

TIMELINE

Re: Parcel #308-03-0770

4/30/2021 – Complaint received by Pinal County Code Compliance that property owner, Daniel A. Dickinson had added solar panels and had done some minor repair/remodeling to a structure on the subject property. Code Compliance was informed that the structure was once an old “pump house” and was never used as a residential structure.

The property owner was, at the time, illegally residing in a travel trailer on the property and using a portable generator for power. Code Compliance researched the issue and found that no permits had been obtained for any work being done on the property. Per the Pinal County Assessor’s Office, the property was, and still is, listed as “vacant.” Code compliance also noted that the structure on the property did not meet setback requirements. At the time, there was an active code compliance case regarding the property owner living in the RV. Subsequently, with permission of the Board of Supervisors, a lawsuit was filed and an injunction was obtained by the Superior Court requiring the removal of the RV from the property. The property owner removed the RV, but then began living in the un-permitted pump house structure.

A “cease and desist/stop work order” letter was sent to the property owner signed by both the Senior Building Inspector and the Building Official dated 4/30/2021 indicating that the property had been found in violation of Pinal County Building Code Ordinance No. 121819-BCO, Title 6, Chapter 605.030, and International Property Maintenance Code Sections 108 (unsafe structure and equipment) and 108.1.4 (unlawful structure and equipment). The cease and desist/stop work order further advised that “the Building Official hereby orders the following: Stop all work immediately. As you are aware, the building was once an old “pump house” and was not designed for housing and does not meet setbacks. You must first speak with the Pinal County Planning Department and apply for a variance. If a variance is authorized you may be required to submit “engineered” plans for the conversation [sic] depending on how the building is currently constructed. If you are currently using the building as a “habitual” [sic] structure, it cannot be powered by a portable generator and must be vacated immediately. The letter was subsequently returned, having been sent to an incorrect address.

5/25/2021 – Pinal County Code Compliance corrected the address on the “cease and desist” letter and resent the same to the property owner with a compliance date of 6/25/2022.

6/25/2021 – Pinal County Code Compliance conducted research and discovered that no permits had been applied for in relation to the subject property. Photos of the property were reviewed, which provided indicia that the structure on the property was being used as a residence. The photos depicted solar panels on the roof, as well as what appeared to be a stove exhaust coming out of the roof.

Pinal County Code Compliance called and spoke with the property owner and explained that the structure at issue was designed as a pump house and not as a habitable structure. Pinal County Code Compliance explained to the property owner that there was no established use for the property. The property owner claimed that he had obtained a variance from the County, however, Pinal County Code Compliance researched the claim and there was no evidence the property owner had applied for a variance. The property owner was given a compliance deadline of July 9, 2021 to compose a plan to come into

compliance and that if he failed to move forward, other action would need to be taken. The matter was closed by Pinal County Code Compliance as the variance process moved forward.

6/21/2022 - Pinal County Code Compliance received a complaint about the property and it was observed that the property owner still had not applied for a variance.

6/22/2022 - Pinal County Code Compliance conducted an inspection of the subject property from the public rights-of-way, a parking lot, and the driveway of the property. It was observed that the property, classified as a vacant lot with no approved/established primary use, contains a structure, which appeared to be historical, made of adobe, and had once been used as a water-well pump house, had been altered by the addition of an evaporative cooler on the southwestern facing side, a stove pipe through the roof on the approximate southeast side, solar panels on the approximate north side of the roof, and windows and planter beds on the approximate north side of the structure. An individual was observed outside of the structure and then entering the structure via double doors on the north side of the structure and would not answer to knocks on the door. The property contained several generators that were running, several private passenger vehicles and one boat. When knocking on the door, several dogs and puppies could be heard and then were visible as they poked their noses and muzzles underneath the doorway.

Notice and Orders were posted on the double doors, which provided a deadline of 7/25/2022 to submit full and complete plans and an accepted application to convert the subject structure into habitable space.

6/27/2022 – The property owner called and spoke with Pinal County Code Compliance. The owner claimed that the structure was a 38'x38' water tank with 12" thick walls, and floor with plaster-finished interior built in 1895-1915, and that "someone" had converted it into a residence. Property owner claimed that due to the age of the structure, he was "grandfathered" because zoning did not exist when the structure was built.

7/11/2022 - Pinal County Code Compliance received a complaint that generators had been running on the property through the night.

