

January 13, 2013

Ernie Hancock  
4886 W. Port au Prince Ln.  
Glendale, AZ 85306

Dear Ernie,

Enclosed is a brief history of our situation in Coconino County as we discussed on Friday, January 11.  
We are also enclosing some photos and copies of letters in connection with the matter.

If you would like additional information or have any questions, please call us.

Thank you,

A handwritten signature in dark ink, appearing to read "John & Jamie", written in a cursive style.

John and Jamie Gurley

Encl.

## HISTORY

1997 – The cabin was constructed by the original owner.

Sept./Oct. 2003 – Phone conversations with Bill Towler, Director of Coconino County Community Development and Francis Regan, Zoning Inspector – We called to ask about the requirements for building permits, and were told that the County was not concerned with “anything north of the river.” They did not have the time, resources, or interest in enforcing building code “up there.”

11/3/2003 – Property purchased by Lancaster Resources, LLC.

9/16/2005 – Received a letter from Francis Regan regarding the alleged existence of a travel trailer on the property. Copy enclosed.

10/13/2005 – Written response from our attorneys stating that there is no travel trailer on the property and that there are no issues relating to the “safety, health, morals, and general welfare” of the area. Copy enclosed.

11/2/2005 – Written response from Francis Regan to our attorneys regarding a possible inspection (which never occurred.) No follow up was ever received. Copy enclosed.

7/17/2007 – Phone conversation with Francis Regan – We complained about junk and trash on the neighboring property. Mr. Regan stated that they were too busy to address any complaints in our area. He also stated that we were in compliance and not to worry about it.

2/6/2008 – Phone conversation with Mr. Regan – We complained about the expanding junkyard next door. He repeated his position that he was too busy; also that we were in compliance.

4/29/2008 – Phone conversation with Mr. Regan – Final complaint about the continuing expansion of the junkyard. It should be noted that other neighbors were filing complaints as well. Regan responded that he had a full desk and was too busy with things “down here.” He also stated that he lacked the resources to enforce zoning in outlying areas of the County. He didn’t care what people were doing in White Sage as it is too remote and too low population for his department to worry about. He said he sympathized with our plight, but that nobody was coming “up there” anytime soon, if ever.

We responded that that’s not right; but if that’s the way it is, don’t give this property any grief if you’re not going to do your job and take care of the problems out here. These people live like pigs.

Mr. Regan said that he was sorry about the trash but they just didn’t come up there. He also said that he already told us that our property was fine; there were no problems. He said that we should not worry about it, wished us luck, and said we could call again sometime but there was no reason to.

10/16/2012 – We came home from out of town and found a note on our gate asking us to contact the Health Department regarding our waste water system. Copy enclosed.

11/6/2012 – Phone conversation with Joelle Wirth, Program Manager with the Public Health Services District – Set up a date and time for her to come out. Joelle said she remembered our cabin and that “your place is nice.” She wasn’t overly concerned, and if she liked what she saw she would probably just sign off on it.

11/19/2012 – Meeting/inspection at our property with Joelle Wirth, Rachael Bender (Zoning Inspector), and Lars Forsythe (Permit Technician) – Recording available; also refer to our letter dated 12/13/12.

11/21/2012 – Phone conversation with Joelle Wirth – Joelle stated that we are a good example; we are good people with a good property in a frustrating situation, especially considering the background of the area, concerning our neighbors, and what we were already told by Community Development officials.

12/4/2012 – Received letter from Rachael Bender – Copy enclosed.

12/4/2012 – Phone conversation with Joelle Wirth – Told Joelle that we were furious about the letter. She was not aware of the letter, but was sympathetic and said there needed to be some common sense. She told us that Lars Forsythe had pushed Rachael Bender to write the letter.

She also told us that Forsythe was scheduled to “post” our property on December 11 or 12. We asked what she meant by “post.” She said it meant to post our property with a Notice of No Occupancy – effectively evicting us from our home.

We stated that we would not comply and if they came to forcibly remove us that we would make the necessary preparations to defend ourselves. She was upset, but said that that would probably not be necessary.

