

PINAL COUNTY HEARING OFFICE
(PO NUMBER 247780)

Morning Session

8:30 a.m.

August 11, 2022

Pinal County Superior Court Administration Building
971 N. Jason Lopez Circle, Building A, 3rd Floor
Florence, Arizona 85132

INDEX:

Respondent	Case No.	Activity/ Complaint No.
GLENN OR LINETTE MCMINN, ROY G. OR JUDY MCMINN, DONALD OR MOLLIE FRYE	Z022-0055	CC-0466-20

TRANSCRIPTION PROVIDED BY

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ORIGINAL PREPARED FOR:
PINAL COUNTY, ARIZONA

1 RODRIGUEZ: Glenn or Linette McMinn, Roy G. or Judy
2 McMinn, Donald or Mollie Frye, in case Z022-0055. Again, let
3 the record show that (inaudible). Go ahead ma'am.

4 MULLENIX: My name is Paula Mullenix, I'm the Code
5 Compliance Manager for Pinal County. I have taken this case
6 over because it's been through James - Code Compliance Officer
7 James Meadow and Code Compliance Officer Kayla Johnson. So it
8 is a more complicated case, so I decided to go ahead and keep
9 it for the hearing office, and at this time I'll enter my
10 hearing packet into the court. Okay, this case was started, a
11 new complaint was received on it on August 6, 2020. There was
12 a previous case that was CC0749-17. The previous case was for
13 the same violations as the current case, however, due to the
14 assessor having agg status on this property, because it was a
15 commercial nursery, it was decided at that time it wasn't
16 subject to Development Services Code and it was closed. And
17 this is pertaining to the subject property on 10685 East Magma
18 Road, Florence, Arizona, jurisdiction of Pinal County, with
19 current case is CC-0466-20, parcel number 210-47-003C. Glenn
20 and Linette McMinn, Roy and Judy McMinn, Donald or Mollie
21 Frye, and then Cyrus Henry is the statutory agent. I have
22 cited this for three counts of Pinal County Zoning Code, it is
23 Count 1: outdoor storage and parking, as it refers to
24 2.185.100 for the dilapidated greenhouses, there's a water
25 mule, potting containers, general nursery debris; and outdoor

1 storage and parking, again 2.185.010 as it refers to 2.185.050
2 for travel trailers being stored on the property, and they
3 appear to be used as the living quarters. So that's why it
4 was under this count as opposed to just under inoperable
5 vehicles. And on this day and at this location, zoned GR -
6 rural zone - the site inspection noted three travel trailers
7 were on the property and appeared to be living quarters.
8 Travel trailers need to be removed due to no primary use and
9 use allowed was living quarters. Third count, zoning
10 clearance and permits. Uses permitted in GR - General Rural
11 zone - and this is 2.160.020 as it refers to 2.40.010. On the
12 day of this inspection, at the location of the zone - at the -
13 excuse me, at the location of the violation, zoned GR - rural
14 zone - accessory structure uses, mobile office, greenhouses
15 and other accessory buildings were noted and in violation
16 since no primary use has been established. H&S Nursery is
17 inactive, and a GR primary use needs to be established and
18 building permits need to be obtained, or remove accessory use
19 structures. This is a complaint, and when I went out to do
20 several inspections of this property, I did notice that there
21 is a lot of mobile home - newer homes being put in out there,
22 so you've got all the nice homes and then you come to this
23 nursery, and then (inaudible) on down. So I'm sure the
24 complaints, you know, are generally due to that. As said
25 before, there was a previous case with this, and since they

1 had agg status, the director at the time decided we weren't
2 going go forward with it and it was closed. And I had gotten
3 with Benny with the assessor's office, Gonzalez, and he told
4 me that the agg status was going to be removed as of January
5 1, 2022. So at that time I had also had this case staffed
6 with attorney Scott Johnson on 7/20/21, and as I talked to him
7 about it, he said let's wait until the agg status goes off and
8 then proceed with the case. Now, prior to this we have been
9 sending out letters to let them, to try and work with them
10 before we get to the hearing office status. So the new
11 complaint was received on 8/6/20, courtesy letter was sent on
12 9/30/20, first inspection on 12/28/20, and an opportunity to
13 correct notice was mailed on 12/29 of '20. The inspection
14 found violations of dilapidated greenhouses, growing areas
15 with (inaudible), coverings, (inaudible) or torn, a small
16 mobile office travel trailer (inaudible), potting containers,
17 etc. on the site. Overgrown with weeds and part of the
18 complaint was there's a lot of wildlife and packrats and
19 everything that are living on the property. On January 20,
20 '21, the case was referred to code compliance officer Kayla
21 Johnson, as it had previously stated been with James Meadows,
22 when James Meadows went on to take a new position with the
23 County. Re-inspection on 2/8/21, no compliance efforts made.
24 A first demand letter was sent by Certified Mail on 2/8/21 -
25 and I have copies of those in the packet - and at the time it