7/25/2022 - Pinal County Code Compliance arrived at the subject property to post the Final Notice/Vacate and Condemnation Order and bright orange placard on the structure. During this visit, an individual was observed through a window inside the structure stacking 5-gallon buckets. Despite knocking on the door, nobody answered. The Notice and Orders to Vacate and Condemning the structure were posted to the door in a water-resistant transparent plastic sheet protector and affixed to the door with blue painters tape to avoid damaging the door's finish. Because of the serious health and safety concerns involved, the final notice made it clear that "the Chief Building Official hereby orders that the structure, referred to as a water tank/tower, currently being utilized as living space . . . shall be: Vacated forthwith in accordance with IPMC Chapter 1, section(s) 109, [A] 109.1; and It is ordered that the structure, referred to as a water tank/tower, not be occupied . . . until a permit converting the structure into livable space is applied for (including, but not limited to, complete engineering plans, complete electrical plans, and complete plumbing plans submitted with the application), issued and obtains a necessary "Pass" inspections and a Certificate of Occupancy upon completion of a "Pass" final inspection."

7/27/2022 – Property owner responded to Pinal County Code Compliance via email disputing the County's authority to condemn the structure and asserting that the County would not approve plans, which he claimed to have submitted three times, until the setback issues were resolved.

8/8/2022 - Pinal County Code Compliance was informed that the property owner had retained legal counsel.

8/17/2022 – DCA Garey e-mailed counsel for the property owner, and left a voicemail, to discuss the matter and attempt to resolve the same. DCA Garey was able to speak with counsel for the property owner and explained the County's immediate health and safety concern was with regard to his client living in a condemned structure. Counsel indicated that his client, the property owner, had informed him he is not living in the structure and would be back in touch with DCA Garey by the next Monday, August 22, 2022.

9/1/2022 – DCA Garey had not heard back from counsel for the property owner and again sent an e-mail to follow up.

9/6/2022 – DCA Garey still had not heard back from counsel for the property owner and left a voicemail and sent a follow-up e-mail.

10/3/2022 – DCA Garey had spoken with counsel for the property owner, and followed up with an e-mail: This is in follow up to a voicemail I left for you today. I had a meeting with our code compliance team today and we would like to arrange for a sit-down meeting with you and your client, Mr. Dickinson, to come up with a plan on how to bring your client's property into compliance with the Pinal County Development Services Code (the "Code"). Of course, as you know the Code Official has condemned the structure on your client's property as unsafe for occupancy, so it may not be lived in until the structure is brought into compliance with the Code. I understand that your client has indicated neither he nor anyone else is living in the structure on the property, however, there is information and evidence to the contrary. Neither may your client conduct work on the property without obtaining the necessary permits.

With the above in mind, I believe a sit-down meeting will be helpful to put everyone on the same page and come up with a plan to move forward. Because of the possibility that the structure in question could be a historic property, there may be certain opportunities that can be explored in that regard as well. If you and your client are willing to meet, please contact me at your earliest convenience to schedule a meeting. We would like to have a meeting scheduled within the next couple of weeks, by no later than Monday, October 17, 2022. If, however, your client is not interested in meeting to discuss a path forward with bringing his property into compliance, please let me know. In the event I do not hear back from you by next Monday, October 9, 2022, I will assume there is no interest in pursuing discussions and the County will need to consider enforcement of the Code with the assistance of the court. Of course, voluntary compliance with the Code is always preferred to being forced to obtain a judicial remedy, and we sincerely hope that will not be necessary in this case.

10/10/2022 – A virtual meeting was held with the property owner, his counsel, and various County officials to try and assist the property owner into bringing his property into compliance. The property owner indicated that he would voluntarily comply with the condemnation order and other zoning and building safety violations. It was made clear at the meeting that the property shall not be occupied until it had been permitted for residential use and habitation. After discussing ways that the property could potentially be brought into compliance, counsel for the property owner indicated he would be in contact to give his client's position on whether he would voluntarily comply with the noted violations on the property. Because the prior condemnation ordered had gone missing, the property owner agreed to allow the County to re-post the same.

10/12/2022 – Condemnation notice was re-posted on the subject property. It was observed that the property still appeared to be occupied with a white refrigerator in the driveway that appeared poised to be installed.

10/17/2022 – DCA Garey received a voicemail from counsel for the property owner indicating that the property owner would voluntarily comply with the Pinal County Building Code and Zoning Code.

10/19/2022 – DCA Garey corresponded with counsel for the property owner via email: “This e-mail is to confirm receipt of your voicemail from Monday, October 17, 2022, wherein you indicated that your client will voluntarily comply with the Pinal County Building Code and Zoning Code. We have been in contact regarding this issue since as early as August 17, 2022, however, your client's non-compliance with the County codes on this property has been an ongoing issue for much longer. As you know, the structure on the property was condemned, with the condemnation notice being posted on the front door in July of this year. The condemnation notice subsequently went missing from the front door, and I understand your client has indicated it fell from the door due to weather. Although your client has indicated that the structure has not been occupied since at least our first communications in August, our information indicated that the structure was indeed occupied, and that it is still occupied as recently as last week. Of course, this gives rise to very serious safety concerns, which must be immediately addressed.

