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6 IN THE SUPERIOR COURT FOR THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF YAVAPAI

7
8 RESIDENTS OF THE RED ROCK LOOP,
INC., a Delaware nonprofit corporation, and
9 THE SMOKE TRAIL RANCH
PROPERTY OWNERS ASSOCIATION,
10 INC., an Arizona nonprofit corporation,

11 Plaintiffs,

12 v.

13 YAVAPAI COUNTY, ARIZONA, by and
through the YAVAPAI COUNTY BOARD
14 OF SUPERVISORS and GLOBAL
COMMUNITY COMMUNICATIONS
ALLIANCE, an Arizona Corporation.

15 Defendants.

No. P1300CV202100142

**COUNTY'S ANSWER TO FIRST
AMENDED COMPLAINT**

16
17 Defendant Yavapai County by and through the Yavapai County Board of Supervisors
18 (“County”), by and through Sheila Polk, Yavapai County Attorney, and her deputy
19 undersigned, hereby answers Plaintiffs’ First Amended Complaint (“FAC”). The County
20 hereby denies all the allegations not specifically admitted below.
21

1 alleges that those “ordinances and use limitations” may be subject to additional law including
2 but not limited to the federal Religious Land Use and Institutionalized Persons Act of 2000
3 (“RLUIPA”), 42. U.S.C.A. § 2000cc et seq, and the Arizona Free Exercise of Religion Act
4 (“FERA”), A.R.S. § 41-1493 et seq.

5 11. The County admits that Section 400 of the Yavapai County Planning and
6 Zoning Ordinance applies to the Global Property but affirmatively alleges that additional
7 requirements besides Section 400 Ordinance also apply, including but not limited to building
8 permitting requirements.

9 12. The County lacks knowledge or information sufficient to form a belief about
10 the truth of the allegations in Paragraph 12 of the FAC. The County further alleges that there
11 is no “Sedona Ranch” subdivision in Yavapai County, but there is a “Sedona Ranch on Oak
12 Creek” subdivision.

13 13. The County admits the allegations in Paragraph 13 of the FAC. The County
14 affirmatively alleges that one corner of Sedona Ranch shares borders with the Global
15 property.

16 14. The County lacks knowledge or information sufficient to form a belief about
17 the truth of the allegations in Paragraph 14 of the FAC.

18 15. The County denies the allegations in Paragraph 15 of the FAC. The County
19 affirmatively alleges that the nearest parcel in Smoke Trail Ranch is approximately 750 feet
20 Southwest of the Global property and that the next nearest parcel approximately 1285 feet
21 from the Global property.

1 16. The County admits the allegations in Paragraph 16 of the FAC.

2 17. The County admits the allegations in Paragraph 17 of the FAC.

3 18. The County lacks knowledge or information sufficient to form a belief about
4 the truth of the allegations in Paragraph 18 of the FAC.

5 19. The County lacks knowledge or information sufficient to form a belief about
6 the truth of the allegations in Paragraph 19 of the FAC.

7 20. The County lacks knowledge or information sufficient to form a belief about
8 the truth of the allegations in Paragraph 20 of the FAC.

9 21. Regarding the allegations in Paragraph 21 of the FAC, the County admits that
10 the County’s zoning enforcement was subject to a public hearing at the Yavapai County Board
11 of Adjustment and Appeals (“BOAA”). The County denies that the BOAA voted
12 unanimously “to enforce its Zoning Ordinance and order Global to cease the Prohibited
13 Uses.” The County affirmatively alleges that the BOAA denied Global’s appeal of the
14 County’s zoning determination and the prior stipulation of the County and Global regarding
15 use of Global’s property.

16 22. Regarding the allegations in Paragraph 22 of the FAC, the County admits it
17 entered into a settlement agreement with Global Community Communications Alliance
18 (“Global”) to resolve litigation filed by Global. The settlement agreement includes various
19 provisions that affect the enforcement of the Ordinance, but the County denies that it acts as
20 a “consent” to “not enforce” the Ordinance. The County denies that negotiations and
21 settlement agreement were “secret.” The County lacks knowledge or information sufficient

1 to form a belief about Plaintiffs’ knowledge and denies the remaining allegations of Paragraph
2 22.

3 23. Regarding the allegations in Paragraph 23 of the FAC, the County admits that
4 approval of the Settlement Agreement was the subject of a meeting of the Yavapai County
5 Board of Supervisors (“Board”) on February 19, 2020 but denies that that the Settlement
6 Agreement was only “purportedly” the subject of that meeting.

7 24. Regarding the allegations in Paragraph 24 of the FAC, the County admits that
8 no specific terms of settlement were described in the February 19, 2020 Agenda but denies
9 any allegation in Paragraph 24 of the FAC that the terms of the settlement were statutorily
10 required to be placed on the agenda. The County affirmatively alleges that Agenda
11 sufficiently provided notice to allow the Board of Supervisors to take action including
12 settlement on that case.

