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5 Daniel J. Oehler, Arizona State Bar No.: 002739
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7 IN THE SUPERIOR COURT OF THE STATE OF ARIZONA
8 IN AND FOR THE COUNTY OF MOHAVE

9
10 NANCY KNIGHT,
11 Plaintiff,
12 vs.

NO.: CV-2018-04003

RESPONSE TO MOTION FOR
PARTIAL SUMMARY
JUDGMENT ON SIGNAGE


13 GLEN LUDWIG and PEARL LUDWIG, Trustees
14 of THE LUDWIG FAMILY TRUST; FAIRWAY
15 CONSTRUCTORS, INC.; MEHDI AZARMI;
16 JAMES B. ROBERTS and DONNA M.
17 ROBERTS, husband and wife; JOHN DOES 1-10;
18 JANE DOES 1-10; ABC CORPORATIONS 1-10;
and XYZ PARTNERSHIPS 1-10.
Defendants.

19 COME NOW, the Defendants, GLEN LUDWIG and PEARL LUDWIG, Trustees of
20 THE LUDWIG FAMILY TRUST; FAIRWAY CONSTRUCTORS, INC.; and MEHDI
21 AZARMI, hereinafter collectively referred to as “Defendants,” by and through their attorney,
22 Daniel J. Oehler, and submit herewith their Response to Plaintiff’s Motion for Partial
23 Summary Judgment filed herein on November 25, 2019 (hereinafter simply “Plaintiff’s
24 Motion”). This Response, in accordance with the Arizona Rules of Civil Procedure, Rule 56,
25 is supported by the attached Memorandum of Points and Authorities, Defendants’ Statement
26 of Disputed Facts, Defendants’ Statement of Facts, Affidavits and Exhibits attached hereto
27 and/or referenced herein and incorporated by such reference, as well as all previous and prior
28 filings in the above entitled matter, specifically including these Defendants’ dispositive

1 Motion for Summary Judgment on all issues specifically including the “signage” issue filed
2 with this Court on December 6, 2019.

3 RESPECTFULLY SUBMITTED this 24th day of December, 2019.

4 LAW OFFICES OF DANIEL J. OEHLER

5 

6 Daniel J. Oehler,
7 Attorney for Defendants

8 **LEGAL ARGUMENT AND STANDARD FOR SUMMARY JUDGMENT**

9 A court is permitted to, and in a position to grant summary judgment and/or partial
10 summary judgment only after the court has examined the entire record and determined that
11 no genuine dispute exists as to any material fact and that but a single inference results from
12 those undisputed material facts, and finally based upon the undisputed material facts, the
13 movant is entitled to judgment as a matter of law. Rule 56(c) A.R.S. Rules of Civil
14 Procedure; Giovanelli v. First Federal Savings & Loan Association of Phoenix, 120 Ariz.
15 577, 587 P.2d 763 (App. 1978).

16 In addressing a motion for summary judgment or partial summary judgment, a court
17 is obligated to view the facts in a light most beneficial to the party opposing the motion.
18 Northern Contracting Co. v. Allis-Chalmers Corporation, 117 Ariz. 374, 376, 573 P.2d 65,
19 67 (1977). Summary judgment is not intended nor allowed to be utilized in an effort to
20 resolve any factual issues. City of Phoenix v. Space Data Corp., 111 Ariz. 528, 534 P.2d 428
21 (1975); Schwab v. Ames Construction, 207 Ariz. 56, 60, 83 P.3d 56, 60 (App. 2004). The
22 movant, or in this instance, the Plaintiff, has the burden of showing that no genuine issue of
23 any material fact is present before this Court. Id. In those instances and under factual
24 scenarios where the non-moving party demonstrates that a reasonable factual issue or dispute
25 exists that is material to the position tendered by the moving party, summary judgment should
26 not be granted and is, in fact, precluded. Orme School v. Reeves, 166 Ariz. 301, 309-311,
27 802 P.2d 1000, 1008-1010 (Ariz. 1990).

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1 been ruled on by this Court multiple times, Plaintiff continues to put forth Plaintiff's false
2 narrative on the issue.