1 was only sent to two of the three names on the deed. The deed
2 was put in there FL. So when I got the case I looked up and
3 found everybody that was on it, and also added to it was
4 statutory agent for the business with the Arizona Corporation
5 Commission, because usually we go through them, but I believe
6 that since the business had, you know - I don't even know if
7 it still is that with them, that it is current business with
8 the Arizona Corporation Commission. Because sometimes that's
9 delayed. Notification confirmation from the certified letters
10 was sent regarding the demand letter with a receipt that was
11 signed by McMinn. A. McMinn. Re-inspection on 3/16/21, no
12 compliance efforts made. Case was staffed again with Scott
13 Johnson, County Attorney on 7/20/21, it is recommended that
14 code compliance wait until agg status from the assessor
15 expires. And on September 2021, in that month, the assessor's
16 office sent out a letter to let the property owner know that
17 the agg status was being removed, and I did contact Benny with
18 the assessor's office and he said there had been no
19 communication about that. The code compliance manager Paula
20 Mullenix reassigned to the case, and I sent a second demand
21 letter because of the amount of time that had went on. And
22 then again I put - I added additional couple that was listed
23 on the deed that was not in the original case paperwork. So
24 that letter was sent out on 7/21/21 and included the owners
25 Donald and Mollie Frye. The case was then put on hold until

1 January 1, 2022. I was trying to keep - to get them to
2 communicate about what they were going to do with this
3 property, and the whole time that we've had this case open,
4 there's been no communication about it.

5 RODRIGUEZ: No emails, no phone calls?

6 MULLENIX: No emails, no phone calls, nothing about
7 it.

8 RODRIGUEZ: Okay. From any of the parties that are
9 listed on this, on the deed.

10 MULLENIX: Yeah, none of them. None of them. I
11 also did a re-inspection on 6/15/22 which - and no compliance
12 efforts were made and more travel trailers were on the
13 property, so I just added another count to the case. And
14 then, of course, Scott Johnson sent a reply saying that the
15 case should proceed to the hearing office. Pre-hearing
16 inspection was done on 8/10/22 by our code compliance officers
17 Arthur Johnson and Andrea Ford. So (inaudible) cases before
18 us today. And I'll kind of go through the packet now. The
19 first item in the packet just shows that with the assessor's
20 office, that they are still the current owners, and I pulled
21 this up today. The second item that's in there just shows an
22 aerial through Explorer that we have that's on 2/14/21, just
23 to give you - it's the middle parcel there - 21047003C, to
24 give you an idea of how big the parcel is and what it looks
25 like. Then the next item in the packet is the opportunity to

1 correct letter that was from James Meadows that was originally
2 sent out on December 29, 2020. The next letter should be a
3 demand. There should be - I don't have it with mine, but I
4 think you do. A demand letter that was sent out by
5 (inaudible) Johnson. And then after that one is another
6 demand letter that I sent out and this is the one I sent out
7 on July 21, 2021 that I put everybody in that was listed as
8 part of the FL, to make sure everybody actually was included
9 in this case going forward. The next item in the packet just
10 shows that there was service that was done with that demand
11 letter and I can't really make out the page after that, who is
12 the person, Chase -

13 RODRIGUEZ: (Inaudible).

14 MULLENIX: (Inaudible), that was the person that
15 signed for the letter. The next item in the packet is just
16 the hearing office submission packet showing that it was
17 actually personally served on this, on - was ordered on
18 6/20/22 - and I apologize, I can't see -

