

PURSUANT TO A.R.S. SECTION 38-431.01, THE GILA COUNTY BOARD OF SUPERVISORS WILL HOLD AN OPEN MEETING IN THE SUPERVISORS' AUDITORIUM, 1400 EAST ASH STREET, GLOBE, ARIZONA. ONE OR MORE BOARD MEMBERS MAY PARTICIPATE IN THE MEETING BY TELEPHONE CONFERENCE CALL OR BY INTERACTIVE TELEVISION VIDEO (ITV). **ANY MEMBER OF THE PUBLIC IS WELCOME TO ATTEND THE MEETING VIA ITV WHICH IS HELD AT 610 E. HIGHWAY 260, BOARD OF SUPERVISORS' CONFERENCE ROOM, PAYSON, ARIZONA.** THE AGENDA IS AS FOLLOWS:

**GILA COUNTY BOARD OF SUPERVISORS
SPECIAL MEETING - TUESDAY, SEPTEMBER 30, 2014 - 3:00 P.M.**

1. **CALL TO ORDER**
2. **REGULAR AGENDA ITEMS:**
 - A. Information/Discussion/Action to affirm, modify, or reverse the decision of the Gila County Hearing Officer regarding Community Development Division Complaint No. HCP1402-003. **(Bob Gould)**
3. **CALL TO THE PUBLIC:** Call to the Public is held for public benefit to allow individuals to address the Board of Supervisors on any issue within the jurisdiction of the Board of Supervisors. Board members may not discuss items that are not specifically identified on the agenda. Therefore, pursuant to Arizona Revised Statute §38-431.01(H), at the conclusion of an open call to the public, individual members of the Board of Supervisors may respond to criticism made by those who have addressed the Board, may ask staff to review a matter or may ask that a matter be put on a future agenda for further discussion and decision at a future date.
4. At any time during this meeting pursuant to A.R.S. §38-431.02(K), members of the Board of Supervisors and the County Manager may present a brief summary of current events. No action may be taken on issues presented.

IF SPECIAL ACCOMMODATIONS ARE NEEDED, PLEASE CONTACT THE RECEPTIONIST AT (928) 425-3231 AS EARLY AS POSSIBLE TO ARRANGE THE ACCOMMODATIONS. FOR TTY, PLEASE DIAL 7-1-1 TO REACH THE ARIZONA RELAY SERVICE AND ASK THE OPERATOR TO CONNECT YOU TO (928) 425-3231.

THE BOARD MAY VOTE TO HOLD AN EXECUTIVE SESSION FOR THE PURPOSE OF OBTAINING LEGAL ADVICE FROM THE BOARD'S ATTORNEY ON ANY MATTER LISTED ON THE AGENDA PURSUANT TO A.R.S. SECTION 38-431.03(A)((3).

THE ORDER OR DELETION OF ANY ITEM ON THIS AGENDA IS SUBJECT TO MODIFICATION AT THE MEETING.

ARF-2788

Regular Agenda Item 2. A.

Special Meeting

Meeting Date: 09/30/2014

Submitted For: Robert Gould, Community
Development Division Director

Submitted By: Marian Sheppard, Clerk, Clerk of the
Board of Supervisors

Department: Community Development Division **Division:** Wastewater

Information

Request/Subject

Appeal Hearing on Gila County Hearing Officer's Decision on Community Development Division
Complaint No. HCP1402-003

Background Information

On August 12, 2014, Peter Van Haren, Gila County Hearing Officer, conducted a hearing on Gila County Community Development Division Complaint No. HCP1402-003. The case involved a violation of the International Residential Code (IRC) 2003 edition as adopted by Gila County and of the Arizona Revised Statutes for property located at 4909 N. German Road in Strawberry and known as Assessor's parcel no. 301-17-007Z. The defendants are Barbara Mahaffey, who is the property owner, and Kelly Mahaffey and David Wicks, occupants of a residence located on the subject property. Judge Van Haren ruled in favor of Gila County stating that a building code violation occurred because there isn't a septic system in place at the residence of the occupants.

In accordance with Gila County Ordinance No. 05-01 - Gila County Hearing Officer Rules of Procedure, the defendants presented a written request to Gila County to appeal the Hearing Officer's decision before the Gila County Board of Supervisors.