3 Plaintiff commences her Statement of Facts with a phrase alleging "white collar
4 crime" (see, Plaintiff's Motion, p. 2, lines 18-19), and one would have to interpret that phrase
5 to reference some nonspecific conduct of the Defendants in this action suggesting that
6 apparently Defendants "have created a multitude of victims yet to be named..." See,
7 Plaintiff's Motion, p. 3, lines 14-15. Plaintiff's Motion fails to explain the role that Mr.
8 Siavosh, a non party to this action, plays in regard to the "Signage" issue or what possible
9 "criminal" conduct allegations are directed at this non party.

10 Possibly the "white collar crime" that the Plaintiff references is the posting of a
11 standard real estate sign and rider identical in size to those used by realtors throughout the
12 United States and one that is of a size specifically authorized by the State of Arizona within
13 the provisions set forth in A.R.S. §33-441. Similarly, the construction materials used in the
14 construction of the sign in controversy appear similar to what tens of thousands of these signs
15 are made of: sheet metal with perhaps 1/16" angle iron framing. These are signs used
16 generally by the real estate industry throughout the country, state and Mohave County. Since
17 the "crime" allegedly committed by the Defendants cannot reasonable be referring to the size
18 or construction of the sign, the Plaintiff must be referring to the words on the sign "Build to
19 Suit" or perhaps that the sign identifies the lot ownership and the realtor who has a listing on
20 the lot. (Generally, see, Plaintiff's Motion, p. 3, lines 14-19.) Note that the sign, as is
21 understood by the Defendants, is on a lot that is owned by the Ludwig Defendants who are
22 also owners of Defendant Fairway Constructors, Inc. The words on the sign (Plaintiff's
23 Motion Exhibits 3 and 4) are difficult to perceive as "criminal conduct."

24 No facts are presented by the Plaintiff as to how or why the words in question
25 constitute a crime. Criminal conduct is not the subject matter of Plaintiff's pending
26 Complaint. Plaintiff is not the county attorney nor anyone with legal standing or authority
27 to issue criminal complaints nor indictments. The responding Defendants will not, therefore,
28 pursue further time nor treasure in responding to Plaintiff's criminal allegations set forth in

1 this Motion.

2 The actual subject matter of the pending Complaint is whether the Plaintiff or anyone
3 at the time of filing Plaintiff's Complaint is in a position to enforce the CC&Rs (hereinafter
4 referred to as "Covenants") that were recorded simultaneous with the creation in 1989 of a
5 subdivision known as Desert Lakes Golf Course and Estates Tract 4076-B. The issue before
6 the Court and therefore the interpretive scope of this Response is whether or not the
7 particular Covenant (Covenant 12) that deals with "Signage" is enforceable as a result of:

- 8 (a) Covenant 12 and its companion Covenants as a result of universal violations
9 over an approximate 29 year period has not been enforced, has been waived,
10 has been violated consistently and continuously and therefore has long ago
11 been abandoned. In addition to the abandonment of Covenant 12 all other
12 material Covenants have also been abandoned rendering them unenforceable,
13 (b) Was Covenant 12 declared invalid through the Legislative adoption of a law
14 prohibiting this type of signage restriction in covenants on a statewide basis
15 when the Legislature adopted A.R.S. §33-441?

16 A third potential issue has been raised by Plaintiff on the subject of "Signage" in
17 multiple of Plaintiff's filings in this matter including the current Motion. Does Defendants'
18 signage on Defendants' lot represent a violation of Mohave County's Off-Site Signage
19 Ordinance? That issue, of course, is not an issue that is legitimately before the Court in
20 Plaintiff's Complaint but has been raised in Plaintiff's pending Motion. (See Plaintiff's
21 Motion, p. 4, lines 6-10, and Plaintiff's Exhibit 2.) Nonetheless, it will be briefly addressed
22 herein.

23 Plaintiff suggests that the sign Plaintiff referenced in Exhibits 3 and 4 to Plaintiff's
24 Motion for Partial Summary Judgment "is rusting" and apparently because of rust it
25 "provides a health hazard to persons or property" (see, Plaintiff's Motion, p. 5, lines 6-9).
26 Perhaps, the white collar crime of which Plaintiff complains is that Defendants' and a non-
27 party (U.S. Southwest Realty) real estate sign is "rusting" equates to criminal conduct.

