

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.