers@lasvegasnevada.gov; bbridges@lasvegasnevada.gov; chh@pima.gov; cjagger@scottsdaleaz.gov; Steve Chucri - DIST2X; citycouncil@scottsdaleaz.gov; copperphillips@cox.net; chris.coppola@arizonarepublic.com; Charles Hart - PLANDEVX; Joseph Domanico; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; ed.montini@arizonarepublic.com; emeyer@azleg.gov; fritzkoenig@hushmail.com; FBusch@thomastitle.com; Fran McCarroll - COBX; ggriffin@azleg.gov; ggriffin@azleg.gov; gkamp@azleg.gov; gkamps@azleg.gov; gphillips@scottsdaleaz.gov; guyrphillips@gmail.com; Clinton Hickman - DIST4X; howard.myers@cox.net; info@goldwaterinstitute.org; john@reactionresearch.com; jburges@azleg.gov; jdial@azleg.gov; jmurillo@scottsdaleaz.gov; John Hauskins - MCDOTX; jpadilla@scottsdaleaz.gov; jbarnes@scottsdaleaz.gov; kniederer@scottsdaleaz.gov; ken@wondervalley92277.com; khobbs@azleg.gov; kschlott@goldwaterinstitute.org; Lynn Favour - PLANDEVX; laurie.roberts@arizonarepublic.com; miggi1@q.com; markstuart1001@cox.net; Mike Freeman - PLANDEVX; mugenti@azleg.gov; murray_snow@azd.uscourts.gov; nanette.slusser@pima.gov; ndrarias@goldwaterinstitute.org; ortegarchi@cox.net; officeofthmayor@lasvegasnevada.gov; Katie Prendergast - DIST2X; Wayne Peck; richard.w.cacini@us.army.mil; renocop@earthlink.net; ramon.valadez@pima.gov; ray.carroll@pima.gov; rbarlow@lasvegasnevada.gov; rebecca.floyes@pima.gov; reschioppa@yahoo.com; sam@samjwest.com; sfarley@azleg.gov; sscott@scottsdaleaz.gov; scott@outbackinspections.com; savemtrose@earthlink.net; santhony@lasvegasnevada.gov; tfleming@azleg.gov; tfleming@azleg.gov; Tom Manos - CAO; tcurtis@scottsdaleaz.gov; tadams@azleg.gov; tforese@azleg.gov; thomas.collins@azag.gov
Subject: 2014-05-06 - Spiro - Re: Your email

Mitch Wagner, Liason, Department of Transportation, Maricopa County, Arizona; Mr. Wagner: Many thanks for keeping me informed of the possible error in my stating that "I

believe" that abandonment of a Small Tract Act of 1938 Patent Roadway Easement 'in total', by Maricopa County, is a "private property right taking". But the "legal issue" that is to be decisioned by the Maricopa County Board of Supervisor's, with the passage of this Maricopa Department of Transportation Ordinance Change Request being made by, I assume, by the Department Director, is whether this "patent easement abandonment request" is abandoning these Small TRact Act of 1938 Patent Roadway easements "in total" or "abandoning only the County's Interest" in these easements? That is the question that I have been asking to which I have never received a reply from a responsible member of the County or State. "I believe that the Countys only have a right of useage, which they can abandon or release". Is it Worth the RISK? I am not a Lawyer, but I am a Small TRact Act of 1938 Patent Parcel Owner and "I oppose the passage of this Ordinance Request Change" now being requested.. I have read the "original Bureau of Land Management Patent issued for my property in its entirety". Below, you should find a reply letter to Arizona State Senator Hobbs, in which I request once again an answer to the question asked. I applaud Senator Hobbs for her interest and offer to listen to this complaint. I remember, the advice given by Arizona State Private Property Rights Ombudsman Attorney Mike Foster , speaking as a private Citizen to the Scottsdale City Council regarding a Small TRact Act of 1938 Roadway Abandonment , and , if I remember correctly, he stated "don't touch". His 3 minutes before the Scottsdale City Council explained much. May I recommend to the Board of Supervisor's that they listen to the Study Session (for the record) presentation made by Attorney, Professor Gary Birnbaum to the Scottsdale City Council on 1 March 2005. You must get both the audio and written copy of this presentation. But please remember, Bernal was not "land locked". Many thanks. I await your reply and/or your acknowledgement of receipt of this E Mail. Leon Spiro, SFC-E7 (Retired) U.S. Army. PS: I reference once again that you