28 Plaintiff's facts do not stop with the above stated issue that accuse Defendants of

1 criminal conduct and would appear to represent actionable libelous statements. The Plaintiff
2 also directs her accusation at two non parties (Siavosh Sanye and US Southwest). Plaintiff
3 makes unsupported factual allegations that Defendants are “planning to deceive the jury” by
4 alleging the sign that states “Build to Suit” with a telephone number for the owner, the
5 company name of the owner, Fairway Constructors, and identifying the real estate brokerage
6 firm that lists the property in question is, apparently, an intentional planned jury deception.
7 This matter is not pending and has never been pending before a jury. It is difficult to respond
8 reasonably to this allegation that appears to be simply “thrown into the mix” in what the
9 Plaintiff presents to the Court as a Motion for Partial Summary Judgment.

10 SUMMARY OF DISPUTED FACTS

11 1. Plaintiff alleges in her “Facts” that this case includes “white collar crime.”
12 Defendants dispute Plaintiff’s allegation. Plaintiff’s Complaint involves an effort by Plaintiff
13 to enforce a set of CC&Rs covering Tract 4076-B and two derivative subdivisions that were
14 created out of Tract 4076-B parcels. Defendants continue to dispute the existence of Tract
15 4076. Defendants continue to dispute that there are criminal or quasi criminal charges
16 legitimately before the Court.

17 2. Plaintiff alleges some sort of conduct by a non-party named “Siavosh Sanye”
18 as purportedly violating front and rear yard setback limitations. The subject Motion purports
19 to concern “signage.” A non-party’s conduct and setback issues are not before the Court on
20 this Motion. These facts are disputed and not properly before the Court.

21 3. Plaintiff alleges that A.R.S. §33-441 does not protect a lot owner who posts on
22 the owner’s lot a standard size real estate sign using the words “build to suit” rather than “for
23 sale.” Defendants claim A.R.S. §33-441 does protect such an owner’s conduct. No case law
24 is provided by Plaintiff in support of Plaintiff’s position. Defendants claim the Legislative
25 action of passing A.R.S. §33-441 “guts” the provisions of Covenant 12 of the CC&Rs
26 effectively voiding such a covenant. Defendants further dispute Plaintiff’s fact statement
27 alleging the enforceability of Covenant 12 and the other Covenants as they have been
28 abandoned for approximately 30 years as a result of lack of enforcement and consistent and

1 continuous violations.

2 4. Plaintiff alleges in Plaintiff's Motion that the standard size real estate sign used
3 by the owner/owner's broker, U.S. Southwest, a non-party to this action, is a hazard to people
4 and property. Defendants claim no such cause of action is contained in Plaintiff's Complaint
5 and the issue is not properly before the Court. Defendants claim even if the standard real
6 estate industry signs were claimed by Plaintiff as a hazard in the Complaint, no cause of
7 action has been provided by Plaintiff to give Plaintiff standing to litigate the issue.

8 5. Plaintiff claims that Plaintiff's Complaint to the Arizona Department of Real
9 Estate (ADRE) and ADRE's response (Plaintiff's Motion Exhibit 2) on the issue of
10 "Signage" regarding both the owner's company Defendant Fairway and U.S. Southwest real
11 estate office is some sort of public deception. Defendants' dispute this unfounded factual
12 allegation. US Southwest is not a party to this action. Plaintiff claims that the subject
13 signage is intended to deceive a jury. Plaintiff provided no supportive fact evidence to prove
14 "jury deception" nor "intent to deceive." These are not issues before this Court and are
15 disputed.

16 6. Plaintiff, via Plaintiff's Exhibit 2 to Plaintiff's pending Motion, alleges that the
17 letter from the Arizona Department of Real Estate dated September 9, 2019, somehow
18 supports something in Plaintiff's pending Motion. Defendants disagree with Plaintiff's
19 apparent "advertising" position filed by Plaintiff demanding that Mohave County interpret
20 the County's "off site" signage ordinance against Defendants' and US Southwest's sign.
21 Mohave County is a non-party. Mohave County has clearly stated that Defendants conduct
22 does not violate the County's "off site" ordinance and finally this issue is not properly before
23 the Court. (See **Exhibit A** to this Response.)