Also in accordance with Ordinance No. 05-01, the record of this matter was presented to the Clerk of the Board on September 10, 2014. On September 11, 2014, a certified letter was mailed to the defendants notifying them of the hearing date, time and location with the Board of Supervisors. The letter also included notification to the defendants that they may submit additional written memoranda to the Clerk by no later than September 22, 2014, as to the reason the Board of Supervisors should affirm, modify, or reverse the decision of the Hearing Officer; however, the memoranda shall not raise new facts or issues not previously presented before the Hearing Officer.

Evaluation

The defendants have correctly followed the procedures outlined in Ordinance No. 05-01 to request a hearing before the Board of Supervisors regarding a decision rendered by the Gila County Hearing Officer on Community Development Division Complaint No. HCP1402-003.

The Community Development Division has provided each Board member, Clerk of the Board, Deputy County Attorney/Civil Bureau Chief, and County Manager with a copy of the information pertaining to this case and known as the "record" per Gila County Ordinance No. 05-01.

Conclusion

A hearing has been set for this date regarding the Gila County Hearing Officer's decision on Community Development Division Complaint No. HCP1402-003.

Recommendation

N/A

Suggested Motion

Information/Discussion/Action to affirm, modify, or reverse the decision of the Gila County Hearing Officer regarding Community Development Division Complaint No. HCP1402-003. **(Bob Gould)**

Attachments

Memo to Board

Letter of Appeal

Summary Notes

Judgement



MEMORANDUM

September 15, 2014

To: Board of Supervisors

From: Margie Chapman
Code Compliance Supervisor

Subject: County of Gila,
Plaintiff,
Vs.
Kelly Mahaffey & David Wicks
Occupant(s)
Barbara Mahaffey-owner
Defendant(s)
Appeal on Final Judgment dated August 12, 2014

Complaint No. HCP1402-003 Tax Parcel No. 301-17-007Z

Violation Address: 4909 N German Ranch Rd, Strawberry, Arizona

Property

This is a legal conforming property and is located in R1-D12 zoning in Strawberry, AZ. On 1/15/2008 a 1-acre parcel (007K) with two homes served by one septic system was divided into two ½-acre parcels (007Y and 007Z). Parcel 007Y had one home and the septic system physically within its bounds and 007Z had a home that shared the septic on 007Y. At the time of the split Barbara and Gerald Mahaffey owned 007K and subsequently 007Y and 007Z. On 1/6/2011 007Y was transferred to Kevin Charles Mahaffey with Barbara Mahaffey retaining title to 007Z. No easements or agreements regarding continued use of the septic system are recorded in any public record.

Violation and Service Description

This violation is the result of a notification by Kevin Mahaffey, owner of 301-17-007Y, on the 26th day of February 2014 that he had hired a plumber who capped the sewer line leading from the home on 007Z to the septic system located on his property 007Y. In the month preceding the capping action the owners of 007Y and the occupants of 007Z both made personal inquiries of the Gila County Wastewater department regarding code requirements for sewage treatment facilities for homes. Both were informed of the IRC Building Code requirement to have all plumbing fixtures in a dwelling unit connected to an approved septic system.



The home on the property was at the time of disconnection and is currently being occupied by the defendants David Wicks and Kelly Mahaffey and has no approved private sewage disposal system as is required by the International Residential Code (IRC) 2003 edition. The building Official of Gila County is authorized and directed to enforce the provisions of this code and to require the removal or termination of the unlawful occupancy. This violation is not only a violation of the building code but presents a health hazard and violates portions of ARS 49-141 and AAC R18-9-Chapters 1 & 3. (See Attachments)

On the 27th day of February, 2014, Jake Garrett hand delivered a Notice of Violation and Summons (NOV) to both the property owner and the occupants of 007Z with a hearing date of May 16, 2014. This NOV declared the home to be uninhabitable due to the lack of approved septic facilities and directed that it be vacated within 24 hours and stated further that this structure was not to be occupied until an approved septic system had been installed on the property.