19 RODRIGUEZ: (Inaudible).

20 MULLENIX: (Inaudible).

21 RODRIGUEZ: (Inaudible).

22 MULLENIX: This is the only page that I (inaudible).

23 RODRIGUEZ: (Inaudible).

24 MULLENIX: I guess that wasn't in it. Okay. Don't
25 have that, but I do know that because this (inaudible), it

1 says that service was made. And I apologize, I don't know the
2 date, but they're just verifying that it was served. And then
3 we get to the photo packet after that, and on 8/20/2020, this
4 just shows some photos of what it looks like. The top photo
5 just shows the greenhouses in disrepair. Bottom photo, again,
6 showing the greenhouses in disrepair, and then we see in the -
7 over on the right-hand side, there is some kind of a mobile
8 office or something over in the corner. On the second page,
9 top photo, just shows more of the items in disrepair. These
10 were the photos that were taken on that day by, I believe it
11 was Christian Cisco was in between and took these photos.
12 Then the next photo packet was on 8/10/2022 and this was taken
13 by Arthur Johnson and Andrea Ford. And the top photo shows
14 the greenhouses, again pretty much the same condition as the
15 other was. Photo 2 showing greenhouses in disrepair. Second
16 page, top photo, shows greenhouses in disrepair. The bottom
17 photo shows a travel trailer that is basically the wheels have
18 been taken off and it's in disrepair. Then on the third page
19 it shows that - I don't know if that's a mobile office or
20 whatever that's there, and a travel trailer on there. And
21 then the bottom page of that shows another travel trailer
22 tucked back in there, with more of the structure with the
23 greenhouses, of course the tarps and stuff have blown away.
24 Then the next item in the packet, I'm showing you the first
25 one that was actually through, I believe this was Eagle View

1 again. And this photo came from October 14, '21, and I wanted
2 to show you on the south side of the property there, down in
3 the right-hand corner, you can see the travel trailers are
4 there. So I don't know if they were moved to the back, but
5 there is travel trailers on the property. And then if you go
6 to the last entry in the packet, this is the front of the
7 property, and again you can see over in the right-hand, this
8 was on October 14, '21, there are some small buildings there.
9 And then another item that concerns us in a retention pond or
10 something there, but I'm sure the owners are not happy with,
11 about that. And then tucked in over on the right-hand side,
12 just before the retention pond, you can see there's some
13 travel trailers and whatnot tucked in among this. The problem
14 we're having now with the photos that were recently taken, is
15 everything, because of monsoons has grown up and it would have
16 been more hazardous because in front of this property there's
17 like a little drainage ditch, and so the code compliance
18 officers going there do not feel comfortable trying to wander
19 through with all of the grown up debris, or the grown up weeds
20 and bushes and everything on the property. My recommendation
21 is that we find in violation of Counts 1, 2 and 3, and impose
22 a fine of \$750 per violation, and order immediate abatement of
23 the property. And that's all I have.

24 RODRIGUEZ: This case has been going on since 2020?

25 MULLENIX: Yes.

1 RODRIGUEZ: Okay.

2 MULLENIX: And we had a previous one that it
3 basically was in the same condition as it is now in 2017, but
4 because the agg status was on the property, we just - the
5 attorneys decided they didn't want to go until the agg status
6 came off.

7 RODRIGUEZ: And you said the agg status is no longer
8 valid.

9 MULLENIX: Is no longer valid. And I've been in
10 contact with Benny at the assessor's office. They sent out a
11 letter in September of last year telling them as of January
12 the agg status was going to be removed. They did not receive
13 any communication about it, and so (inaudible) January 1,
14 2022.

15 RODRIGUEZ: Okay. Sir? Go ahead and identify
16 yourself (inaudible) pull that mic close to you, please.

17 MCMINN: My name's Glenn McMinn and I used to run a
18 (inaudible) nursery out of the property there (inaudible)
19 14.85 acres. We got out of the nursery business about four or
20 five years ago and we've had the property up for sale on the
21 MLS as a nursery, you know, as a nursery business. In July of
22 2021, one of my old customers, we entered into a installment
23 sale for the property and he's buying the property. He's one
24 of my old nursery customers, he's a landscaper and a builder,
25 and he wants to run it as a nursery. And so with respect,