24 **DEFENDANTS' STATEMENT OF FACTS**

25 Two initial points will be briefly discussed concerning the issue of "Signage" in
26 regard to Plaintiff's Complaint.

27 1. The CC&Rs or Covenants that are at issue were recorded by the original
28 developer and cover the lots and parcels that were created as a result of the recordation of a

1 subdivision known as Desert Lakes Golf Course and Estates Tract 4076-B. Covenant 12 of
2 the 1989 CC&Rs is the Covenant in question and reads as follows:

3 “12. No sign, advertisement, billboard or advertising structure
4 of any kind shall be erected or allowed on any of the
5 unimproved lots, and no signs shall be erected or allowed to
6 remain on any lots, improved or otherwise, provided, however,
7 that an owner may place on his improved lot “For Sale” signs,
8 “For Lease” signs or “For Rent” signs so long as they are of
9 reasonable dimensions.”

10 In 2009 when A.R.S. §33-441 was adopted by the Legislature of the State of Arizona,
11 the majority of Covenant 12 was declared invalid. A question of law has previously been
12 presented to this Court as to whether or not Covenant 12 is now partially or fully legally
13 invalid and whether or not the words “Build to Suit” can reasonably be interpreted as
14 protected language under the statute. The Defendants filed a Motion to Dismiss Plaintiff’s
15 Covenant 12 allegations on July 30 2018, alleging the applicability of A.R.S. §33-441. On
16 August 24, 2018, the Court ruled, in pertinent part, that:

17 “In the motion to dismiss, the defendants argued that the signs
18 at issue are “for sale” signs and the CC&R’s may not be
19 enforced against “for sale” signs, citing A.R.S. §§33-1808 and
20 33-441. However, the complaint did not specifically identify the
21 signs at issue as “for sale” signs. In order to determine the
22 applicability of the statutes, the Court would have to consider
23 information outside the pleadings.” Court Notice/Order
24 08/24/2018, p. 2.

25 Nonetheless, whether or not the provisions of A.R.S. §33-441 protect the Defendants’
26 signage which is in controversy is not material to an ultimate decision by this Court in favor
27 of the Defendants on the basis of current Arizona case law.

28 Defendants have raised the issue of the enforceability of this Covenant and all other
material and disputed Covenants that were recorded by the original developer in 1989. If in
fact the Covenants, in general, have been abandoned as a result of the non-action of the lot
owners that have acquired property within the subdivision between January of 1991 and the
filing of Plaintiff’s Complaint in 2018, then and in that event, under Arizona law and as is
set forth in Defendants’ pending dispositive Motion for Summary Judgment, it is unnecessary
for this Court to interpret the Legislative intent in adopting A.R.S. §33-441. If there is an

1 abandonment of the Covenants under Arizona law, Covenant 12 is unenforceable. That issue
2 has been extensively briefed and is currently pending in Defendants’ dispositive Motion that
3 is currently pending before this Court.

4 2. The second issue dealing with “Signage” raised by Plaintiff and that is not
5 before this Court is whether Defendants’ signage on Defendants’ lot represents a violation
6 of any applicable Mohave County Sign Ordinance. Plaintiff appears to allege that the words
7 “Build to Suit” is “offsite advertising” and therefore a violation of County law or ordinance.
8 This argument once again is irrelevant to any issue that is pending in Plaintiff’s Complaint.
9 Should Plaintiff desire to bring some sort of action against Mohave County for what Plaintiff
10 apparently believes is a County Ordinance violation Plaintiff, of course, is free to file
11 whatever action Plaintiff wishes against the entity Plaintiff believes has enforcement
12 jurisdiction. Indeed, Plaintiff has already done so and has received a determination by
13 Mohave County that the sign in question does not violate any applicable Mohave County
14 signage ordinance. See **Exhibit A** to this Response.

15 3. This then leaves the third point that is correctly before this Court and that is
16 whether or not Covenant 12 is or is not enforceable. It is not necessary to examine the
17 validity of the Covenant, either at its time of recordation in 1989 or subsequent to the passage
18 by the Arizona Legislature of A.R.S. §33-441 in 2009. The Defendants’ global and therefore
19 fully dispositive Motion that is currently before this Court addresses the issue of
20 enforceability of all material Covenants in question as a result of their being abandoned.
21 Should the Court based on the substantial and significant facts previously presented under
22 oath determine that there was an abandonment, Covenant 12 falls regardless of the
23 applicability of A.R.S. §33-441.