At the time of NOV delivery the occupant Mr. Wicks had moved a port-a-john onto the property and had routed the home plumbing fixtures out onto the yard. He was informed that port-a-johns are not an approved septic system, that kitchen sink and toilet water must be discharged into a septic system and that shower, hand sink and washing machine gray water can only be "beneficially reused" on the property after an approved septic system is installed with home plumbing being required to have the ability to be routed into the septic system. He was further informed that the use of these unauthorized devices and methods were not approved or authorized under the 2003 IRC adopted by Gila County and were a direct violation of the Arizona Administrative Code Title 18 Chapter 9 Environmental Quality Water Pollution for both black and gray water as stated in R18-9-A309(A) (1) and R18-9-711(A) (6) and (10).

Prior to and after the sewer disconnection the actions required to obtain a septic permit had been explained in depth to Mr. Wicks including those that must be taken by the owner of the property. After the disconnection it was explained to both Barbara Mahaffey (owner) and Mr. Wicks (occupant) that a septic permit could only be issued to the owner of the property and that all permitting activities must be conducted by the property owner or a person authorized to act in the property owners behalf through a notarized Power of Attorney.

Final decision to move forward with prosecution

Based on the 6th day of August 2014 research and site visit it was determined that the port-a-john is present and Mr. Wicks stated that there was no change in the sewer discharged to the surface. Jake Garrett was unable to enter the property to inspect for surface discharges or other changes as access to the property was not granted. Finding no change in status, this case was brought before the Yavapai Hearing Officer who had been retained by GilaCounty with approval of the Board of Supervisors to hear this case due to a defendant's conflict of interest with the Gila County Hearing Officer.



In the hearing the COUNTY requested that both DEFENDANTS (property owner and the occupants jointly) be found to have a violation and that a judgment be rendered in favor of the COUNTY. The COUNTY further requested that a fine of \$700.00 be imposed on both DEFENDANTS and that the occupants be ordered to vacate the property within 24 hours following the judgment of this court with the fine to be suspended if a completed septic system application was received by the Gila County Wastewater Department within 14 days following the judgment of this court. The COUNTY further requested a fine of \$500.00 per day be levied against both DEFENDANTS for every day that the property is occupied beyond 24 hours following the judgment of this court, with the fine to be suspended if the property is in compliance having an installed, approved septic system and with a Discharge Authorization for the septic system and a Certificate of Occupancy for the home being issued on or before the 12th day of September 2014.

On August 20, 2014 the defendants David Wicks and Kelly Mahaffey attempted to submit an application and engineered plans for a septic system on the property 007Z in an effort to comply with that portion of the order of the Hearing Officer. The application documents did not bear the authorizing signature of the property owner and co-defendant Barbara Mahaffey who will not sign the septic application documents and continues to express her desire that Mr. Wicks and Ms. Mahaffey remove themselves from her property 007Z.

Affirmation of Judgment Request

The Defendants were properly served according to the Gila County Hearing Officer Rules of Procedure creating personal jurisdiction over the Defendants. The Defendants David Wicks and Kelly Mahaffey, occupants of 007Z, and Barbara Mahaffey, owner of 007Z, appeared at said hearing. The Gila County Community Development Department recommends that the Gila County Board of Supervisors affirm the Judgment of the Hearing Officer dated August 12, 2014, except that it be requested, that the penalties assessed to Defendants Kelly Mahaffey & David Wicks, also be assessed to Defendant Barbara Mahaffey, as requested in the original hearing.

At the conclusion of the hearing several options are available to the Board of Supervisors:

- Increase, decrease or modify any penalty/assessment imposed by the Hearing Officer as long it follows the penalty amounts set by the applicable ordinance or resolution and may:
- Affirm the decision of the Hearing Officer;
- Affirm in part and reverse in part and, if necessary remand for further proceedings; or
- Reverse the action of the Hearing Officer and, if necessary remand for further proceedings.

