



Elley Law PLC

3323 E. Baseline Rd.
Gilbert, Arizona 85234

Tel: (480) 788-4529
Writer's Email:
Rich@elleylaw.com

December 3, 2021

Pima County Development Services
Board of Adjustment, District 1
dsdplanning@pima.gov

Cc: Ari Ramras
Ramras Legal, PLC
11811 N. Tatum Blvd., Suite 3031
Phoenix, Arizona 85028
(602) 734-0179
ari@ramraslegal.com

Cc: Nancy Miller
The Nancy E. Miller Trust
Dated September 13, 2017
14300 N. Tortolita Estates Drive
Tucson, Arizona 85755

Cc: Paul and Elena Deshler
7850 N. Silverbell Rd. 114-153
Tucson, Arizona 85743
pdeshler1@yahoo.com

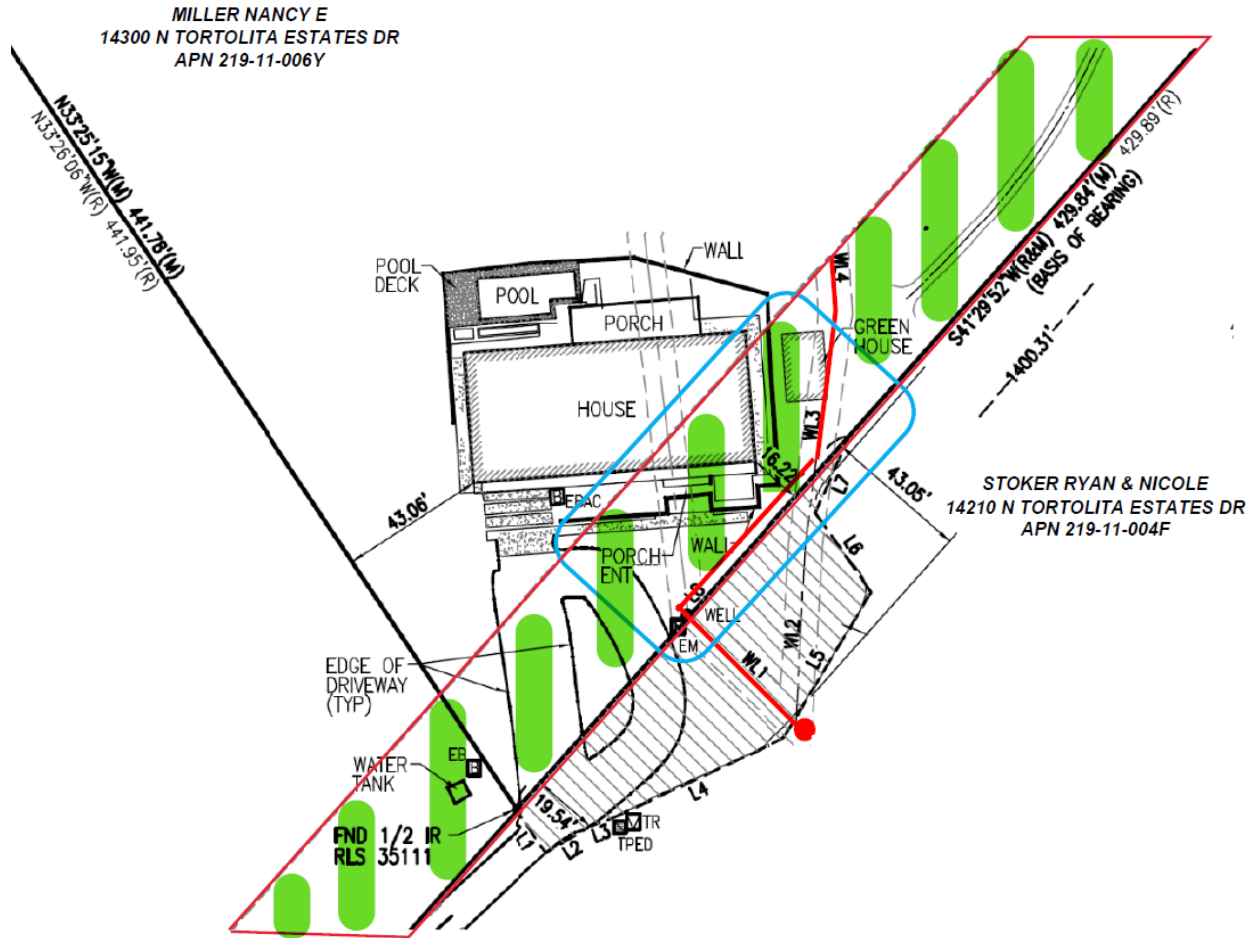
SENT VIA EMAIL, USPS, AND CERTIFIED MAIL

RE: Case# P21VA00020 Miller – N. Tortolita Estates Drive Scheduled for public hearing on December 6, 2021

Objection by Neil Chiarello/Owl Ventures, LLC APN 219-11-006T

Attention Pima County Development Services Board of Adjustment, District 1:

This office represents Owl Ventures, LLC and Neil Chiarello, the property whose land access will be further blocked, should the Board grant the applicant's variance request. Specifically, my client owns the land identified as Pima County APN 219-11-006T. Access to my client's this land is through the use of a legal easement that crosses the applicant's land. Granting the requested variance will permit the applicant to improperly build and keep the structure already built within the ingress/egress easement and further obstruct easement right held by my client. A partial redacted survey of the applicants building and structure encroachment and area at issue is shown in the highlighted section below.