12/6/2012 – Phone conversation with Joelle Wirth – Joelle told us the County was going to put this matter on hold and that several County personnel wanted to have a phone conference with us. We told her we would meet with our attorney the next day and would call her afterward.

12/7/2012 – Phone conversation with Joelle Wirth – We told Joelle that we would take the conference call on December 10 at 2:30 pm in our attorney’s office.

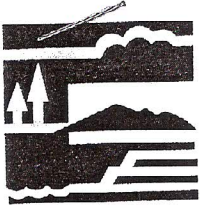
12/10/2012 – Phone conference in our attorney’s office – Recording available.

12/12/2012 – Phone conversation with Joelle Wirth – She said that things were moving slowly, but the County knows that it is going to be responsible for the cleanup of the numerous neighbors that are living in squalor, therefore there is little motivation for the County to pursue them with enforcement. She was frustrated that she could not get Bender to act to take these people to court. She was asking her co-workers why they were giving John and Jamie such a hard time when their property is so neat and clean, and 10,000 times better than anyone else out there. She said that she would be sending a confirmation to us that our water system was in compliance. She was also going to send us a copy of an article written by Cyndy Cole from the Flagstaff Sun newspaper concerning the “selective zoning enforcement” throughout the County.

12/13/2012 – Letter from us to Vin Suprynowicz, copies to Coconino County officials and Ernie Hancock – Copy enclosed.



1/4/2013 – Phone conversation with Joelle Wirth – Joelle told us that she hadn't called back because the County had had a meeting about our letter and was angry about it. We told her we were angry about theirs. She told us that she had not mailed our approval because everything in White Sage had been put on hold until they could come up with a strategy to deal with it. She said that there was an agreement in the meeting that we really had been told not to worry about building permits after inquiring about them numerous times before and after the purchase. There was discussion about just giving us a waiver, and issuing a permit, and being done with this. Joelle also noted our place is not, nor ever has been, a health or safety risk. She stated that she wanted this Department (Community Development) to be functional.



**COCONINO COUNTY ARIZONA**  
COMMUNITY DEVELOPMENT

William L. Towler  
Director

September 16, 2005

Lancaster Resources LLC  
1035 2<sup>nd</sup> Avenue  
Fairbanks AK 99701

Re: Possible zoning violation  
Storage and/or occupancy of a travel trailer  
APN: 60121012B  
Zone: G

Dear Sirs:

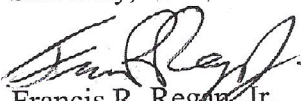
It has been brought to the attention of this department that a zoning violation might exist on the above referenced parcel. The information I received indicates that a travel trailer is being stored on the parcel, and that it may be occupied from time to time.

For your information, it would be a violation of Section 9.3 of the Coconino County Zoning Ordinance to store and/or occupy a recreational vehicle or a travel trailer on the parcel without a temporary use permit. A temporary use permit would allow the storage and/or occupancy of the travel trailer for a period not to exceed one hundred consecutive days per calendar year. The travel trailer would not be permitted to remain on the parcel without a temporary use permit, or after the expiration of the temporary use permit. I have enclosed an application for a temporary use permit for your use.

I plan on inspecting the parcel in the near future. If I find that there is a zoning violation on the parcel, I will initiate formal enforcement procedures. Also, should you be found responsible for a zoning violation, you may be faced with civil penalties of up to \$750.00 per day.

Should you have any questions, please feel free to contact me.

Sincerely,

  
Francis R. Regan, Jr.  
Zoning Inspector

# BARNEY & MCKENNA

A PROFESSIONAL CORPORATION

ATTORNEYS AT LAW

R. Daren Barney ‡  
Jeffery J. McKenna†  
William O. Kimball, Jr. \*  
Jedediah P. Bingham  
Greg B. Walker\*  
Bryan J. Pack\*

‡ Licensed in Utah, Nevada & Colorado

† Licensed in Utah, Nevada & Arizona

\* Licensed in Utah and Nevada

## PLEASE REPLY TO:

### Mesquite Office

590 W. Mesquite Blvd., Suite 202  
Mesquite, Nevada 89027  
Tel (702) 346-3100  
Fax (702) 345-4683

### St. George Office

63 South 300 East, Suite 202  
P.O. Box 2710  
St. George, Utah 84771-2710  
Tel (435) 628-1711  
Fax (435) 628-3318  
[www.barney-mckenna.com](http://www.barney-mckenna.com)