DEFENDANTS APPEAL
KELLY MAHAFFEY & DAVID WICKS



August 24, 2014

Peter Van Haren, Hearing Officer

Gila County Community Development

Complaint No. HCP1402-003

Tax Parcel No: 301-17-007Z

We are not in violation of 2003 IRC Section R 306.1, every dwelling unit shall be provided with a sink, toilet, and a bathtub or shower. This dwelling has had a permit to occupy with a final inspection given and approved. 2003 IRC Section R 306.3 requires all plumbing fixtures shall be connected to a sanitary sewer or to an approved septic system. Concerning IRC Section R 306.3, this dwelling having been built and permitted for the septic system it was on and in use in January, 1999. Being the original structure permitted for that septic, being used openly on a daily basis for sixteen years without interruption. I believe the sixteen years of open and daily use should provide us some type of grandfather clause protection. Also, the fact when the minor land division was done and the septic tank and leech field are on Kelly Mahaffey's brother, Kevin Mahaffey's property now; but now after sixteen years of open and daily use without exception, I do believe that in and of itself is an unwritten agreement of usage. The septic lines crossing over the property line, being connected to the septic system on the other side were in an easement of necessity, and having been uncontested in any way, shape or form should have been allowed to remain connected without issue. The noncompliance issue of not being connected to a septic system was created by no act of our own (Kelly Mahaffey, David Wicks, Barbara Mahaffey). The county having knowledge prior to the septic line being severed, should not have allowed Kevin Mahaffey to sever the line until a separate septic system could have been put in place in a timely fashion for the dwelling at 4909 German Ranch Road. Having had no legal notice for intent to separate, the sixteen years of open use without exception and without protest is an unwritten agreement of usage and with the minor land division now making the septic line crossing the property line an easement of necessity. The system should have been allowed to stay intact. The county in their code book, I believe in the minor land division section, makes some type of provision for multiple structures being connected to one septic system. I believe the verbiage which I will try to have as an addendum to this appeal is when two structures being served by one septic system through a minor land division would or could leave one structure without septic "prior to separation", accommodations, i.e. septic system would be put in place in a timely fashion. Not having any time to design, request permit or been given permit after trying to apply been allowed to rectify this problem. I need to state again that by no act of our own (Kelly Mahaffey, David Wicks, Barbara Mahaffey) did we cause noncompliance. The non compliance that exists was caused by Kevin Mahaffey and his girlfriend, Karri Delorenzo Hansen, which caused the septic line to be severed. Any issues or non

compliance that arose after they severed the septic line is something they caused (Kevin Mahaffey and Karri Delorenzo Hansen), and being the ones who have caused the noncompliance should be the ones to incur any fines or penalties. We have suffered financial hardship due to this issue and I, David Wicks, am disabled. I also have been trying to work towards resolution with regards to the installation of a septic system on the property at 4909 German Ranch Road. I do believe our legal rights to be connected to the septic system we have been severed from have not been given proper consideration. My efforts to acquire a permit for and installation of the portion of septic system we are lacking has been met with some resistance from Jake Garrett, Gila County Waste Water Management Inspector. Having a PortaJohn should not be a violation of any code section nor should it be thought of as a permanent solution to not having a septic system in at this time. There are many PortaJohns throughout the county, including Pine and Strawberry, which have been in place for many years without issue. Once again, by no act or acts of our own did we cause any non compliance issue; therefore I do not believe we should suffer any fines associated with the non compliance issues and we should be afforded a reasonable amount of time and cooperation from the county to resolve this issue. This issue alone has caused me great financial hardship and I am disabled and on Social Security and the cooperation of the Hearing Officer and the Code Compliance Supervisor would greatly be appreciated. Thank you for your consideration in this matter.

745 N Rose Mofford Way
Globe Arizona 85501
(928)425-3231 Ext. 8514
FAX (928)425-0829



608 E. Hwy 260
Payson, Arizona 85541
(928)474-7113
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GILA COUNTY COMMUNITY DEVELOPMENT

Robert Gould, Director

MAHAFFEY HEARING SUMMARY MINUTES 8/12/14 COMPLAINT# HCP1402-003

The Hearing took place in Yavapai County, in the Board of Supervisors Offices located at 1015 Fair St., Prescott, AZ.

PRESENT: The Honorable Peter Van Haren, Judge (appointed by the Gila County Board of Supervisors); Jake Garrett, Wastewater Dept. Manager for Gila County (plaintiff); Barbara Mahaffey, Kelly Mahaffey, and David Wicks (defendants).

OPENING STATEMENT: Judge Peter Van Haren stated that the court is prepared to hear the case brought over from Gila County.

PLAINTIFF, COUNTY OF GILA is the first party to testify in this matter.

