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# MEMORANDUM

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Date: May 15, 2020

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

From: C.H. Huckelberry  
County Administrator *CHH*

Re: **Complaint Filed by Senator Vince Leach, Representatives Mark Finchem and Bret Roberts with the Attorney General**

On Thursday, May 14, 2020 Senator Vince Leach sent the attached complaint to the Attorney General regarding the County's adoption of local public health standards by the Board to reduce or prevent the spread of COVID-19 which is currently a known public health emergency.

Today, May 15, 2020 the Chief Civil Deputy County Attorney Andrew Flagg received notification from the Attorney General regarding the "Legislator Request for Attorney General Investigation". The request from the Attorney General requires a written response by the County by 5:00 pm on Tuesday, May 19, 2020.

For this reason the Chief Civil Deputy County Attorney and I request that this item be put on Boards Executive Session Agenda of Tuesday, May 19, 2020 for discussion with and direction from the Board on this matter.

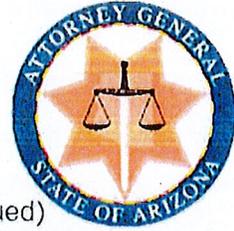
CHH/mp

Attachments

c: Jan Leshar, Chief Deputy County Administrator  
Andrew Flagg, Chief Civil Deputy County Attorney



Office of Arizona Attorney General  
**Mark Brnovich**



Legislator Request for Attorney General Investigation of  
 Alleged State-Law Violation by County, City, or Town (Continued)

\*Identify the member(s) of the Legislature submitting this request for investigation (attach additional sheet if necessary):

Senator Vince Leach

Rep. Mark Finchem, Rep. Bret Roberts

[Empty text box]

\*Provide a contact person for communications from the Attorney General's Office regarding this request (may be a Legislator listed above or an employee of the Legislature).

\*Name: Vince Leach

\*Email address: vleach@azleg.gov

\*Phone number: 602-926-3106

\*Mailing address: 1700 West Washington Street

Phoenix, AZ 85007

[Empty text box]

\*The specific question for the Attorney General to investigate is:

Does the 5/13/2020 Proclamation of the Pima Co B.O.S.

violate A.R.S. 26-307 in light of Gov Ducey's E.O. 2020-36, paragraph 7?

\*The name of the county, city, or town that is the subject of this request:

Pima Co.

\*The specific ordinance, regulation, order, or other official action adopted or taken by the governing body of the county, city, or town and the date thereof:

5/13/2020 Proclamation of the Pima Co B.O.S.

[Empty text box]

\*The specific Arizona statute(s) and/or constitutional provision(s) with which the action conflicts :

A. R. S. 26-307

[Empty text box]



Office of Arizona Attorney General

# Mark Brnovich

Legislator Request for Attorney General Investigation of  
Alleged State-Law Violation by County, City, or Town (Continued)



\*All relevant facts of which you are aware (attach separate sheet if necessary):

On 5/12/2020 Gov. Ducey issued E. O. 2020-36, which at paragraph 7 restricts counties, cities, and towns.

On 5/13/2020, Pima Co. adopted its proclamation.

[Empty text boxes for additional facts]

\*All relevant legal authority, including federal and state case law, of which you are aware (attach separate sheet if necessary):

N/A  
[Empty text boxes for legal authority]

\* Any litigation involving this issue of which you are aware (include case name, number, and court where filed) :

N/A  
[Empty text boxes for litigation]

Check this box if you are attaching supporting documentation.

**NOTE: This form and other information submitted to the Attorney General's Office is subject to the public records law, A.R.S. § 39-121 et seq.**

I, a current member of the Legislature, verify that I and the other Legislators listed on the previous page (if any) are submitting this request for investigation under A.R.S. § 41-194.01.

\*First Name: Vince \*Last Name: Leach

\*Signature: Vince Leach \*Date: 5/14/20

Please submit the completed form to:  
Arizona Attorney General's Office  
Attn: Appeals and Constitutional Litigation/A.R.S. 41-194.01  
2005 North Central Avenue  
Phoenix, AZ 85004  
[governmentaccountability@azagov](mailto:governmentaccountability@azagov)



MARK BRNOVICH  
ATTORNEY GENERAL

OFFICE OF THE ARIZONA ATTORNEY GENERAL  
APPEALS & CONSTITUTIONAL LITIGATION DIVISION

LINLEY WILSON  
UNIT CHIEF COUNSEL  
GOVERNMENT ACCOUNTABILITY  
LINLEY.WILSON@AZAG.GOV

May 15, 2020

*Via Certified Mail & Email*

Andrew L. Flagg  
Chief Civil Deputy County Attorney  
Pima County Attorney's Office  
32 N Stone Ave.  
Tucson, AZ 85701  
[Andrew.Flagg@pcao.pima.gov](mailto:Andrew.Flagg@pcao.pima.gov)

**Re: Notice of Submission of Legislator Request for Investigation Pursuant to  
A.R.S. § 41-194.01; Request for Written Response**

Dear Mr. Flagg:

Enclosed with this letter is a complete copy of a Legislator Request for Investigation under A.R.S. § 41-194.01 (the "Request") regarding the "Proclamation of the Pima County Board of Supervisors Regarding A State of Emergency Related to the COVID-19 Outbreak, Establishing Measures For Reopening of Certain Businesses and Activities" ("Proclamation") issued by the Pima County Board of Supervisors ("County") on May 13, 2020. Section 41-194.01 provides that one or more members of the Arizona Legislature may request that the Attorney General "investigate any ordinance, regulation, order or other official action adopted or taken by the governing body of a county, city or town that the member alleges violates state law or the Constitution of Arizona." With the Request's filing, the Office will now conduct an investigation and prepare a report that, under the statute, must be completed within 30 days. A.R.S. § 41-194.01(A), (B).

In the report, the Attorney General will reach one of three conclusions. *See id.*, § 41-194.01(B). If the Proclamation does not violate any provision of state law or the Arizona Constitution, the Office will take no further action. *Id.*, § 41-194.01(B)(3). If the Proclamation may violate a provision of state law or the Arizona Constitution, the Attorney General will file an action in the Arizona Supreme Court. *See id.*, § 41-194.01(B)(2); *State ex rel. Brnovich v. City of Tucson*, 242 Ariz. 588 (2017). If the Proclamation violates a provision of state law or the Arizona Constitution, the Office will notify the County in writing and state that the County has 30 days to resolve the identified violation. A.R.S. § 41-194.01(B)(1). If the Attorney General determines that the County failed to resolve the violation within 30 days, the Attorney General will notify the State Treasurer, who shall withhold and redistribute from the County state shared monies as provided by A.R.S. §§ 45-5029(L) and 43-206(F).

Letter to Andrew Flagg Re Legislator Request for Investigation  
May 15, 2020  
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In light of the exigencies of the current circumstances, the Office hereby requests that the County voluntarily provide a written response to the Request by 5:00 p.m. on Tuesday, May 19, 2020.

Please feel free to contact me if you have any questions.

Sincerely,



Linley Wilson

Enclosure

cc: *Via Email*

Regina Nassen  
Civil Deputy Pima County Attorney  
[Regina.Nassen@pcao.pima.gov](mailto:Regina.Nassen@pcao.pima.gov)

Julie Castaneda  
Clerk of the Pima County Board of Supervisors  
[Julie.Castaneda@pima.gov](mailto:Julie.Castaneda@pima.gov)

Chuck Huckelberry  
County Administrator  
[Chuck.Huckelberry@pima.gov](mailto:Chuck.Huckelberry@pima.gov)