become familiar with Arizona Appellate Court Case #1 CA-CV 06-0756, and that you become familiar with opposing Judge's "opposing comments". Added to this, I believe, this fence construction, that was constructed in the Federal Patent Roadway Easement , required the Property Owner to have Maricopa County Department of Transportation's " inspection approval" prior to construction, which was never given . If this is correct, how was this fact overlooked by all those that were involved in this case? "For the record documents" , I believe, will prove this fact. LS.

On Tuesday, May 6, 2014 10:05 AM, Katie Hobbs <KHobbs@azleg.gov> wrote:

Thank you for contacting me. If you wish to schedule a meeting, please contact my assistant, Janelle Pedregon, at jpedregon@azleg.gov<mailto:jpedregon@azleg.gov> or 602-926-3525.

Katie Hobbs
State Senator, District 24
602-926-5325
khobbs@azleg.gov<mailto:khobbs@azleg.gov>
Elections Committee
Government and Environment Committee
Health and Human Services Committee

Mitch Wagner - MCDOTX

From: Mitch Wagner - MCDOTX
Sent: Monday, May 05, 2014 5:16 PM
To: 'leon spiro'
Subject: 2014-05-05 - Spiro - Private Property Right Taking

Mr. Spiro ... We have been advised by the County Attorney's Office that the abandonment of a patent easement does not constitute a taking of a property right. Thank you ... Mitch

Mitch Wagner, Board Liaison
Maricopa County Department of Transportation
602-506-5858

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From: leon spiro [mailto:leon_spiro@yahoo.com]
Sent: Monday, May 05, 2014 1:25 AM
To: Mitch Wagner - MCDOTX; Denny Barney - DIST1X; Andrew Kunasek - DIST3X; Steve Chucri - DIST2X; Clinton Hickman - DIST4X; Andrew Kunasek - DIST3X; MaryRose Wilcox - DIST5X; Katie Prendergast - DIST2X; leon_spiro@yahoo.com; amogel@blm.gov; aubuchonlaw@cox.net; azscheduling@flake.senate.gov; aruggiero@lasvegasnevada.gov; Dan Brenden; btownsend@azleg.gov; bwashburn@scottsdaleaz.gov; Denny Barney - DIST1X; bheick@blm.gov; bcoffin@lasvegasnevada.gov; bcarr@scottsdaleaz.gov; bbateman@utah.gov; bbeers@lasvegasnevada.gov; bbridges@lasvegasnevada.gov; chh@pima.gov; cjagger@scottsdaleaz.gov; citycouncil@scottsdaleaz.gov; copperphillips@cox.net; chris.coppola@arizonarepublic.com; Charles Hart - PLANDEVX; Joseph Domanico; Darren Gerard - PLANDEVX; district1@pima.gov; district2@pima.gov; district3@pima.gov; district4@pima.gov; district5@pima.gov; ed.montini@arizonarepublic.com; emeyer@azleg.gov; FBusch@thomastitle.com; Fran McCarroll - COBX; fritzkoenig@hushmail.com; ggriffin@azleg.gov; gkamp@azleg.gov; gphillips@scottsdaleaz.gov; Clinton Hickman - DIST4X; howard.myers@cox.net; info@goldwaterinstitute.org; john@reactionresearch.com; jburges@azleg.gov; jdial@azleg.gov; jmurillo@scottsdaleaz.gov; John Hauskins - MCDOTX; jpadilla@scottsdaleaz.gov; jbarnes@scottsdaleaz.gov; kniederer@scottsdaleaz.gov; ken@wondervalley92277.com; khobbs@azleg.gov; kschlott@goldwaterinstitute.org; Lynn Favour - PLANDEVX; laurie.roberts@arizonarepublic.com; miggi1@q.com; markstuart1001@cox.net; Mitch Wagner - MCDOTX; mugenti@azleg.gov; Mike Freeman - PLANDEVX; MaryRose Wilcox - DIST5X; murray_snow@azd.uscourts.gov; nanette.slusser@pw.pima.gov; ndrarias@goldwaterinstitute.org; ortegarchi@cox.net; omaramin@aol.com; officeofthemayor@lasvegasnevada.gov; Katie Prendergast - DIST2X; Wayne Peck; pNeal@q.com; jdial@azleg.gov; richard.w.cacini@us.army.mil; renocop@earthlink.net; ray.carroll@pima.gov; rbarlow@lasvegasnevada.gov; redbirdranch@earthlink.net; ramon.valadez@pima.gov; rbarlow@lasvegasnevada.gov; reschioppa@yahoo.com
Subject: 2014-05-05 - Spiro - Private Property Right Taking .