13 25. The County denies the allegations of Paragraph 25 and further alleges that the
14 February 19, 2020 Board of Supervisors Meeting Agenda provided that the County could
15 “[c]onsider such action as may be required regarding . . . Global Community Communications
16 Alliance v. Yavapai County V1300CV201980189.” The County affirmatively alleges that
17 Agenda sufficiently provided notice to allow the Board of Supervisors to take action including
18 settlement on that case.

19 26. Regarding the allegations in Paragraph 26 of the FAC, the County admits that
20 no draft of the Settlement Agreement was made available for public inspection prior to the
21 February 19, 2020 Board meeting. The County lacks knowledge or information sufficient to

1 form a belief about Plaintiffs' knowledge.

2 27. Regarding the allegations in Paragraph 27 of the FAC, the County lacks
3 knowledge or information sufficient to form a belief about the truth of the allegations about
4 when Plaintiffs learned about the Settlement Agreement. The County denies that the
5 Settlement Agreement "was agreed to in secret."

6 **Count One**

7 28. The County hereby incorporates its foregoing responses by reference in
8 Response to paragraph 28 of the FAC.

9 29. The County admits the allegations in Paragraph 29 of the FAC.

10 30. The County admits the allegations in Paragraph 30 of the FAC.

11 31. The County admits the allegations in Paragraph 31 of the FAC.

12 32. The County admits the allegations in Paragraph 32 of the FAC and further
13 alleges that A.R.S. § 38-431.02(H) continues on to state that "[t]he public body may discuss,
14 consider or make decisions only on matters listed on the agenda *and other matters related*
15 *thereto.*" (emphasis added).

16 33. The County denies the allegations in Paragraph 33 of the FAC and alleges that
17 A.R.S. § 38-431.02(H) continues on to state that "[t]he public body may discuss, consider or
18 make decisions only on matters listed on the agenda *and other matters related thereto.*"
19 (emphasis added).

20 34. The County denies the allegations in Paragraph 34 of the FAC.

21 35. The County admits the allegations in Paragraph 35 of the FAC that quote a

1 portion of A.R.S. § 38-431-05 and further alleges that Plaintiff’s quotation incorrectly
2 suggests that the quoted portion is a complete sentence when, in fact, it continues with “except
3 as provided in subsection B.”

4 36. The County denies the allegations in Paragraph 36 of the FAC.

5 **Count Two**

6 37. The County hereby incorporates their foregoing responses by reference in
7 response to Paragraph 37 of the FAC.

8 38. The County lacks knowledge or information sufficient to form a belief about
9 the truth of the allegations in Paragraph 38 of the FAC.

10 39. The County lacks knowledge or information sufficient to form a belief about
11 the truth of the allegations in Paragraph 39 of the FAC.

12 40. The County lacks knowledge or information sufficient to form a belief about
13 the truth of the allegations in Paragraph 40 of the FAC.

14 41. The County lacks knowledge or information sufficient to form a belief about
15 the truth of the allegations in Paragraph 41 of the FAC.

16 **Affirmative Defenses**

17 1. The County affirmatively alleges that the Plaintiffs lack standing to bring
18 some or all of their claims against the County and therefore that the FAC fails to state a
19 claim upon which relief can be granted and the Court lacks subject matter jurisdiction.

20 2. The County affirmatively alleges that the FAC does not allege a legally
21 cognizable violation of the open meeting law and thus fails to state a claim upon which

1 relief can be granted.

2 3. The County affirmatively alleges that laches bar the claims against the
3 County.

4 4. Additional facts may be revealed by the future progress of this case which
5 support affirmative defenses available to, but unknown by, the County. Accordingly, the
6 County affirmatively alleges all applicable affirmative defenses pursuant to Rules 8 and 12 of
7 the Arizona Rules of Civil Procedure as though set forth fully herein.

8 **Relief**

9 Having fully answered the FAC and stating affirmative defenses, the County requests
10 entry of judgment denying any and all relief that Plaintiffs have requested against the
11 County, dismissing the County with prejudice, granting the County reasonable costs and
12 expenses of this actions, including attorneys' fees if appropriate, and granting such other
13 and further relief as the Court deems just and proper.

14 RESPECTFULLY SUBMITTED this 8th day of October, 2021

15 Sheila Polk
16 YAVAPAI COUNTY ATTORNEY

17 By: /s/ Benjamin D. Kreutzberg
18 Thomas M. Stoxen
19 Martin J. Brennan
20 Benjamin D. Kreutzberg
21 Deputy County Attorneys

1 COPY of the foregoing electronically served
this 8th day of October, 2021, to:

2

Scott L. Claus

3 Vail C. Cloar

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4 *Attorneys for Plaintiffs*

5 Anthony M. Misseldine

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6 *Attorneys for Global Community Communications Alliance*

7 By: /s/ Melinda Scocozza

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