Jake Garrett is the Wastewater Department Manager for Gila County and he describes in detail:

- Property location 4909 N German Rd., Strawberry, AZ
- Owner Barbara Mahaffey and address
- Occupants Kelly Mahaffey and David Wicks
- Existing septic system layout
- Violations
- Rules of Procedure (rule#21)
- Abate

and referenced written materials and pictures contained in an indexed binder given to the judge and defendants. In his presentation he requested fines in equal amounts for Defendants Kelly Mahaffey and David Wicks jointly and Barbara Mahaffey.

During Mr. Garrett's statement Judge Van Haren asked for clarification:

- Defendants Kelly Mahaffey and David Wicks are living on said property that has no Septic System
- Why septic system was capped

Mr. Garrett explained occupancy situation.

Mr. Garrett's Hearing Presentation is attached.

DEFENDANT BARBARA MAHAFFEY owner of the property 4909 N German Ranch Rd. Strawberry, AZ is the second party to testify in this matter. Mrs. Mahaffey states:

- Who the occupants are Kelly and David.
- They have lived there 15 years.
- They were supposed to move, but have not.
- They used to make payments.
- They have made no payments lately.
- She is not going to put in septic system.
- Husband wanted to evict them before he died.
- She would have pursued it, but her husband had dementia
- She would like them off the property

DEFENDANT DAVID WICKS occupant of the property 4909 N. German Ranch Rd. is the third party to testify in this matter.

Mr. Wicks states:

- They (David and Kelly) have lived on the property 16 years.
- Paid part of the property taxes, as Barbara asked them to pay half the taxes and homeowner's insurance.
- Their house is smaller, but they still were required to pay half.
- Barbara unjustly was enriched \$7,000.00 by the over payment of approximately \$500 and \$600 per year of the taxes.
- Barbara was to sign over property because they have made payments.
- It has been before Judge Little in Payson.
- Barbara stated the house was Kelly's.
- The original permits were for their address 4909 N. German Ranch Rd. and the septic system was for that address not the one next door.
- They have been in compliance 16 years.
- Kevin's significant other is the reason for this altercation.
- The county has never said the houses have to be separated.
- Mom should have signed over property to Kelly when she signed over other parcel to Kevin.
- Jake Garrett is biased.

At this time Judge Van Haren asked Mr. Wicks if he thought a port-a-potty and a hose are in compliance.

- Mr. Wicks stated that there are many port-a-potties being used in Gila County.
- Their situation is a unique situation.
- They have tried to stay in compliance.
- Kelly has been traumatized since her father died.
- 9/12/14 is unreasonable time frame for new septic system installation.
- They should be grandfathered in.

At this time Judge Van Haren stated you cannot be grandfathered in if you don't have legal access.

- Mr. Wicks states there is a suit in progress about the title or quick claim deed.
- We did not cause the violation to occur.
- The hose is for gray water.
- They have been gravely financially distressed.

JUDGE PETER VAN HAREN gives ruling. Judge Peter Van Haren states:

This is a tough case and obviously there is a family dispute. In any case there is a violation and finds in favor of the Gila County. Judge Van

Haren is taking this action now because it has been going on for 6 or 7 months. The neighbors and residents of Gila County are entitled to the proficient and prompt enforcement of health ordinances.

The following judgment shall be entered against the Defendant Kelly Mahaffey and David Wicks:

1. An immediate civil sanction in the amount of \$500.00 is imposed for said violation on David Wicks and Kelly Mahaffey. It is also ordered to vacate the property within 72 hours.

2. A daily civil sanction of \$500.00 a day is imposed until the property comes into compliance.

3. The defendants, Kelly Mahaffey and David Wicks are ordered to bring the violating property into compliance with the Gila County Wastewater and Building Ordinance by September 12, 2014.

This includes:

A. This structure shall not be occupied until an approved septic system is installed on this property and its use has been authorized.

No judgment was entered against the defendant Barbara Mahaffey.

Mahaffey Hearing Outline:

Case #: HCP1402-003

Hearing Date: August 12, 2014

APN #: 301-17-007Z

Property Owner: Barbara Mahaffey & Gerald Mahaffey (Deceased)
Site address: 4909 N. German Ranch Road, Strawberry, AZ
Mailing address: P. O. Box 1614
Pine, AZ

Occupants: Kelly Mahaffey & David Wicks
Mailing Address: P. O. Box 813
Pine, AZ 85544

new #10 TAB 3.

