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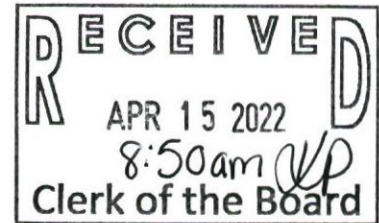
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11 **PINAL COUNTY BOARD OF SUPERVISORS**
12 **POST OFFICE BOX 827, 135 NORTH PINAL STREET**
13 **FLORENCE, ARIZONA 85132**

14 In the Matter of:) **Case No. ZO-08-18-015**
15)
16)
17 Alimohamed Anjum)
18 Islamic Cultural Center,) **PINAL COUNTY CODE**
19) **ENFORCEMENT'S**
20) **MEMORANDUM ON APPEAL**
21 RE: ZONING)
22)
23)
24)
25)
26)

27 Pinal County, by and through undersigned counsel, submits this Memorandum on Appeal in
28 support of the decision made by the Pinal County hearing officer in Case No. ZO-08-18-015.

29 **I. FACTS**

30 The Respondent's appeal is the result of their failure to adhere to Pinal County ordinances
31 and policy in their use of their land as a cemetery. Respondent, Islamic Cultural Center, is the
32 owner of the property located at 21564 N. Rahma Street Maricopa, AZ 85139 ("Property"). The
33 Islamic Cultural Center owns three parcels at this location with the following Assessor Parcel
34 Numbers: 510-07-013A, 510-07-0190 and 510-07-0200. These properties are located in District 1.
35
36



Hand-delivered by
Tasha Grabowski

1 On April 2, 1990, the Pinal County Board of Supervisors ("Board") approved a resolution
2 rezoning two of the parcels (510-07-0190 and 510-07-0200) on the Property from General Rural
3 (GR) to Suburban Ranch (SR). (See Record on Appeal "ROA" "Resolution Case No. PZC-008-
4 89"). The purpose of the rezone was to allow the applicant to operate a cemetery, as cemeteries are
5 an approved use in an SR zone. The rezone included 8 stipulations (See ROA, Resolution Case No.
6 PZC-008-89). Included in those stipulations, but not limited to the following were:

- 7
- 8 **1) that the required subdivision plat regulations be followed for the actual**
- 9 **development of the cemetery;**
- 10 **2) that the applicant apply for and obtain any necessary permits from the Arizona**
- 11 **Department of Transportation for access to state Route 238 (Mobile Road);**
- 12 **3) that all federal state and local ordinances and regulations be adhered to;**
- 13

14 As of this date, the Respondents have failed to adhere to the stipulations in the original
15 rezone. (ROA, "Transcript"). Furthermore, as a result of the Respondent's failure to adhere to the
16 required subdivision plat regulations including the 1981 Pinal County Subdivision Regulations,
17 wherein he was required to submit documentation proving conformance therewith, was never
18 received by the County. As a result, and after an amendment to the ordinances after the required
19 submission, the county now requires a Site Plan Review. This information was submitted to the
20 Respondent via mail, and the Site Plan Review requested by the County was never received. (ROA,
21 Transcript).

22 On March 2, 2016, the respondent in this action applied for and was granted a Special Use
23 Permit ("SUP") to conduct burials on the parcel directly to the west of the parcel that was rezoned
24 in 1990. (APN: 510-07-0190). (ROA, "Case No. SUP-010-15 Special Use Permit Resolution")
25 Included in the stipulations attached to that SUP was that the applicant was responsible for
26

1 conducting the burials and ceremonies in adherence to those stipulations. (ROA, Case No. SUP-
2 010-15). However, since this SUP was applied for, the Respondents have failed to follow the
3 stipulations or conduct their ceremonies in adherence to the stipulations by failing to provide
4 adequate parking, completing site plan review, completing a Traffic Impact Analysis, proof of
5 public access for Rahma Street, documentation of ADOT approval, nor have they provided a
6 drainage report. (ROA, Transcript, Case No. SUP-010-15). All of these were stipulations of the
7 SUP. (ROA, Case No. SUP-101-15).

8 As a result of the Respondent's failure to adhere to the agreed upon stipulations, the
9 Community Development Department revoked the SUP for the additional parcel. Most importantly,
10 the Respondent has failed to complete any of the parking and roadway requirement stipulations in
11 the rezone resulting in large amounts of dust in the neighboring community. (ROA, Transcript).
12 Furthermore, Pinal County Code Compliance has received numerous complaints that the cemetery
13 is continuing to operate without considerations for the surrounding community. Of the stipulations,
14 the Respondent was required to provide legal access from State Route 238 to the property. That has
15 not occurred, and as a result the Respondents and their guests continue to trespass on land owners
16 residing between the Islamic Cultural Center and State Route 238. Lastly, the Respondent has failed
17 to address any of the parking requirements in an SR Zone.

18 Respondent's failure to follow the stipulations of their original rezone or the SUP render
19 their use of that land illegal and in violation of the PCDSC.