1 like there's greenhouse - well there are some greenhouses in
2 bad shape, but there can be greenhouses again. There are -
3 there's potting containers that are, you know, used for
4 plants, and you know, it's his intent to start up the nursery
5 again. And so with respect to the mulch, I did - his name's
6 Benjamin Alvarez - I apologize, I didn't bring any copies
7 (inaudible). That was the purchase contract. And in, you
8 know, in the purchase contract he wanted the nurs - we'd
9 gotten, you know how no good deed goes unpunished? There's
10 some trailers out there that friends and people, oh Glenn can
11 I put this here? And it's oh yeah, put it out back, and we've
12 gotten a couple of those out there, some irrigation stuff,
13 we've gotten that out of there. I let Benjamin know that
14 we're in violation and that we have to get the place cleaned
15 up and I can tell he's done some work. He's looking to have
16 his animals out there and also to raise plants and trees. So
17 with respect to the travel trailers that are there, there's
18 nobody living out there, they're not, you know, there's -
19 that's not going on. I do understand about there's more -
20 been more - there's been more construction out there in the
21 last two years than there has in the last 20. I mean things
22 sure have kind of gotten crazy out there. And so I understand
23 that we need to get it cleaned up, and you know, and
24 Benjamin's in the midst of finishing up a couple of houses,
25 and I told him, I said hey we got, you know, we got to do

1 this. And so, you know, he's like yeah, well there's a
2 significant amount of vegetation that he wants to run through
3 a chipper and to, you know use it. There is a big mulch pile
4 out there and it's paid a lot of money for it. But I mean one
5 man's - one person's junk's another person's treasure. It was
6 a great nursery, it was amazing, but we haven't, we haven't
7 been operating there. I've been working other odd jobs, just
8 trying to keep things going on. But - so let's see, we got
9 Count 1, the potting containers. Nursery debris, that's a
10 problem. The travel trailers, they're, they're not living
11 quarters, Count 2, they're not, and they're old, we can get
12 them out of there.

13 RODRIGUEZ: Mr. McMin.

14 MCMINN: Yes sir.

15 RODRIGUEZ: So the -

16 MCMINN: Well I'm trying -

17 RODRIGUEZ: The contract itself, is it already
18 signed and is it (inaudible).

19 MCMINN: Yes, yes, yes. It's a - it's an
20 installment sale and he has - he's got, he's got another
21 payment to go before - I'm still the owner of record, because
22 I'm not deeding it over until we get our final payment. But I
23 mean I do know that they've been doing some work out there,
24 they need to do a lot more. I see that they took down all the
25 structures in the front. We had a big metal shade structure,

1 and I can see they've taken most of that out. When it cools
2 down I think they could do a better job on the weed situation.
3 But, but I mean we are proceeding. But yeah, I, I can, I can
4 get you copies of the originals of the purchase documents if
5 you want them.

6 RODRIGUEZ: Ms. Mullenix, (inaudible).

7 MULLENIX: Yeah, well we're only concerned who the
8 owner of record is, and since you are still the owner of
9 record and these are violations that are (inaudible), which
10 I'm sure you've already told them from what you said, but
11 there are violations. And the other issues is, they won't be
12 able to purchase this nursery and just start doing business.
13 They have to come to the County and go through site plan
14 review and a lot things because it's been more than 12 months.
15 Once the nursery has been inactive, the use for over 12
16 months, then you've got to come back to the County. A nursery
17 is allowed in GR zoning, but they're going to have to go
18 through site plan review and things. And the problem we have
19 is these neighbors out there have been dealing with mess for
20 quite a while, and I don't think it's fair to them to just
21 say, well, we're not going to do anything about it, we're
22 hoping to sell it and they just have to deal with it until we
23 go after the new owners. Because you are responsible for
24 this. And then like you said, I'm glad that you're going to
25 remove all the travel trailers, all of them. There can be

1 nothing on that property because there is not a primary use
2 established. If it was a running nursery, that would be a
3 primary use. What it is now, is it's been closed down, like
4 you said, four or five years, so if you have no primary use,
5 so anything on the property has to be removed.

6 MCMINN: Okay, to get - where would he apply for a
7 use permit to operate?

8 MULLENIX: Well, he'd have no - well again, he'd
9 have to go through our - with our planners. I would recommend
10 he can come into the Florence office and get an appointment to
11 talk to one of our planners.