Finally, as detailed in the applicable portion of Exhibit "A," the encroachment by applicant onto the easement and the application subject to this hearing will soon be litigated, should applicant fail to cure the encroachment and cloud on my client's right to the easement.

As such, Neil Chiarello and Owl Ventures, LLC, respectfully requests the Board deny the application for variance. Thank you for your attention to this matter.

Yours Very Truly,

Richard D. Elley

Exhibit A

Exhibit A



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Tucson, Arizona 85755

SENT VIA EMAIL, USPS, AND CERTIFIED MAIL

RE: 20-DAY NOTICE AND OPPORTUNITY TO CURE

Mr. Ramras:

This office represents Owl Ventures, LLC and Neil Chiarello, as it relates to the property and easement owned by my client (the Easement”) that crosses your client The Nancy E. Miller Trust Dated September 13, 2017’s property located at 14300 N. Tortolita Estates Drive Tucson, Arizona 85755, APN 219-11-006Y (the “Property”).

This is the final attempt to resolve the dispute concerning your clients claim of right to block my client’s ingress/egress Easement that crosses the Property. As you know, in your November 29, 2021 letter to my client, you confirmed my client’s right to access his land by crossing the Property via the 40-foot ingress/egress Easement and demanded my client abandon his right to use the Easement. Moreover, your client has structures that were built on the Easement, are currently blocking the Easement, and are limiting my client’s right and ability to access his land. Your client’s claim of right and blocking of my client’s Easement is a cloud on the title and is damaging to my client’s legal rights.

Your client has no right to block the Easement nor does your client have the right to stop my client from accessing his land, as your client is doing now.

This letter is written pursuant to ARIZONA REVISED STATUTES § 12-1101 *et seq.* You are being provided 20-days to have your client's signature notarized on the enclosed deed and return said signed deed to this office. Pursuant to this statute, should we be forced to file a lawsuit to quiet title, we will demand, and anticipate the court granting, the attorney's fees incurred in attaining clear title to my client's right to use the Easement crossing your client's Property.

Moreover, should we be forced to file a lawsuit to quiet title, we anticipate also bring a claim for the damages incurred as a result of my client's inability to sell his land as a direct result of your client's structures blocking my client's Easement and land access.

Find enclosed the required \$5.00 for the execution and delivery of the deed to this office. If you do not accept our offer and sign and return the enclosed deed within 20-days, we intend to file a claim for Quiet Title, additional damages, and attorney's fees incurred so far as well as to be incurred in the litigation.

Contact me directly upon your consideration.

Yours Very Truly,

A handwritten signature in black ink, appearing to read 'Richard D. Elley', with a large, stylized loop at the end.

Richard D. Elley

[LITIGATION HOLD NOTICE TO FOLLOW]

WHEN RECORDED, MAIL TO:
Elley Law PLC
3323 E. Baseline Rd.
Gilbert, ARIZONA 85234

This instrument was prepared by:
Elley Law PLC
3323 E. Baseline Rd.
Gilbert, ARIZONA 85234

Exempt per ARS §11-1134 (A)(4)

SPACE ABOVE THIS LINE FOR RECORDER'S USE

QUIT CLAIM DEED

For just and sufficient consideration to quiet title,

The Nancy E. Miller Trust Dated September 13, 2017, Nancy Miller Trustee

does hereby convey to

Owl Ventures, LLC, a Nevada limited liability company

The real property and all rights detailed in the easements as follows:

The certain real property located in Pima County, Arizona, which is legally described on Exhibit "1" annexed hereto, and the 40' easements legally described on Exhibit "2" annexed hereto.

Dated this _____ day of **December**, 2021.

**The Nancy E. Miller Trust Dated September 13, 2017,
By Nancy Miller Trustee**

State of Arizona }ss.
County of _____

On _____ before me, _____ a notary public, personally appeared **Nancy Miller** who proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the persons, or the entity upon behalf of which the persons acted, executed the instrument. I certify under PENALTY OF PERJURY that the foregoing paragraph is true and correct. WITNESS my hand and official seal.

(Seal)

Signature _____

EXHIBIT "1"
THE BENEFITTED PROPERTY

Parcel 1:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 21;

THENCE SOUTH 01°01'10" WEST 745.07 FEET UPON THE WEST LINE OF SAID NORTHWEST QUARTER;

THENCE SOUTH 63°53'15" EAST 350.18 FEET;

THENCE NORTH 33°34'38" EAST 167.46 FEET;

THENCE SOUTH 56°25'22" EAST 45.50 FEET;

THENCE NORTH 33°34'38" EAST 250.48 FEET;

THENCE NORTH 37°23'02" WEST 380.69 FEET;

THENCE NORTH 06°05'43" EAST 276.86 FEET TO THE NORTH LINE OF SAID NORTHWEST QUARTER;

THENCE SOUTH 89°43'42" WEST 368.50 FEET UPON SAID NORTH LINE TO THE POINT OF BEGINNING.