20 After numerous continuances the Pinal County Hearing Officer rendered her decision on
21 February 10, 2022. In doing so, she did not abuse her discretion when she found the Respondent in
22 violation of the PCDSC and imposed a Seven Hundred Fifty Dollar (\$750.00) fine.

23 **II. LEGAL AUTHORITY**

24 Pursuant to A.R.S. § 11-815(E), a county has the authority to appoint a hearing officer to
25 hear and determine zoning violations, if the county has established a civil penalty for violation of
26

1 their zoning ordinance. The Pinal County Zoning Ordinance, at Section 2.160.140, establishes a
2 civil penalty for any person who is in violation of the ordinance. Rule 24 of the Pinal County
3 Hearing Office Rules, gives the authority for a hearing officer to impose a civil penalty. Ordinance
4 No. 062211-HOROP-01. Pursuant to the authority granted to any county in the state by A.R.S. §
5 11-815(E), Pinal County has appointed hearing officers to hear and determine zoning violation,
6 under A.R.S. § 11-815(E).

7 Based on A.R.S. § 11-815(F),

8 At the hearing the zoning inspector shall present evidence showing the
9 existence of a zoning violation and the alleged violator's attorney or
10 other designated representative shall be given a reasonable opportunity
11 to present evidence. The county attorney may present evidence on
12 behalf of the zoning inspector. At the conclusion of the hearing, the
13 hearing officer shall determine whether a zoning violation exists and if
14 a violation is found to exist may impose civil penalties pursuant to
15 subsection D of this section.

16 Pinal County has also established Hearing Office Rules based on the statutory authority of
17 A.R.S. § 11-815(G). The hearing office rules mirror the state statute that a hearing officer issues a
18 written decision by making a finding whether a Respondent is or is not in violation of the cited
19 statute, code ordinance or resolution. Civil Hearing Office Rules, Rule 24, Ordinance Number
20 #062211-HOROP-01.

21 Arizona case law has described the level of discretion which may be exercised by a hearing
22 officer for the Industrial Commission of Arizona. An analysis of the level of discretion for an
23 Industrial Commission Hearing Officer is illustrative of the type of discretion a Pinal County
24 Hearing Officer likewise should have. Specifically, a hearing officer's exercise of discretion must
25 be measured against a standard of achievement of "substantial justice". *Northern Arizona*
26 *University v. Industrial Commission*, 123 Ariz 407, 411, 599 P.2d 860, 864 (Ariz App. 1979). The
exercise of a hearing officer's discretion is devoid and not bound by any rigid formula in order to
allow for flexibility. *Dominguez v. Industrial Commission*, 22 Ariz App. 578, 586, 529 P.2d 732,

1 740 (1974). This is the same type of authority and flexibility that should be afforded a Pinal County
2 Hearing Officer in this matter.

3 **III. LEGAL ARGUMENT**

4 The Board is limited to addressing this appeal with evidence supplied on the record during
5 the Administrative Hearing Process.

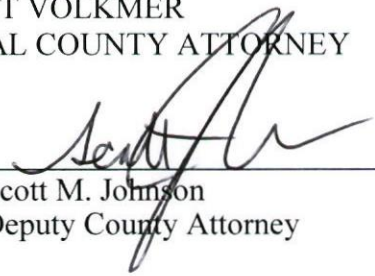
6 The Hearing Officer properly exercised her discretion when she ruled that the Respondent
7 violated the PCDSC by continuing to operate a cemetery and conduct burials in violation of
8 Stipulations of the Rezone and the Stipulations of the Special Use Permit. The evidence presented
9 at the hearing clearly demonstrated that Respondent failed to follow through on any of the
10 stipulations in order to remain in compliance with the PCDSC.

11 **IV. CONCLUSION**

12 Based on the cited authority and record before you, we request that the Hearing Officer's
13 decision and imposition of a \$750.00 fine be affirmed and the County Attorney's Office be
14 authorized to take all necessary action, including the filing of a lawsuit, to enforce and collect said
15 fine and enforce the decision.

16 RESPECTFULLY SUBMITTED this 15th day of April, 2022.

17
18 KENT VOLKMER
19 PINAL COUNTY ATTORNEY

20 By: 
21 Scott M. Johnson
22 Deputy County Attorney
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26

1 ORIGINAL of the foregoing filed
2 this 15th day of April, 2022 with:

3 Pinal County Clerk of the Board
4 P.O. Box 827
5 Florence, AZ 85132

6 Pinal County Board of Supervisors
7 P.O. Box 827
8 Florence, Arizona 85132

9 COPIES of the foregoing emailed/delivered/
10 mailed this 15th day of April, 2022 to:

11 Gust Rosenfeld, PLC
12 Attn: Andrew McGuire
13 One East Washington St; Ste #1600
14 Phoenix, AZ 85004-2553

15 Paula Mullenix
16 Code Compliance Manager
17 Pinal County Code Compliance Division

18 Rose Law Group
19 Omar Abdullah
20 7144 E. Stetson Drive, Suite 300
21 Scottsdale, AZ 85251

22 **SENT VIA EMAIL**

23 By: 

24 SJ:tg