October 13, 2005

Francis R. Regan, Jr.  
Zoning Inspector of Coconino County  
2500 North Fort Valley Road, Building 1  
Flagstaff, AZ 86001-1287

## Re: Zoning of APN No. 60121012B Zone G

Dear Mr. Regan:

Please be advised that the law firm of Barney & McKenna, P.C., represents Lancaster Resources, LLC. This letter is in response to your letter to my client dated September 16, 2005, wherein you allege that there may be a zoning ordinance on the above-referenced property.

First, it may be that you inadvertently sent your letter to my client by mistake intending that the letter actually go to one of the owners of property neighboring my client's property. This is because my client does not have a travel trailer on its property. Therefore, if you mistakenly sent the letter to my client, please contact me immediately and let me know.

However, in the event that the letter was properly addressed to my client, I feel the following background information will be necessary and helpful to you in understanding my client's position. As you know, legally speaking, the state's power to regulate zoning must be based on that state's enabling statute. According to the United States Supreme Court this would allow a government entity to zone property only if it is "substantially related to the safety, health, morals, and general welfare of society." Village of Euclid v. Ambler Realty Company, Inc., 272 U.S. 365 (1926).

Significantly, the courts have held that arbitrary zoning ordinances violate a person's constitutional right to due process. As such, a government entity may not impose zoning ordinances if 1) the burden on the owner of the property is extremely disproportionate to the public benefit; 2) the city does not follow its own ordinances; 3) the ordinance conflicts with the state's enabling statute; or 4) the government engages in spot zoning which is not in accordance with a comprehensive zoning plan. In addition, the governing body cannot zone retrospectively, thus, zoning can only affect new uses of property. As such, governing bodies are required to

“grandfather” existing uses into new zoning regulations and all existing uses of property, at the time the zoning ordinance comes in effect, will be acceptable uses even if they are considered nonconforming under the new zoning regulations.

With respect to APN: 60121012B, it is our position that there is no zoning violation. Instead, it appears that one single property owner has attempted to impose his will on all of the other property owners in the area and the zoning enforcement is not substantially related to the “safety, health, morals, and general welfare” of the area. Moreover, the burden and effect on my client is extremely disproportionate to any benefit that might be derived through enforcement.

In addition, the county has not uniformly enforced the zoning ordinance in this area. There are numerous property owners nearby using their property in a substantially similar manner as my client and the county has done nothing to stop this use. This use has gone on for several years, if not decades. As such, your letter sounds more like an attempt at “spot zoning” as it relates to my client’s property because my client is being singled out for having allegedly violated an ordinance that has not been consistently enforced across the board. Finally, because my client’s property has been used in this manner prior to any enforcement of the zoning ordinance at issue, my client’s use has been “grandfathered in” and your zoning ordinance cannot retroactively stop the existing use of my client’s property.

For the foregoing reasons, it is our position that the above-referenced property is not in violation of any enforceable zoning ordinance. If you have any questions regarding this letter please do not hesitate to contact me.

Sincerely,

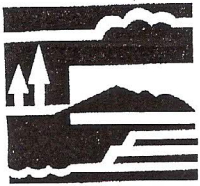
BARNEY & McKENNA, P.C.

Jeffrey J. McKenna

JB/ct

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**COCONINO COUNTY ARIZONA**  
COMMUNITY DEVELOPMENT

RECEIVED  
NOV 07 2005

William L. Towler  
Director

November 2, 2005

Jeffrey J. McKenna  
Barney & McKenna  
PO Box 2710  
St. George UT 84771

Client Copy

Re: Lancaster Resources, LLC  
Possible zoning violation  
Storage and/or occupancy of a travel trailer  
APN: 60121012B  
Zone: G

Dear Mr. McKenna:


This is in response to your letter of October 13<sup>th</sup> regarding the above referenced matter.

In your letter you state that there is no travel trailer on the subject parcel, and that I may have inadvertently sent my letter to your client. It is possible that the wrong parcel has been identified. I hope to be in that area within the next few weeks. At that time I will try to verify if the travel trailer in question is on an adjacent parcel.