APN: 219-11-006U

Parcel 2:

THAT PORTION OF THE NORTHWEST QUARTER OF SECTION 21, TOWNSHIP 11 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION 21;

THENCE NORTH 89°43'42" EAST 984.92 FEET UPON THE NORTH LINE OF SAID SECTION 21 TO THE POINT OF BEGINNING;

THENCE CONTINUE NORTH 89°43'42" EAST 662.06 FEET UPON SAID NORTH LINE;

THENCE SOUTH 02°58'34" EAST 281.89 FEET;
THENCE SOUTH 55°16'10" WEST 222.45 FEET;
THENCE SOUTH 86°41'26" WEST 259.02 FEET;
THENCE SOUTH 76°03'29" WEST 93.89 FEET;
THENCE NORTH 77°10'50" WEST 313.23 FEET;
THENCE SOUTH 31°42'27" WEST 151.52 FEET;
THENCE NORTH 33°26'06" WEST 110.03 FEET;
THENCE SOUTH 33°34'38" WEST 204.58 FEET;
THENCE NORTH 37°23'02" WEST 265.89 FEET;
THENCE NORTH 90°00'00" EAST 329.87 FEET;
THENCE NORTH 33°41'02" EAST 443.97 FEET TO THE POINT OF BEGINNING.

APN: 219-11-006V and 219-11-006T

EXHIBIT "2"
THE EASEMENTS

Parcel 1:

A 40 foot access and utility easement over, under, upon and across the following described property:

All that portion of the West Half of Section 21, Township 11 South, Range 13 East, Gila and Salt River Base and Meridian, Pima County, Arizona, described as follows:

BEGINNING at the West Quarter corner of said Section 21;

THENCE North 01 degree 01 minute 10 seconds East along the West line of Section 21, a distance of 1094.58 feet;

THENCE North 85 degrees 31 minutes 06 seconds East, 69.70 feet;

THENCE South 76 degrees 30 minutes 01 second East, 288.58 feet to the TRUE POINT OF BEGINNING;

THENCE North 41 degrees 31 minutes 31 seconds East 1400.31 feet (record North 41 degrees 28 minutes 40 seconds East 1400.00 feet) along the Easterly line of that parcel described in Docket 7985 at page 800;

THENCE North 33 degrees 26 minutes 06 seconds West, 41.42 feet;

THENCE South 41 degrees 31 minutes 31 seconds West parallel with the Easterly line of that parcel described in Docket 7985 at page 800, a distance of 1242.16 feet;

THENCE South 76 degrees 30 minutes 01 second East, 45.31 feet to the TRUE POINT OF BEGINNING.

Parcel 2:

A 40 FOOT ACCESS AND UTILITY EASEMENT DESCRIBED AS FOLLOWS:

ALL THAT PORTION OP THE WEST HALF OF SECTION 21, TOWNSHIP 11 SOUTH, RANGE 13 EAST, GILA AND SALT RIVER BASE AND MERIDIAN, PIMA COUNTY, ARIZONA, DESCRIBED AS FOLLOWS:

BEGINNING AT THE WEST QUARTER CORNER OF SAID SECTION 21;

THENCE NORTH 1°01'10" EAST, ALONG THE WEST LINE OF SAID SECTION 21, 1094.58 FEET;

THENCE NORTH 85°31'06" EAST, 69.70 FEET;

THENCE SOUTH 76°30'01" EAST, 288.58 FEET;

THENCE NORTH 41°31'31" EAST, 1400.31 FEET, (MEASURED) NORTH 41°28'40" EAST, 1400.00 FEET, (RECORD) ALONG THE EASTERLY LINE OF THAT PARCEL DESCRIBED IN DOCKET 7985 AT PAGE 800;

THENCE NORTH 33°26'06" WEST, 41.42 FEET, TO THE TRUE POINT OF BEGINNING;

THENCE SOUTH 33°26'06" EAST, 41.42 FEET TO A POINT ON THE EASTERLY LINE REFERENCED ABOVE;

THENCE NORTH 55°16'10" EAST, (MEASURED) NORTH 55°15'37" EAST (RECORDED), CONTINUING ALONG SAID EASTERLY LINE, 277.58 FEET;

THENCE SOUTH 86°41'26" WEST, TO A POINT ON A LINE WHICH IS 40 FEET FROM AND MEASURED AT RIGHT ANGLES TO THE EASTERLY LINE REFERENCED ABOVE;

THENCE SOUTH 55°16'10" WEST, (MEASURED) NORTH 55°15'37" EAST (RECORDED),

PARALLEL WITH SAID EASTERLY LINE, TO THE TRUE POINT OF BEGINNING.