This case is very simple. There is a home being occupied on a property that has no approved private sewage disposal system as is required by the International Residential Code (IRC) 2003 edition. The Building official of Gila County is authorized and directed to enforce the provisions of this code and to require the removal or termination of the unlawful occupancy. This violation is not only a violation of the building code but presents a health hazard and violates portions of ARS 49-141 and AAC R18-9- Chapters 1 & 3.

There are numerous contentions by the defendants that will likely be brought up today, all of which are outside the scope of this case and are beyond the scope of this hearing. It is our intention to show the violation and that actions currently being taken of the lot are unlawful and do not meet the basic requirement of having an approved private sewage disposal system installed on this property as is required in order for the lot and home be occupied.

PARCEL HISTORY:

This parcel is zoned R1-D12, the most restrictive zoning district allowing single-family residential uses with a minimum of 12,000 square feet per dwelling. This is a legal property and is located in Strawberry, AZ. The property has a single family home with a small shed located on the east side of the home. It has been confirmed that Barbara Mahaffey is the current property owner of record and Kelly Mahaffey and David Wicks are occupants of the property.

TAB #1

#1 Handout: R1-D12 Zoning

On 1/15/2008 a 1-acre parcel (007K) with two homes served by one septic system was divided into two ½-acre parcels (007Y and 007Z). Parcel 007Y had one home and the

septic system physically within its bounds and 007Z had a home that shared the septic on 007Y. At the time of the split Barbara and Gerald Mahaffey owned 007K and subsequently 007Y and 007Z. On 1/6/2011 007Y was transferred to Kevin Charles Mahaffey with Barbara Mahaffey retaining title to 007Z. No easements or agreements regarding continued use of the septic system are recorded in any public record.

TAB #2

- #2 Handout: MLD Map
- #3 Handout: MLD Blowup
- #4 Handout: Ownership 007K
- #5 Handout: Ownership 007Y
- #6 Handout: Ownership 007Z
- #7 Handout: Septic Permit\
- #8 Handout: Property Line Waiver

COMPLAINT HISTORY:

NOTE: This property has not been before the Gila County court for violation enforcement in the past.

This violation is the result of a notification by Kevin Mahaffey, owner of 007Y, on the 26th day of February 2014 that he had hired a plumber who capped the sewer line leading from the home on 007Z to the septic system located on his property 007Y. In the month preceding the capping action the owners of 007Y and the occupants of 007Z both made personal inquiries of the Gila County Wastewater Department regarding code requirements for sewage treatment facilities for homes. Both were informed of the IRC Building Code requirement to have all plumbing fixtures in a dwelling unit connected to an approved septic system.

TAB #3

- #9 Handout: IRC Building Code Chapters 1 & 3

On the 27th day of February, 2014, I hand delivered a Notice of Violation and Summons (NOV) to both the property owner and the occupants of 007Z with a hearing date of May 16, 2014. This NOV declared the home to be uninhabitable due to the lack of approved septic facilities and directed that it be vacated within 24 hours and stated further that this structure was not to be occupied until an approved septic system had been installed on the property.

- #10 Handout: NOV

At the time of NOV delivery the occupant Mr. Wicks had moved a port-a-john onto the property and had routed the home plumbing fixtures out onto the yard. He was informed that port-a-johns are not an approved septic system, that kitchen sink and toilet water must be discharged into a septic system and that shower, hand sink and

washing machine gray water can only be “beneficially reused” on the property after an approved septic system is installed with home plumbing being required to have the ability to be routed into the septic system. He was further informed that the use of these unauthorized devices and methods were not approved or authorized under the 2003 IRC adopted by Gila County and were a direct violation of the Arizona Administrative Code Title 18 Chapter 9 Environmental Quality Water Pollution for both black and gray water as stated in R18-9-A309(A)(1) and R18-9-711(A)(6) and (10).

TAB #4

#11 Handout: Pictures 0-10

#12 Handout: 1st Inspection Statement

Prior to and after the sewer disconnection the actions required to obtain a septic permit had been explained in depth to Mr. Wicks including those that must be taken by the owner of the property. After the disconnection it was explained to both Barbara Mahaffey (owner) and Mr. Wicks (occupant) that a septic permit could only be issued to the owner of the property and that all permitting activities must be conducted by the property owner or a person authorized to act in the property owners behalf through a notarized Power of Attorney.

