



MEMORANDUM

Date: December 16, 2019

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

From: C.H. Huckelberry
County Administrator 

Re: **Application for Abandonment of Right-of-Way Adjacent to Tax Parcel 205-46-001A owned by Ms. Raquel Baranow**

Ms. Raquel Baranow has spoken during Call to the Public at several recent Board of Supervisors meetings. Ms. Baranow has made inaccurate claims that Pima County has prevented development of her property by refusing to abandon a portion of adjacent Redington Road right-of-way. The following information is provided regarding the subject property and the requested abandonment:

1. Ms. Raquel Baranow ("Applicant") requested an abandonment of County right-of-way in order to satisfy zoning requirements with respect to Tax Parcel 205-46-001A, at 2345 N. El Camino Rinconado (the "Property"). The attached map shows the location of the Property (Attachment 1).
2. The Property is an approximate 1.75-acre parcel. It was a remainder from the original La Cebadilla subdivision plat, recorded in 1973, that included the declaration of 83 feet of Redington Road adjacent to the Property. The Property was excluded from the subdivision plat, presumably because it was not a developable lot size and subsequently no property taxes were ever paid on it. The Property is zoned Suburban Ranch (SR) with a minimum required 3.3 acres per dwelling unit.
3. In 2001, Raquel Baranow (then known as Bruce A. Friedemann), foreclosed on a Certificate of Purchase she acquired by paying delinquent taxes on the Property (together with eight other parcels also purchased for back taxes) and obtained a Treasurer's deed to the Property.
4. The Property is currently owned by 666ISMONEY, an Arizona limited liability company. The company Manager is the Applicant, Raquel Baranow.
5. The Full Cash Value of the Property in 2020 is \$5,000. In 2013, according to Assessor records the Applicant petitioned the valuation and estimated the value of the Property at \$1,500.

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6. On May 7, 2019, Real Property Services received an Application for Abandonment ("Application") of public right-of-way adjacent to the Property, together with a \$5,000 application fee.
7. On July 23, 2019, the attached letter from Pima County Real Property Services Manager was sent to the Applicant, explaining why the Application could not be granted (Attachment 2).
8. The application fee was refunded to the Applicant and the check has cleared.

As explained in the attached letter, Arizona law prohibits the Board of Supervisors from abandoning public right-of-way unless a majority of the owners abutting the portion of the right-of-way to be abandoned approve of the action. In this case, the two adjoining owners are the Applicant and the Karen A. Romanoski Trust. The Trust rejected the request for abandonment. Therefore, the Board of Supervisors cannot legally grant the abandonment.

The contention by the Applicant that the objecting landowner must have a good reason is legally without merit. The statute does not require any reason; it simply requires the consent of a majority of the abutting landowners.

All applications for abandonment require the consent of a majority of abutting landowners. The Applicant has been treated the same as all other applicants for abandonment, with one exception related to the application fee. Generally, the application fee is non-refundable, to cover the cost incurred in reviewing and processing the application. The exception in this case is that the entire application fee was fully refunded.

In summary, there is no basis to Ms. Baranow's claim of unfair treatment since the Application does not meet statutory requirements for an abandonment and the application fee has been fully refunded.

CHH/lab

Attachments

c: Carmine DeBonis, Jr., Deputy County Administrator for Public Works
Yves Khawman, PhD, Assistant County Administrator for Public Works
Neil Konigsberg, Manager, Real Property Services

ATTACHMENT 1

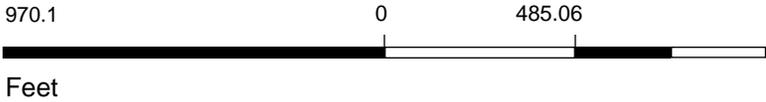
666ISMONEY Property

Legend

Parcels



Notes:



This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map are subject to Pima County's ITD GIS disclaimer and use restrictions.

ATTACHMENT 2



Public Works Administration
Real Property Services
201 N. Stone Avenue, Sixth Floor
Tucson, Arizona 85701-1215
(520) 724-6313 FAX (520) 724-6763

July 23, 2019

Raquel Baranow
P.O. Box 666
Tucson, AZ 85702

Subject: Redington Road Abandonment Application; A-0034

Dear Ms. Baranow,

I have reviewed your abandonment request, including your correspondence to our office and County Administration. I hope that this letter clarifies our response.

For all abandonment requests, we comply with the provisions of Arizona Revised Statutes §28-6701 (the "Statute"), which states that:

C. The board of supervisors may abandon or vacate these highways by resolution as provided in chapter 20, article 8 of this title, except that, notwithstanding section 28-7211, at least sixty days before the resolution is effective pursuant to section 28-7213, the board of supervisors shall give written notice by certified mail to the owners of the land abutting the highway or portion of the highway to be abandoned or vacated. **The board of supervisors shall not resolve to abandon or vacate a highway unless a majority of the owners of the land abutting the highway or portion of the highway approve of the action to abandon or vacate the highway.**

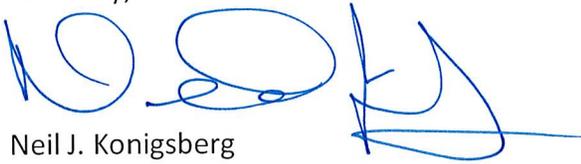
The term "County highway" is defined in ARS §28-101 as "a public road that is constructed and maintained by the County." The road which you want abandoned is therefore a highway for purposes of the Statute. My understanding is that there is no dispute that there are two property owners abutting the land which you have requested the County abandon. The two owners are you and the owner of parcel 205-28-006L, which is the Karen A. Romanoski Trust (the "Trust").

The Statute makes no reference to objections; rather, it requires an approval by a majority of the owners abutting the land to be abandoned. Because there are two owners, the statute requires both owners to approve the abandonment. In some cases the applicant seeking an abandonment will obtain the necessary approval before filing the application. If the applicant does not do that, then in order to comply with the statute, the County needs to contact the abutting owners to see if they will approve the abandonment. Because you did not obtain an approval from the Trust, the County contacted the Trust, but the Trust did not approve the abandonment. As a result, the statute explicitly prevents the Board of Supervisors from resolving to abandon the portion of the highway referenced in your application.

You have argued that other jurisdictions do not follow our process. The Statute applies to a “board of supervisors.” It applies to Counties, not municipalities. Therefore, it is irrelevant what any municipality may have told you. Pima County does have to comply with the Statute, and our process is based on both the clear language of the statute and the advice of the Pima County Attorney’s Office. Your application for abandonment was treated consistently with our process for all requests to abandon County highway.

The abandonment application fee has been refunded and sent by certified mail to you at P.O. Box 666, Tucson, AZ 85702. If you are able to obtain the approval of the other abutting property owner, you can resubmit the application which we will process for approval.

Sincerely,



Neil J. Konigsberg
Manager, Pima County Real Property Services

Cc: Steve Christy, Supervisor District 4
Carmine Debonis, Deputy County Administrator
Ana Olivares, Director Department of Transportation
Tim Murphy, Real Property Services