Prior to confirming occupancy of the condemned structure last week, in an effort to resolve this matter, I arranged for a meeting between you, your client, and Pinal County officials. Although you and your client indicated you were not able to meet in person, we arranged for a virtual meeting, which took place on Monday, October 10, 2022.

Attendance at the October 10, 2022 meeting included: (1) you; (2) your client; (3) Code Compliance Officer Heather Wright; (4) Building Official James Allen; (5) Deputy Director for Community Development, Todd Williams; and (6) me. During the meeting, your client consented to the County re-posting the condemnation order on the property by taping the same to a window, which was accomplished on October 12, 2022. It was made clear during the October 10, 2022 meeting that nobody may occupy the condemned structure, including dogs, which had been observed to be in the structure previously. We also discussed the zoning violations on the property and that no accessory uses are permitted because there is no established primary use. It was made clear that your client must remove all vehicles and generators, etc., from the property because the land should be a vacant lot with the exception of the pump house. Your client appeared very frustrated by all of this, however, you encouraged him to comply and in the end, you indicated that you would discuss this with your client and within the next three or four days be back with us to report on your client's willingness to comply, which led to the voicemail you left for me on Monday.

In view of all the above, the most immediate concern is the unlawful occupancy of the condemned structure on the property.

Please be advised that when the new condemnation notice was posted on October 12, 2022, a female exited the structure and confirmed she is living there with her small dogs. Generators were running, new concrete had been poured in front of the structure, and it appeared a refrigerator was waiting to be installed as one was sitting outside the door. This is very concerning to the County. This is a condemned structure, and the fact that it was confirmed to be occupied as recently as Wednesday, October 12, 2022, and with an electrical appliance apparently poised to be installed, is unacceptable.

Please note that the requirement for no occupancy is an immediate requirement in view of the health and safety issues it presents and the County must verify that the structure is not occupied as soon as possible. Accordingly, we are requesting that your client allow County officials to enter the structure to verify no occupancy by no later than Wednesday of next week, which is October 26, 2022—one week from today. To be clear, verification of no occupancy would mean that there is no indicia of persons occupying the structure, such as by there being no electrical appliances in the structure or other furnishings typically found in an occupied residence, such as, but not limited to, beds, dishes, clothing, etc.

Once the health and safety hazard on the property is addressed, we can then turn our attention to the other zoning violations on the property, however, the life and safety concerns on the property must be immediately corrected. To this end, please advise as to whether your client is agreeable to a property inspection next week. We are available on the following dates and times: Monday (10/24), Tuesday (10/25), and Wednesday (10/26) – Any time as early as 6:30 a.m. and as late as 5:00 p.m. Please let me know your client’s preference as soon as possible so the assigned Code Compliance Officer can prepare her schedule for next week.

In the event I do not hear back from you to schedule an inspection as indicated above, or if your client is not agreeable to allowing the County access to the condemned structure to confirm it is not occupied by next Wednesday, October 26, 2022, the County will be forced to consider its legal options to enforce compliance with the condemnation without further notice.

10/24/2022 – DCA Garey received call from counsel for property owner indicating he would be back in touch after speaking with his client about a property inspection.

11/1/2022 – DCA Garey had not heard back from counsel for the property owner and drafted the following email: “This is in follow-up to my previous email to you of October 19, 2022 requesting that you speak with your client to arrange for an inspection of his property by October 26, 2022. We subsequently spoke on the phone on October 24, 2022 and at that time you indicated that you would be back in touch with me regarding your client’s position. To date, I have not heard back from you and can only surmise that your client has refused to allow the County to inspect the property to ensure compliance with the condemnation notice; please advise.”

11/14/2022 – DCA Garey was informed by counsel for property owner that his representation of the property owner had terminated.

11/15/2022 – A property inspection was completed with the consent of the property owner. It was observed that a large generator (6250 Starting Watts/5000 Running Watts) is providing power to the subject structure and holes had been drilled through the side concrete wall to run extension cords through. The solar panels were disconnected. The stove pipe coming out of the roof belongs to a wood fireplace that the property owner said he purchased and “placed there.” The wood fireplace is the sole means of heat. Cooking appliances include a gas stove and a propane camp stove intended for outdoor use. Hot water is supplied via a standard residential water heater, which the property owner stated is connected to portable propane tanks. There is no bathroom sink faucet. There is a functional shower and toilet, however, it is unknown where the wastewater is being directed as there is no legal septic or alternative septic or sewer to/on the parcel. The roof is made of corrugated metal and lacks any insulation with at least two openings to the outside that are visible. The white refrigerator previously observed outside the structure was installed on the interior of the structure. The structure contained a bed and

other furnishings. There was ample evidence the property is being used as habitation, including glowing coals in the fireplace. Extension cords run throughout the structure. At least two unlicensed vehicles were also present on the property. The second orange condemnation placard was observed to still be in place.