24 In support of Defendants’ Response, Defendants present herewith copies of the
25 Affidavits that have been previously filed in Defendants’ dispositive Motion for Summary
26 Judgment, namely, the Affidavits of Defendant Mehdi Azarmi, Sunil Kukreja, Douglas
27 McKee and Ann Pettit each of which discuss the “Signage” history within Tract 4076-B over
28 the past approximate three decades.

1 Each of the subject four affiants advise this Court that Covenant 12 has not been
2 enforced, has been consistently violated not only in regard to signage dating long prior to the
3 Legislative adoption of A.R.S. §33-441 enacted in 2009, but dating back decades prior to the
4 filing of Plaintiff's Complaint.

5 As this Court is aware, the Plaintiff has admitted under oath as to Covenant 12 that
6 other real estate agencies have posted what Plaintiff characterizes as illegal signage on
7 unimproved lots in Tract 4076-B, blaming, of course, the Defendants herein for these third
8 parties'/non parties' alleged illegal conduct (see, Plaintiff's Complaint, p. 6, ¶21). If Plaintiff
9 were to name as additional defendants the non-party realtors, Plaintiff would likely be
10 required to name and serve virtually every real estate brokerage firm that has done business
11 in the Bullhead City/Mohave Mesa/Mohave Valley area between 1990 and 2019.

12 Defendants, via reference, supplement this Response incorporating herein the entirety
13 of Defendants' dispositive Motion on the global issue of the enforceability of the subject
14 CC&Rs as filed with this Court by Defendants on December 6, 2019.

15 Finally, it should be noted that Plaintiff's Motion for Partial Summary Judgment is not
16 supported via any testimony provided under oath in the form of affidavits. Plaintiff's Motion
17 appears to request that this Court enter judgment on multiple issues that are not before this
18 Court. Such a request is improper and without merit including specifically whether
19 Defendants' "build to suit" sign is "business advertising" in what would appear to be an
20 effort by the Plaintiff to obtain some sort of order from this Court ruling on Mohave
21 County's interpretation of Mohave County's "off premises" sign regulations that is not a
22 matter pending in this litigation.

23 CONCLUSION

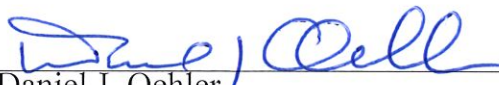
24 Plaintiff has failed to comply with the basic fundamental requirements of A.R.C.P.
25 Rule 56. Plaintiff presents a request for findings regarding multiple individuals who are not
26 parties to this action on issues that are not pending nor are they properly before this Court.
27 Plaintiff's Motion must be denied and Defendants should be awarded the entirety of fees and

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1 costs associated with the preparation of this Response without delay or further processing
2 before the Court.

3 RESPECTFULLY SUBMITTED this 24th day of December, 2019.

4 LAW OFFICES OF DANIEL J. OEHLER

5 
6 Daniel J. Oehler,
7 Attorney for Defendants

8 **COPY** of the foregoing emailed
9 this 24th day of December, 2019, to:

10 Honorable Lee F. Jantzen
11 Mohave County Superior Court
12 Division 4
13 401 E. Spring Street
14 Kingman, Arizona 86401
15 (928) 753-0785 Danielle
16 dlecher@courts.az.gov

17 Plaintiff Pro Per
18 Nancy Knight
19 1803 E. Lipan Circle
20 Fort Mohave, Arizona 86426
21 (928) 768-1537
22 nancyknight@frontier.com

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25
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28
By: 
Patricia L. Emond, Legal Assistant

Knight v. Ludwig, et al.
Mohave County Superior Court
Docket No. CV-2018-04003

Exhibits to Response to Motion for Summary Judgment

<u>Exhibit</u>	<u>Date</u>	<u>Description</u>
A	July 3-23, 2019 September 17, 2019	Emails between Plaintiff and Mohave County Email Plaintiff to Mohave County

Knight v. Ludwig, et al.
Mohave County Superior Court
Docket No. CV-2018-04003

Defendants' Response to Motion for Summary Judgment

EXHIBIT A

From: Nancy Personal Mail [<mailto:nancy@thebugle.com>]
Sent: Monday, July 08, 2019 8:52 AM
To: Jenny Nelson <Jenny.Nelson@mohavecounty.us>
Subject: Commercial Signage on Residential lots

Hello Jenny,

Karl Taylor advised that you may be able to help with a code enforcement issue.

