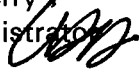




MEMORANDUM

Date: May 11, 2017

To: The Honorable Chair and Members
Pima County Board of Supervisors

From: C.H. Huckelberry
County Administrator 

Re: **House Bill 2406 Promoted by the Town of Marana to Prevent Pima County from Acquiring Conservation Lands**

House Bill 2406 has been approved by the State Legislature and signed into law by the Governor. Earlier in the session, this bill, which was initiated by the Town of Marana, applied to all Arizona counties and was rejected. During the last few days of the session, attempts were made to approve it as part of a budget reconciliation bill, but this effort failed. It was then resurrected separate from the budget bill, with an amendment to apply it to just Pima County. However, the Town of Marana's lobbyist confused the issues before the Legislature, and the amendment was approved without deletion of the prior text that applied to all counties. The adopted version is now causing massive confusion throughout Arizona.

Pima County did not take a position on this legislation, as we had no interest in purchasing conservation lands within Marana if we were required to obtain permission.

The issue arose due to a number of rezonings in the unincorporated area of Pima County along the Thornydale Road corridor that required offsite mitigation in accordance with the County's adopted Conservation Land System and Conservation Plan. We agreed the owners, Red Point Development, Inc., could meet their offsite mitigation requirements by conserving lands targeted to create a wildlife corridor between the Tucson and Tortolita Mountains. These lands are owned by Red Point Development, but they are located within the Town of Marana. Due to the Town's poor record in conservation actions, particularly related to their attempts to renegotiate or ignore their State Land obligations associated with the Tortolita Preserve, the County insisted any offsite mitigation land located in a city or town would need to be dedicated or deeded to Pima County.

I have authorized the Procurement Director to execute donation agreements for these conservation lands subject to the developer assuring title can be transferred without restriction to the County in the near future. I understand the developer will meet this requirement by obtaining assurances either through the Town of Marana or through initiation of litigation seeking to invalidate the legislation as constitutionally prohibited as special legislation. The County would support this position, as a portion of the legislation is clearly targeted, special legislation designed to punish Pima County. Such is unacceptable and cannot stand.

The Honorable Chair and Members, Pima County Board of Supervisors
Re: **House Bill 2406 Promoted by the Town of Marana to Prevent Pima County from
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We intend to fully support any litigation efforts to invalidate this special legislation. Marana's legislation clearly impedes the rights of developers and private landowners.

In addition, I have asked the County Attorney to review this special purpose legislation to determine whether it may violate the Arizona Constitution.

CHH/anc

Attachment

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

HOUSE BILL 2406

AN ACT

AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-251.19; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-264.07; RELATING TO COUNTY LAND ACQUISITION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 11, chapter 2, article 4, Arizona Revised
3 Statutes, is amended by adding section 11-251.19, to read:

4 11-251.19. Acquisition of land; habitat conservation plan;
5 restrictions; definition

6 A. NOTWITHSTANDING ANY OTHER LAW, A COUNTY WITH A POPULATION OF
7 MORE THAN NINE HUNDRED THOUSAND PERSONS BUT LESS THAN ONE MILLION FIVE
8 HUNDRED THOUSAND PERSONS THAT HAS ADOPTED A HABITAT CONSERVATION PLAN MAY
9 ACQUIRE LAND THAT IS LOCATED WITHIN A CITY OR TOWN ONLY IF THE ACQUISITION
10 OF THE LAND IS PART OF AN INTERGOVERNMENTAL AGREEMENT ENTERED INTO BY THE
11 COUNTY AND THE GOVERNING BODY OF THE CITY OR TOWN PURSUANT TO SECTION
12 11-952.

13 B. THIS SECTION DOES NOT APPLY TO LAND THAT IS ACQUIRED BY THE
14 COUNTY FOR THE PRIMARY PURPOSE OF PUBLIC SAFETY, HEALTH CARE OR COURT
15 OPERATIONS.

16 C. FOR THE PURPOSES OF THIS SECTION, "ACQUIRE" MEANS TO OBTAIN BY
17 PURCHASE OR ANY OTHER MEANS.

18 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes,
19 is amended by adding section 11-264.07, to read:

20 11-264.07. Acquisition of land from city or town; exception

21 A. NOTWITHSTANDING ANY OTHER LAW, A COUNTY MAY ACQUIRE BY PURCHASE
22 OR ANY OTHER MEANS LAND THAT IS LOCATED WITHIN A CITY OR TOWN ONLY IF
23 ACQUISITION OF THE LAND IS PART OF A MANAGEMENT AGREEMENT AGREED TO BY THE
24 GOVERNING BODY OF THE CITY OR TOWN.

25 B. THIS SECTION DOES NOT APPLY TO LAND THAT IS ACQUIRED BY PURCHASE
26 OR ANY OTHER MEANS AND THAT IS FOR THE PRIMARY PURPOSE OF PUBLIC SAFETY,
27 HEALTH CARE OR COURT OPERATIONS.