Continuances were granted for various reasons for summons to the May 26, 2014 and June 12, 2014 Gila County Hearing Officer Court with the final hearing being moved to the August 12, 2014 Yavapai County Court due to a conflict of interest with the Gila County Hearing Officer.

On the 13th day of March 2014, the 20th day of May 2014, the 26th day of June 2014 and the 6th day of August 2014 research noted that there had not yet been any septic permit activity, that the property had not been vacated, and that the port-a-john with surface discharge of gray water continued to be present.

TAB #5

#13 Handout: Onsite System & 1.08

#14 Handout: Delegation Agreement

#15 Handout: 711 rule

#16 Handout: Violations of 49-141 & A309

#17 Handout: Diseases

Based on the 6th day of August 2014 research and site visit it was determined that the port-a-john is present and Mr. Wicks stated that there was no change in the sewer discharge to the surface. I was however unable to enter the property to inspect for surface discharges or other changes as access to the property was not granted. Finding no change in status, this case is brought before the Hearing Officer for resolution.

RELIEF:

TAB #6

Rules of Procedure #21

The COUNTY would request that both DEFENDANTS (property owner and the occupants jointly) be found to have a violation and that a judgment be rendered in favor of the COUNTY. The COUNTY further requests, pursuant to Rule 21 of the Gila County Rules of Procedure, a \$700.00 be imposed on both DEFENDANTS and that the occupants be ordered to vacate the property within 24 hours following the judgment of this court with the fine to be suspended if Item 3 under "TO ABATE" is completed within 14 days following the judgment of this court. The COUNTY further requests a sanction of \$500.00 per day be levied against both DEFENDANTS for every day that the property is occupied beyond 24 hours following the judgment of this court, with the fine to be suspended if the property is in compliance having an installed, approved septic system and with a Discharge Authorization for the septic system and a Certificate of Occupancy for the home being issued on or before the 12th day of September 2014.

TO ABATE:

- 1) OCCUPANTS ARE TO VACATE THE PROPERTY WITHIN 24 HOURS FOLLOWING THE JUDGMENT OF THIS COURT,
- 2) PROPERTY OWNER TO HIRE AN AUTHORIZED GILA COUNTY CONTRACTOR TO DESIGN A SEPTIC SYSTEM TO SERVE 301-17-007Z,
- 3) PROPERTY OWNER IS TO SIGN AND SUBMIT TO GILA COUNTY COMMUNITY DEVELOPMENT WASTEWATER DEPARTMENT, A NOTICE OF INTENT TO DISCHARGE ALONG WITH ALL REQUIRED DOCUMENTS AND THE PERMIT FEE OF \$475.00, REQUESTING SEPTIC PLAN APPROVAL AND ISSUANCE OF A CONSTRUCTION AUTHORIZATION,
- 4) PROPERTY OWNER IS TO HIRE A LICENSED CONTRACTOR TO INSTALL THE "APPROVED FOR CONSTRUCTION" SEPTIC SYSTEM,
- 5) PROPERTY OWNER TO OBTAIN A FINAL INSPECTION OF THE INSTALLED SYSTEM AND SUBMIT A REQUEST FOR DISCHARGE AUTHORIZATION ALONG WITH REQUIRED DOCUMENTS TO OBTAIN A DISCHARGE AUTHORIZATION FROM GILA COUNTY DEVELOPMENT WASTEWATER DEPARTMENT ; THEN,
- 6) PROPERTY OWNER TO REQUEST A CERTIFICATE OF OCCUPANCY FROM THE GILA COUNTY BUILDING OFFICIAL, AND THEN
- 7) PROPERTY MAY BE RE-OCCUPIED BY THE PROPERTY OWNER OR HER ASSIGNS.