Also, I do not agree with your analysis of uniform enforcement of the zoning regulations, "spot zoning" and "grandfathered in" uses. But if there are no zoning violations on your clients property, these issues are probably moot.

Should you have any questions, please feel free to contact me.

Sincerely,

  
Francis R. Regan, Jr.  
Zoning Inspector

cc Lancaster Resources, LLC



Contact: Coconino County Department of Health Services  
Environmental Services

2500 N. Fort Valley Rd. • Flagstaff, AZ 86001-9331 • 928-226-2710

**DO NOT PROCEED ON THIS SYSTEM**

Provisional Verification # \_\_\_\_\_

**SEPTIC NOTICE**

Date: 10/16/12 Signed: \_\_\_\_\_

Important - see reverse side of this card for any possible deficiencies.

*Please call me to discuss your  
wastewater system. This is our fourth  
attempt to contact you. Please call.*

by signing this card and returning it to the Department, the undersigned certifies  
that the requested corrections listed above have been made.

Date: \_\_\_\_\_ Signed: \_\_\_\_\_





**COCONINO**  
COUNTY ARIZONA  
**COMMUNITY DEVELOPMENT**

Sue Pratt  
Director

November 27, 2012

Lancaster Resources LLC  
840 Pinnacle Court STE 202  
Mesquite, NV 89027

Re: Alleged Zoning Violation (PZC-12-0133) -- INITIAL NOTICE OF VIOLATION  
APN: 601-21-012B  
Zone: General

To Whom It May Concern:

We have received a report alleging violations of the Coconino County Zoning Ordinance on property you own in the County. The alleged violation consists of the following:

1. The establishment of a home without a Building Permit constitutes a violation of Section 9.3.A.8 of the Coconino County Zoning Ordinance.

In order to correct the alleged violations, the following action(s) must be completed:

- 1.a Remove the home from the parcel; OR
- 1.b Obtain a Building Permit from the Building Department.

Compliance is requested within thirty (30) days from the date of this notice, after which I intend to re-inspect the property. Upon re-inspection, if evidence of the alleged violations still exists, you will receive a second notice, and then a citation to appear before the Zoning Hearing Officer. Should the Hearing Officer determine that you are responsible for the violations, he may levy fines up to \$750 per day per violation for each day during which the violation continues.

Your immediate attention to this matter is greatly appreciated. Please keep me informed as to any progress you are making toward correcting the violation. Please call me at 928-679-8873, to schedule the second inspection.

Sincerely,

Rachael Bender  
Code Enforcement Officer

December 13, 2012

Vin Suprynowicz, Editorial Page Writer/Assistant Editorial Page Editor  
Las Vegas Review-Journal  
1111 Bonanza Road  
Las Vegas, NV 89125

Dear Vin,

As you are aware, we are in danger of losing our home to the Community Development Department of Coconino County, Arizona. Our little cabin was built 15 years ago, in 1997; we have owned it for just over nine years. During that time, the County has repeatedly assured us that they were not concerned about the area north of the North Rim of the Grand Canyon, and did not have the time, resources, or interest in enforcing Building Code there. The original owner of the cabin did not obtain a Building Permit, but after what we had been told we did not see any necessity to pursue the matter.

On October 16, 2012, we found a polite note on our gate asking us to contact the Coconino County Department of Health Services concerning our waste water system. (The note claimed that it was the fourth attempt to contact us, but it was the first to our knowledge.) We contacted the County, and they came out to conduct an inspection on November 19. The inspection included one representative each from Health Services, Zoning, and Building. The Health Department inspector approved of our system, stated that it did not pose any health issues, and was in fact very pleased with our innovative design.

The representative from Zoning also said that she did not have any issues and stated, "You have a beautiful home." The problems began when we got to the Building Department employee, whose title is "Permit Technician," and whose name is Lars Forsythe.

Lars delivered a lecture on the Building Department's dedication to ensuring everyone's safety and assured us that he was only a resource and not out to give anyone a hard time. He also stated that he would work with us and extend time lines if necessary. But the bottom line was that our home is illegal and must have a Building Permit.