Mr. Mitch Wagner, Liaison Officer, Department of Transportation, Maricopa County, Arizona; Mr. Wagner: It appears that "public comment, written or spoken, is considered not worthy of reading or hearing" by the Governing Body of Maricopa County. My E Mails with attachments have been returned due to what is now

termed "excess length". I wish to inform the Board of Supervisors that I "oppose the submission content of Ordinance Request Change, #DOT 02-2013 submitted by the Maricopa County Department of Transportation to the Maricopa County Board of Supervisors. If approved, I view this as a "property right taking". I suggest that this Board await the reply asked of the Arizona State Legislature, as to whether the passage of HB 2031-2013 is permitting Arizona County's to abandon Small TRact Act of 1938 Roadway and Public Utilities Patent Easements "in total" or "only permitting the abandonment of the County's interest in these easements"? This, I understand, is the only right permitted to the Countys, Citys and Towns, only a right of useage. Reference the U. S. Department of the Interior Legal Mémorandums and Arizona Court Cases. Please, ignore the presentation of "Bureau of Land Management (BLM) Instruction Mémorandums" as being anything more than an Instruction Memorandum. Will the Board of Supervisors of Maricopa County be "usurping their power" should this Governing Body, insist that with this request and approval, that the Board of Supervisors of Maricopa County is "authorizing "total abandonment" of these Federal Patent dedeed roadway and public utilities easements"? "Is it worth the RISK to Maricopa County, before confirming that, if approved, that this approval is legally correct?" I await your acknowledgement of receipt of this "for the record" E Mail correspondence. Many thanks. Leon Spiro, SFC-E7 (Retired) U. S. Army. PS: Once again I suggest that the Board of Supervisor's read the decisioning for Arizona Appellate Court Case #1 CA-CV 06-0756, Neal v. Brown, which was litigated because of a fence constructed in a "patent easement". I believe that one will find, that this fence construction was constructed, without the "required approval" of the Maricopa County Department of Transportation, which, I believe, was overlooked by all Attorneys involved in this Case #1 CA-CV 06-

0756, Neal v. Brown. If correct, how could this have happened, and can this be corrected by the Arizona Supreme Court ? Plus, I understand that this is now considered to be a "Case Law" case. To better understand what this is all about, make sure that you read the opposing Judge's opposition comments in this Neal v. Brown Case #1 CA-CV 06-0756 . Also, I believe, this is an " unauthorized fence construction" because of the failure of the Property Owner to "obtain the required inspection" as called for on the issued Fence Permit and this case was litigated as though this fence was an authorized construction. These written material documents and audio materials are "for the record documents" unless this material has been compromised. LS.