I am not an expert in ordinances and codes so you may have to direct me to the proper person and with the legal verbiage of what I am trying to accomplish. We have companies that are advertising their business on undeveloped lots in a residential subdivision.

I would like the County to enforce the restriction.

Can you help me?

Nancy Knight

Desert Lakes Golf Course Estates in Fort Mohave

Good morning,

Since this is a new request, please complete the attached and return it to me. Please be specific as to the time frame (dates) you are requesting.

From: [Jenny Nelson](#)
Sent: Wednesday, July 10, 2019 7:04 AM
To: [Nancy Personal Mail](#)
Subject: RE: Commercial Signage on Residential lots

Nancy

I can definitely try to help you. Though I recommend speaking with our Planner Scott Holtry as he is our sign guru.

If you'd like to send me parcel numbers and photos of the signs your concerned with I can verify if they are allowed.

You can always call me also

Thanks
Jenny

From: Nancy Personal Mail [mailto:nancy@thebugle.com]
Sent: Wednesday, July 10, 2019 8:28 AM
To: Jenny Nelson <Jenny.Nelson@mohavecounty.us>
Subject: Re: Commercial Signage on Residential lots

Jenny,

I have attached several photo files.

The one sign that is on Wishing Well in Desert Lakes Golf Course and Estates is a close up for your review and evaluation as a commercial sign on a residential lot. Note the "Build to Suit" part is partnered with a "Development Services" company. Both parts of the signage appear to be for commercial purposes to me.

There are many of these signs on unimproved lots throughout the Desert Lakes Subdivision; however, I do not have all of the parcel numbers nor photos of all of the signs at this time. It is easier for me to send you the street name and maybe the address of a improved lot in the vicinity. Would that do?

I have attached a few other of these signs to show that they are left long-term and rust and even come apart causing a potential for injury to persons or property in high wind situations. One such photographic sign on Lipan Blvd. did keep deteriorating since this photo was taken and has disappeared possibly in a high wind situation.

The "FallenSign_Debris.jpg" is a series of photos that has one photo displaying the difference between the US Southwest Real Estate Sales logo from their Development Services logo.

I understand "for sale" signs are allowed.

I await a determination of your evaluation as commercial signage and then we can have Scott Holtry become involved if need be.

I would like to be copied on any enforcement procedures that you take.

Nancy

From: Jenny Nelson

Sent: Friday, July 12, 2019 7:51 AM

To: Nancy Personal Mail

Cc: Scott Holtry

Subject: RE: Commercial Signage on Residential lots

Nancy,

Thank you for the photos. I looked up "Fairway Constructors" and found they own multiple properties in the Desert lakes Subdivision and multiple others throughout the community. They would be allowed to put a sale sign on the lot they own as long as it meets size requirements. The signs they are using are no different that if an owner used a real estate company to list the property and the real estate company put their phone number and business name on it. Fairway construction is the owner and US Southwest is their real estate company. The signs you have in the photos are smaller than the maximum size allowed. The Zoning Ordinance doesn't restrict the amount of time a private real estate sign can stay posted on a property, other than once the property sells they would need to remove it. As for the sign that has fallen down, I'm not sure the county has jurisdiction over that but I will look into it. It does appear it was at one time in the road way, if so than it would definitely be out of Code Enforcements jurisdiction as we only enforce violations on private property. You could contact Sergeant Davison with "ERACE" and ask if it's something he can look into as he deals with items in the right of way. (928-757-0910). If you would like to look up sign guidelines in the ordinance I have provided a link to it below. Please refer to Section 42.D.T "Real Estate signs". I hope I have answered all your questions. I will forward this email to Scott so if he wants to clarify any information I have given you he can do so.

