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April 15, 2009

James M. Schoppmann, Esq.
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315 N. 4th Street
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Re: Colorado City adv. Mohave County

Mr. Schoppmann,

Please accept this letter as a written follow up to my e-mail dated April 14, 2009. I write to discuss a specific issue with you as I believe over the last several weeks, misconceptions have taken place with regards to the Colorado City Marshal's Office and its handling of several instances. And it is these instances that I believe are behind Mohave County's push, both through the County Attorney's Office and Sheriff's Department, to investigate, harass, threaten, whatever you would like to call it, the Colorado City Marshal's Office. Specifically, it is the issue regarding property disputes.

I have been contacted on several occasions by the Marshal's Office regarding competing property claims in Colorado City. The typical scenario is that someone claiming to have rights to or an interest in a certain piece of property through some conveyance by Bruce Wisan, is challenged by someone claiming to have a pre-existing right or interest in the same property. The most recent incident seems to involve the property referred to as the Berry Knoll property.

Without waiving any privilege that exists, I have instructed the officers to advise the competing parties that they are raising a civil property dispute for which the Marshal's Office in no way can or should be responsible. If there is a dispute over property rights/interests, then that is an issue that has to be adjudicated by the courts. I have further advised the officers that if they witness a criminal violation while they are on the scene of a civil property dispute, they certainly have the right and duty to act accordingly. But again, for pure civil property disputes, that is nothing that is to be handled by the Marshal's Office, Sheriff's Department, DPS or any other law enforcement agency.

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Over the weeks that this issue seems to have festered and then risen to the surface, the officers arrive on the scene and are simply told verbally that someone has a right to the property, while the officers are faced with the competing party claiming to have worked the property for years past, lived on the property for years, to also have a claim to the property, and with which they're familiar. But again, unless the officers are presented with a court order, and not simply an occupancy agreement, that establishes those property rights or interests, then they are to advise the parties to seek a resolution to their civil property dispute through the courts.

And while Jethro Barlow, through the CD you provided me, argues with various officers by proclaiming that the Trust owns the land, that has never been in dispute. Even through the Isaac Wyler trial, property ownership was never an issue. If you review through the transcript, I stipulated to the fact that the UEP Trust owns the property that is in question in all of these situations. But simply because the UEP Trust owns the property in question, does not mean that there cannot be a property dispute after Bruce Wisan simply issues some sort of conveyance to a piece of property. ~~And I think that issue is hammered home with the cases in which Isaac Wyler was charged with and convicted of criminal trespassing.~~

In those cases, the Trust owns the property (again, never disputed). But clearly Rebecca Burnham and Aaron Nielson, as being the occupants of the respective properties, have rights and interests in the properties. But what is happening throughout Colorado City is that Bruce Wisan, Jethro Barlow and Isaac Wyler unilaterally are determining that properties are vacant, empty or abandoned. They then turn around, and without determining any prior or current property rights or interests, or working to legally terminate any such rights and interests, assign the property to someone else, thereby creating the property dispute.

Instead, if Wisan, Barlow and Wyler believe a property, improved or otherwise, is abandoned, then there are proper procedures through which that can be established. Once that is done through the proper legal channels and the new occupants step in to that property, again regardless of it being an improved property or not, then the Marshal's Office has legal backing upon which it can cite someone for trespassing. But because Wisan is not following the proper procedures, for reasons completely unknown to me, he is truly setting up these property disputes that are now pitting the County against Colorado City for perceived claims of failing to enforce the law. But with the situation as it has been created by Wisan, there is no law to enforce, but rather civil property disputes to be adjudicated by a court of law.

And again, it is not the local law enforcement who is refusing to cite, arrest or deal with these issues. The local law enforcement has contacted me, its counsel, and has been advised that outside of serving as a stand-by to preserve the peace, or being witness to a criminal act, they cannot and should not take action for a civil property dispute, or they will risk being subject to a 1983 lawsuit, which I believe Mohave County has now opened the door for due to the Sheriff's

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Department coming in at Wisan's and Barlow's insistence and simply ignoring the fact that they are being called out for simple civil property disputes.

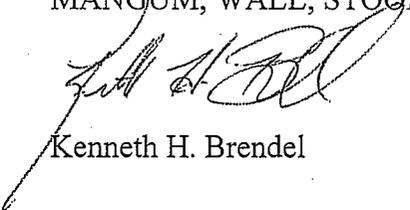
Instead of looking at it for what it truly is, a civil property dispute, the Sheriff's Department has rolled in, accepts at face value one person's claim to the property, either refuses to speak with the other side or ignores the other side's explanation, and reacts as though a trespass has occurred. To the best of my knowledge, in not one single incident has a Sheriff's deputy been presented with a court order establishing the property rights in any of the properties at issue. And to be clear, I have instructed the officers to ask for court orders establishing these rights and have further instructed them that if they are presented such a document, they are free to act accordingly and may cite for trespassing if so warranted. Or, if they choose, they can forward me copies of the documents they are presented and I will review for charges. But again, the mere fact that the Trust owns the property, over which Bruce Wisan is the court appointed special fiduciary, does not mean that there are no property disputes present.

~~But for Jethro Barlow to be telling one of the parties that local law enforcement is somehow being dishonest, corrupt, or acting improperly because they do not show up and immediately arrest someone for trespassing is disingenuous at best. The deputy Marshal's have been instructed on how to respond, and maintain the same charging discretion as do any of the Sheriff's deputies. Simply because the Marshal's Office is not acting like the bull in the china shop does not mean that they are shirking their duties or acting inappropriately in any manner. They are, in fact, the only law enforcement agency acting appropriately and within the confines of Arizona law.~~

If you would like to discuss in any more detail any of these issues, please do not hesitate to contact me.

Sincerely,

MANGUM, WALL, STOOPS & WARDEN, P.L.L.C.



Kenneth H. Brendel

KHB:sr

cc: Mike Piccarella
Client