TAB #7

Letters to all parties

GILA COUNTY COMMUNITY DEVELOPMENT DIVISION
IN AND BEFORE THE HEARING OFFICER

COUNTY OF GILA,

Plaintiff,

vs.,

Barbara Mahaffey-Owner of the premises @
4909 N German Ranch Rd
Strawberry, Arizona
Barbara Mahaffey
Occupants: Kelly Mahaffey (daughter) & David
Wicks

Defendant

Complaint No. HCP1402-003

Tax Parcel No.: 301-17-007Z

Violation No.:

Arizona Revised Statutes Title 49-141
Environmental Nuisance that threatens to
cause harm to public health or the
environment;

Arizona Administrative Code Title 18
Ch 9

Department of Environmental Quality
Water Pollution;

2003 IRC Section R 306.1 Every dwelling
unit shall be provided with a toilet, sink,
and a bathtub or shower;

2003 IRC Section R 306.3 All plumbing
fixtures shall be connected to a sanitary
sewer or to an approved septic system.

(The Honorable Peter Van Haren)

THE MATTER HAVING BEEN HEARD, the Hearing Officer finds the following:

- 1 The Defendant was personally served and duly notified of the date and time set for the hearing.
- 2 The Defendants Barbara Mahaffey, and Occupants Kelly Mahaffey and David Wicks appeared at said hearing.
- 3 The property is zoned R1-D12
- 4 Gila County presented evidence and testimony at hearing, including pictures of the property located at 4909 N German Ranch Rd., Strawberry, Arizona.
- 5 The property is located in unincorporated Gila County at 4909 N German Ranch Rd., PARCEL "2" ROS 3492 NW1/4 SEC 28 T12N R8E=0.50 AC in Arizona, and is in

violation of Arizona Revised Statutes Title 49-141, Arizona Administrative Code Title 18 Ch 9, 2003 IRC Section R 306.1 and 2003 IRC Section R 306.3. The property does not comply with Gila County Wastewater and Building Ordinances and therefore, the Defendant is responsible for the violations on this property.

IT IS THEREFORE ORDERED that the following judgment shall be entered against the Defendant Kelly Mahaffey and David Wicks.

This Matter having been heard on August 12, 2014 and the Hearing Officer finding that a violation exists, JUDGMENT is entered in favor of the Plaintiff Gila County Community Development.

1. An immediate civil sanction in the amount of \$500.00 is imposed for said violation on David Wicks and Kelly Mahaffey. It is also ordered to vacate the property within 72 hours.
2. A daily civil sanction of \$500.00 a day is imposed until the property comes into compliance.
3. The Defendant, Kelly Mahaffey and David Wicks is ordered to bring the violating property into compliance with the Gila County Wastewater and Building Ordinance by September 12, 2014.

This includes:

- A. This structure shall not be occupied until an approved septic system is installed on this property and its use has been authorized.

DATED this 2 day of Aug, 2014


Peter Van Haren-Hearing Officer
Gila County Community Development
Hearing Date: 8/12/2014

GILA COUNTY COMMUNITY DEVELOPMENT DIVISION
IN AND BEFORE THE HEARING OFFICER

COUNTY OF GILA,
Plaintiff,

vs.

Kelly Mahaffey & David Wicks

Occupants(s)

Barbara Mahaffey-owner of the premises @

4909 N German Ranch RD

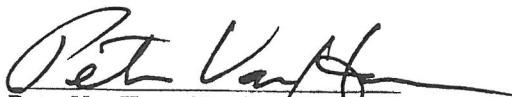
Strawberry, Arizona

Defendant(s).

NOTICE OF RIGHT TO APPEAL

NOTICE is hereby given to the above referenced Defendants(s) of the right to a review of the Hearing Officer's final decision, provided said Defendant(s) file a written Notice of Request for Appellate Review with the Code Compliance Supervisor within (15) days after the signing of the final decision, notice or order by the Hearing Officer. This filing shall contain the original Notice of Request for Appellate Review and an identical copy.

FURTHERMORE, any such Notice of Request for Appellate Review shall clearly identify the decision being appealed. Any such Notice of Request for Appellate Review shall be signed by the Defendant(s) as Appellant, an attorney designated by the Defendant(s) or other designated representative. Any such Notice of Request for Appellate Review shall clearly list the names, addresses and telephone numbers of all parties and their attorney (or designated representative). Any such Notice of Request for Appellate Review shall state whether Defendant(s) will represent himself or the name of appellant's attorney or designated representative. Failure to designate a representation by counsel or designated representative at the time of request for appeal may cause a recess or postponement of these proceedings by the Board of Supervisors.


Peter Van Haren-Hearing Officer
Gila County Community Development