Respectfully,

Jenny Nelson

[https://resources.mohavecounty.us/file/PlanningAndZoning/Agendas/ZONING%20ORD%20MASTER-12419\(1\).pdf](https://resources.mohavecounty.us/file/PlanningAndZoning/Agendas/ZONING%20ORD%20MASTER-12419(1).pdf)

From: Nancy Personal Mail [mailto:nancy@thebugle.com]
Sent: Friday, July 12, 2019 8:45 AM
To: Jenny Nelson <Jenny.Nelson@mohavecounty.us>; Scott Holtry <Scott.Holtry@mohavecounty.us>
Cc: Ron Gould <Ron.Gould@mohavecounty.us>
Subject: Re: Commercial Signage on Residential lots

Scott and Jenny:

Scott, Jenny says you are the guru for my questions and to Jenny thank you for including the revised Zoning Ordinance.

Can either of you send me a copy of the older versions? Someone said there was specific language in the zoning ordinance that prohibited any commercial advertising on residential lots. They may have been looking at an older version possibly prior to April 2018.

For now however, as I read the "Off-premises" definition, it appears that this business sign fits that description as the premises of the business is not the residential lot on which it is posted. And off-premises signs would not be allowed on a residential lot in accordance with the following:

"Off-premises signs shall be permitted only on lots and parcels properly zoned C-2H (Highway Commercial), C-M (Commercial Manufacturing), C-MO (Commercial Manufacturing/Open Lot Storage), M-1 (Light Manufacturing) M-2 (General Manufacturing), and M-X (Heavy Manufacturing). In addition, off-premises signs shall be permitted on lots or parcels properly zoned C-2 (General Commercial) along State Highways (93, 66, 95, 68, Interstate 40 and Interstate 15) unless the area has been designated as a sign free area as per Section 42.K.4.f of these Regulations. In the event that a lot or parcel fronts on more than one (1) public right-of-way, only one (1) off-premises sign shall be allowed on either street frontage.

Further, Fairway Constructors does not own any residential lots in Desert Lakes and it would "pierce the veil" of the corporate protection from liability to co-mingle the personal assets of officers or directors such as Mehdi Azami or the Ludwigs. I would suggest that the County be very careful in making determinations on a corporation's behalf in this way.

So Scott, can you see the difference between a "for sale" sign and this "Build to Suit" sign? You have always been a man of high integrity when it comes to following zoning regulations. I think Jenny may be mistaken in her interpretation of what the signage is.

Nancy

From: Scott Holtry

Sent: Tuesday, July 23, 2019 8:35 AM

To: Nancy Personal Mail ; Jenny Nelson

Cc: Tim Walsh ; Christine Ballard

Subject: RE: Commercial Signage on Residential lots

Nancy,

Sorry for the late response. If the sign is located on a parcel and the property owner of that parcel is indicating that their lot is for sale and that the construction company listed on the sign will build to suite on that lot then the sign is in compliance and falls under Section 42.D.1.j. of the Zoning Ordinance.

If the sign is placed on a parcel and advertising to build on a lot different from the lot it is placed on, then it is considered an Off-premise Sign and would not be allowed.

Thanks

Scott Holtry

Planner II

Mohave County Development Services

Phone: 928-757-0903 Fax: 928-757-0936

3250 E Kino Ave, Kingman, AZ 86409

scott.holtry@mohavecounty.us

From: Nancy Personal Mail [mailto:nancy@thebugle.com]
Sent: Tuesday, July 23, 2019 8:51 AM
To: Scott Holtry <Scott.Holtry@mohavecounty.us>; Jenny Nelson <Jenny.Nelson@mohavecounty.us>
Cc: Tim Walsh <Tim.Walsh@mohavecounty.us>; Christine Ballard <Christine.Ballard@mohavecounty.us>
Subject: Re: Commercial Signage on Residential lots

Hello Scott,

The issue of the rules has been answered while you were away but Jenny understands now and provided the Complaint Form. Photos of the signs were provided to Jenny too. Two Complaint Forms have been filed for Jenny to enforce. The signs fell under two sections of the County code. Mostly these are defined in the section on Off-premises commercial advertising that are only allowed on a variety of commercial or manufacturing lots but not allowed on residential lots. Hopefully, Jenny will be able to get enforcement soon. I only filed two Complaints for two lots so far to see what happens with enforcement. More signs are in the area that fall under the same off-premises violations. All by the same Construction Company.