12 MCMINN: Okay, the planning officer over -

13 MULLENIX: Yeah, it's on - we have the new building,
14 development services, and have him call up and we can give you
15 the number that he needs to call up, but you still have to
16 deal with these violations that are here. Somebody needs to
17 do something. If they buy it, we're not going to allow them
18 to go another year just saying well we just don't have time to
19 (inaudible) to get it cleaned. It needs to be cleaned, and we
20 were disappointed that nobody out of the three people that own
21 it, ever contacted us with all the notices.

22 RODRIGUEZ: That's the problem right there, Mr.
23 McMinn, big part of the problem that no one spoke to the - in
24 the office (inaudible) what was going on, what the plans were.
25 So that in itself is - I mean it's already - you have these

1 issues with those - with the travel trailers being there, but
2 then no one's talking, no one's telling the office what's
3 going on, so they're making assumptions as to what they're
4 seeing out there. So okay. So then he's - and so then for
5 his clarification, he also needs to remove those greenhouses
6 (inaudible), correct?

7 MULLENIX: Well, anything that is off and growing he
8 can remove, knowing that that's part of the value of the
9 property. But he can - you know, as long as they communicate,
10 what we might be able to do is come to an agreement to say get
11 the property, with all the brush and debris, get it cleaned
12 off again, get the potting, whatever, with the potting sheds.
13 Even remove those or the potting - whatever you want to call
14 them. The potting containers. Just - or stack them neatly,
15 whatever, but to get the property what it looks like it's
16 actually going to have a use, because it's not fair to the
17 people. And my recommendation would be to go ahead, and
18 continuing it's not going to do any good because we don't know
19 when this contract. I would say for my part, I recommend you
20 go ahead and do the violations today, and then by the time
21 they go through the process, if they change owner we'll deal
22 with it at that time and go on. But somebody needs to start
23 being responsible, and I don't feel it's fair to the owners to
24 keep kicking the sand down the road.

25 RODRIGUEZ: Mr. McMinn, anything else from your end?

1 MCMINN: I mean I'm kind of disheartened because
2 I've been a great neighbor and my surrounding, my surrounding
3 neighbors, the Millers to the west, I mean I've done so much
4 for these people. It kind of feels a little bit - I
5 understand that we shouldn't have let the place get into that
6 condition, and it's, you know, it's been a issue of money and
7 things like that, and so I understand that. But I mean it's a
8 little disheartening because I've gone out - you know, having
9 the guy with the tractor out there, I've done so much for the
10 people out there and Sun Valley Farms in general, that, you
11 know, but I understand that there's - I mean I've seen the new
12 construction on Magma Road. Now I am at the end of Magma
13 Road, the Millers should just pass me, we're on a dead end
14 road, and it is 15 acres, and you know, the property right
15 beside us was - anyway, that's irrelevant. We're not - we're
16 not -

17 RODRIGUEZ: Okay.

18 MCMINN: We're not - I'm actually meeting with
19 Benjamin next week, because I told him about this hearing and
20 he was not able to make it here. And - but I will be in touch
21 with him next weekend and tell him that this is an urgent
22 situation.

23 RODRIGUEZ: Okay. Ms. Mullenix, do you want to add
24 something else? (Inaudible)? All right, based on the
25 testimony from the code enforcement office and respondent, I'm

1 going to go ahead and hold you (inaudible) in violation for
2 the three counts, the first count of - for the count of
3 outside storage and parking - other items; your Count 2,
4 offside storage and parking of other items; and then your
5 zoning clearance and permits. The fine for each count is \$750
6 per count, which is three counts, for a total of \$2,250. You
7 do have 15 days to appeal it to the Board of Supervisors here
8 (inaudible) in Florence. The ladies can give you that
9 information where you can file an appeal, okay? Anything else
10 to add, ma'am?

11 MULLENIX: No.

12 RODRIGUEZ: Okay. This concludes the case of Glenn
13 and Linette McMinn, Roy G. or Judy McMinn, Donald or Mollie
14 Frye, in case Z022-0055.

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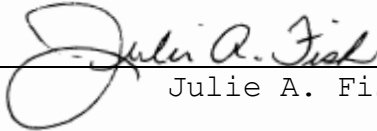
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