

AFFIDAVIT

STATE OF ARIZONA)

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COUNTY OF Yavapai)


John O'Brien, being first duly sworn, deposes and states as follows:

1. That before Sedona's incorporation in 1988, while I was employed as a Planner for Coconino County in 1984, I was involved in a code enforcement action on the Son Silver West property.
2. That in May 2012, I authored a status report of Sedona projects and properties before retiring from my position as Community Development Director for the City of Sedona in July of 2012.
3. That in the May 2012 status report, I indicated that the Son Silver West property had been a zoning enforcement problem for many years.
4. That since the initial zoning violation in 1984, the owners of Son Silver West repeatedly violated zoning and building codes for which citations were issued, the properties were brought back into compliance and then the cycle would repeat again.
5. That the Son Silver West zoning violations were a chronic problem, with City of Sedona staff finding out about violations, citing the property owner and then bringing the property into compliance, only for new violations to emerge.
6. That my predecessor as Community Development Director for the City of Sedona from 1988 to 1997 was Tom Schafer.
7. That Tom Shafer was the Community Development Director for the City of Sedona when a Conditional Use Permit was approved for Son Silver West in 1992.
8. That I was an Associate Planner for the City of Sedona and worked on the 1992 Conditional Use Permit for Son Silver West.
9. That in 2011, I discovered another zoning violation on the property. An illegal coffee/ice cream shop had been opened and was in operation. I also discovered two questionable structures on the property. One was a shade structure behind the illegal coffee/ice cream shop and the other was a roof system attached to a storage building. After I notified the owners of the property, operation of the illegal coffee/ice cream shop was subsequently discontinued.
10. That I could find no building permit information in the City of Sedona files to support Son Silver West's claim that the questionable structures simply replaced existing structures.
11. That rather than get into a lengthy code enforcement action regarding the legality of the two structures and because I couldn't find any definitive evidence of whether they were, in fact,

1 replacement structures, I decided to pursue a different, compromise solution regarding these
2 two structures.

- 3 12. That in December of 2011, I requested Rio Robson to provide me with photographs of the
4 exterior of all buildings on the property and a site plan showing all of the buildings on the
5 property which would establish what actually existed at that time and would provide a
6 historical baseline of structural information moving forward from December, 2011, so that, in
7 the future, there would be no dispute regarding the buildings and structures on the property.
8 13. That I gave Rio Robson until March 1, 2012 to provide me with this information.
9 14. That Rio Robson did not meet the March 1, 2012 deadline and that on May 8, 2012 I sent an
10 email to staff stating that I had not received the requested information.
11 15. That I recall Rio Robson providing me with the photographs shortly before I retired and that I
12 placed those photographs in a file within the City of Sedona Community Development office.
13 16. That this compromise solution was only related to the buildings and structures on the property
14 covered under the 1992 Conditional Use Permit and did not include 61 Arrow Drive, 365
15 Bowstring Drive or the vacant property on SR179.
16 17. That this compromise did not approve new uses or an expansion of the Son Silver West
17 commercial areas and outside display areas beyond what was approved and allowed under the
18 1992 Conditional Use Permit.
19 18. That this compromise did not allow the use of the vacant property on SR179 for parking or
20 commercial use.
21 19. That I conducted an inspection only of the structures and to determine that the operation of
22 the illegal coffee/ice cream shop had ceased.
23 20. That I did not conduct an inspection related to any other aspects of the 1992 Conditional Use
24 Permit.
25 21. That I did not render a decision or make a determination that in December 2011 the property
26 was in complete compliance with the 1992 Conditional Use Permit other than offer a solution
27 to document existing structures on the property.
28 22. That I did not have the authority as the Director of Community Development, nor did I take any
action to approve new uses, the expansion of non-conforming uses or substantial modifications
to the approved site plan and conditions of approval as set forth under the 1992 Conditional
Use Permit.

DATED this 28 day of April, 2016.



John O'Brien

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SUBSCRIBED and SWORN to before me this 28th day of April, 2016.

My Commission Expires:

JoAnne Cook
Notary Public

2/06/2019