Nancy

Nancy,

Thank you for your response. After reviewing the complaint forms for APNs 226-11-177 and 226-13-008 and the pictures that our inspector took, there is no indication that the signs refer to any other lot than the one they are placed on and therefore would not be considered an Off-premises sign. No violation is found and these signs would fall under Section 42.D.1.j. of the Mohave County Zoning Ordinance. Please let me know if you have any questions.

Thanks

Scott Holtry

Planner II

Mohave County Development Services

Phone: 928-757-0903 Fax: 928-757-0936

3250 E Kino Ave, Kingman, AZ 86409

scott.holtry@mohavecounty.us

Arizona Department of Real Estate confirms "not a for sale sign"

From: nancyknight (nancyknight@frontier.com)
To: scott.holtry@mohavecounty.us; Christine.Ballard@mohavecounty.us; Ryan.Esplin@mohavecounty.us
Cc: Ron.Gould@mohavecounty.us; Jean.Bishop@mohavecounty.us; buster.johnson@mohavecounty.us;
Gary.Watson@mohavecounty.us; Hildy.Angius@mohavecounty.us; Bill.Ekstrom@mohavecounty.us;
djolaw@frontiernet.net
Date: Tuesday, September 17, 2019, 03:17 AM MST

Dear Planner Holtry, Manager Ballard and Attorney Esplin,

I have requested you follow the letter of the law with regards to the "off-premises" signage posted on residential lots in Desert Lakes Golf Course and Estates to no avail. Ms. Ballard's opinion that Mr. Holtry should interpret the sign as a for sale sign has been refuted by the Arizona Department of Real Estate. I have attached a copy of the letter that includes their determination that this is a developer sign.

I expect all of the signs to be removed as a violation of multiple County Ordinances within ten calendar days of this correspondence.

A mounting body of evidence of County Corruption to benefit Fairway Constructors, Inc., Mehdi Azarmi, et. al. is still in my Discovery stage of investigation that to date includes but is not limited to alleged misappropriation of taxpayer dollars (\$12,500), habitable space (a clubhouse) built on a drainage easement and in violation of Special Development zoning for single family homes, a flowage easement directing flow toward Desert Lakes Golf Course and Estates, ongoing "errors" in issuing building permits in violation of Special Development zoning setbacks and more...

Development Services, the County attorneys, the Board of Supervisors, and possibly the County Assessor for what appears to be fraud in tax assessments, have the power and authority to right these wrongs.

At a minimum, I expect an answer to this email communication on the signage issue and a date for Board Agenda Items that may be deemed necessary by the County attorneys for public discussion and remedy of the ongoing perception of County Corruption.

Respectfully,
Nancy Knight



AZRE_Not a for sale sign.pdf
466kB



Arizona Department of Real Estate (ADRE)
Auditing and Investigation Division
www.azre.gov
100 North 15th Avenue, Suite 201, Phoenix Arizona 85007

DOUGLAS A. DUCEY
GOVERNOR

JUDY LOWE
COMMISSIONER

September 9, 2019

NANCY KNIGHT
1803 E. LIPAN CIRCLE
FORT MOHAVE, AZ 86426

Re: Case #C19-000660 – Complaint filed against ANN PETTIT

Dear Ms. Knight:

The Department of Real Estate reviewed your complaint against ANN PETTIT.

The investigation determined that the signage in the photo you provided is the Developer's sign, not US Southwest's sign. The sign shows the Developer's name, phone number and the verbiage, "Build to Suit." The sign identified US Southwest as the real estate broker who conducts Sales and Marketing for the developer; however, the sign does not state the property is for sale or lease. If the sign is a violation of county ordinances, the county is the appropriate entity to address the issue of the developer's signs.

The Department has sole discretion in determining that closing the investigation and taking no disciplinary action against the licensee(s) is appropriate. The Department's decision to close an investigation may not be appealed.

Sincerely,

Wayne L. Jackson | W.L.J.

Senior Investigator

cc: file