The County would, however, allow us to apply for a Permit after the fact. Lars followed up with a list of necessary actions and partial costs, and concluded with, "Call me with questions; you'll have lots of questions."



We tried to argue, pointing out that the cabin had been here for 15 years, and now all of a sudden it's an issue. Lars apparently did not appreciate the questioning of the peons, who should just do what they're told. In addition, Jamie was openly wearing a Glock on her hip (which is her daily habit, and is perfectly lawful, especially on her private property), and he was probably a little scared. This matter seems to have become a personal vendetta to him.

Lars didn't waste any time. On November 27, 2012 the Zoning Department issued a letter that was signed by Code Enforcement, but that we are quite confident was initiated by Lars. This letter demanded that we either remove our home from the property or obtain a Building Permit within 30 days.

Since then, we have had a phone conference with the County, with our attorney present, in his office. Our message was, "No, we will not comply; we should be grandfathered in," theirs was, "You're in violation." We are now waiting for the determination of the Director of Community Development, Sue Pratt.

Vin, for years (initially 2007) we, as well as many others, have complained to the County about the growing "junkyards" bordering both the north and south of our property. The County has neglected to take any real action against the owners of these parcels. As a result, these owners continue to add to their squalor with impunity.

Meanwhile, we find ourselves targeted by bureaucrats who claim to act in the interest of our safety, while demanding that we remove our home from our parcel within 30 days or face citation and fines.

We have been perplexed as to why we responsible citizens, who maintain an attractive property, would be treated so differently from our slovenly neighbors. We now have the answer.

We now understand that the County is reluctant to take these people to court because the County would ultimately be responsible for cleaning up the parcels. (Granted, this would be a daunting and expensive task; but had they acted sooner, it would have been more manageable.) Their strategy instead is to try to pressure the owners into cleaning it up themselves. The owners are quick to realize that they run no risk of punishment, and continue to "junk up" their properties. This further reduces the value of their property, and provides even less motivation to the County to take action.

On the other hand, we who possess a tasteful, desirable home receive an ultimatum. It's a win-win situation for the County – if we comply they collect revenue, if we don't comply they can seize a valuable asset. They hold the power of knowing that most people will not want to lose their property, and will knuckle under.

The option that they probably cannot accept is that we will say no, tell them to Send in the Waco Killers, and not back down. But what are the alternatives? To spend thousands of dollars, submitting to endless demands; capitulating and groveling?

We moved here to be left alone, and to live life on our own terms, causing no harm to anyone else. For a time, we have been able to accomplish that goal. If we can no longer enjoy ownership of our own lives, it is time to die defending our rights; but we will die free.

Your Friends,

Handwritten signatures of John and Jamie in cursive script.

John and Jamie

Cc: Carl Taylor, Coconino County Supervisor, District 1  
Sue Pratt, Director of Community Development  
John Farnol, Building Official  
Lars Forsythe, Permit Technician  
Rachael Bender, Code Enforcement Officer  
Joelle Wirth, Public Health Services Program Manager  
Ernie Hancock, [freedomsphoenix.com/Liberty](http://freedomsphoenix.com/Liberty) Radio Network  
Bo Bingham, Attorney-at-Law

The water system is designed for maximum simplicity and efficiency, as well as safety.

The property has no running water other than a hand pump to draw water from the storage tanks. The system is utilized by two persons, part time.

A composting toilet (Sun-Mar) is in use, requiring no water. No black water is produced. Composted solid waste is properly utilized in the orchard.

Gray water is generated by showering, dish washing, hand washing, and tooth brushing. The volume of this gray water is very low. Showers are accomplished through a bag-style solar heated shower whose maximum capacity is five gallons. This amount of water provides more than ample water for two persons to shower. Shower water drains from the shower pan and is recycled under the greenhouse planting beds.

Dishes are washed in a dishpan and rinsed in a pot of hot water. Hand washing utilizes a pitcher and basin system. Hand sanitizer is available for added safety. Resulting gray water is applied to garden plants or the composting pile.

Laundry is washed off site.

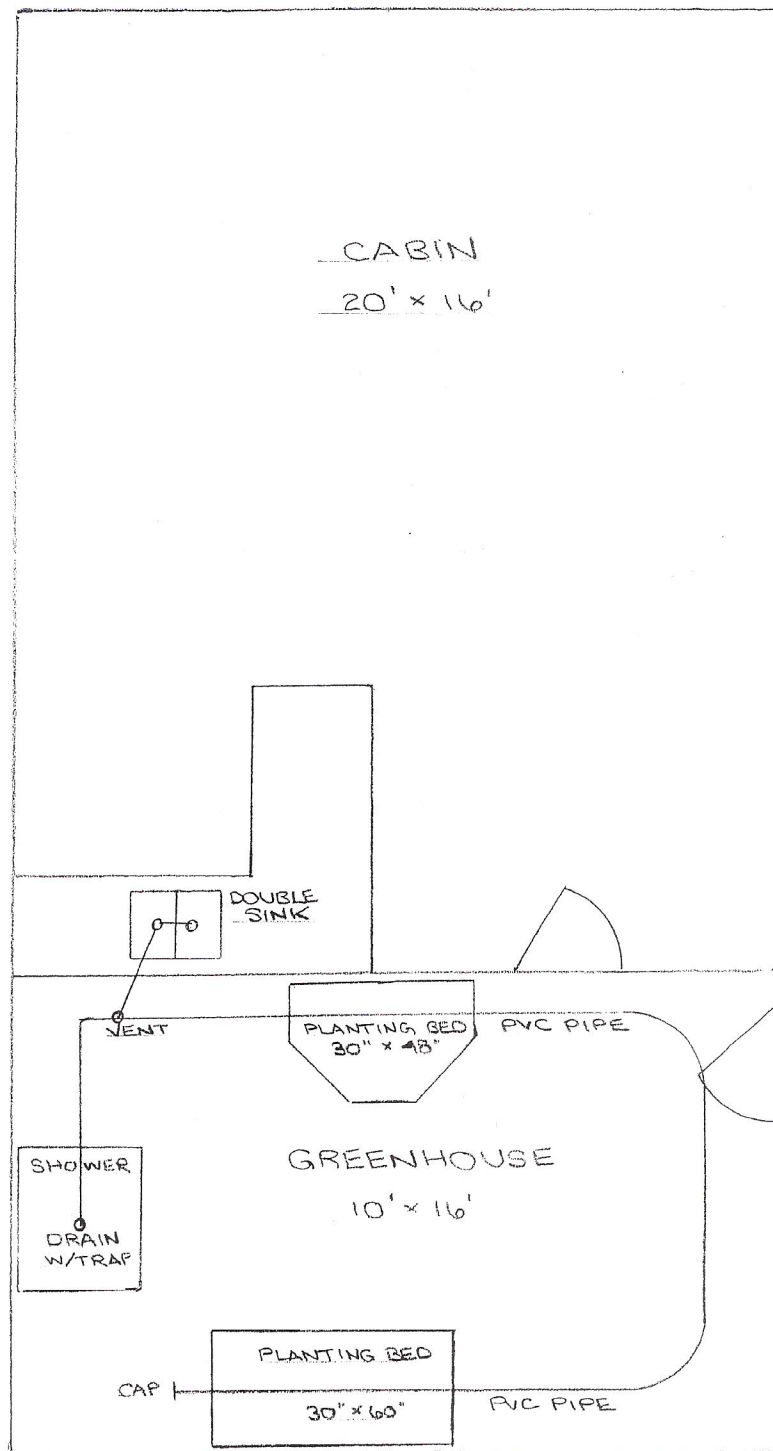
#### Estimated Volume of Gray Water Generated per Day (Two Persons)

Shower	5 gallons
Dishes	4 gallons
Personal Hygiene	<u>1 gallon</u>
Total	10 gallons

This total is a maximum volume and is not reached every day.

The goal of the system is to produce no "waste" water. Conservation of resources and recycling are key elements in its design and operation.





PVC PIPE LOCATED UNDER PLANTING  
BEDS IS PERFORATED.

#### GRAYWATER SYSTEM

DIMENSIONS AND LOCATIONS ARE  
APPROXIMATE