

Property rights suit threatened in AZ

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County cut value of land with rezoning, owner says Lynh Bui

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CASA GRANDE - Landowner Greg Herbert says if Pinal County doesn't pay him for his property, he may sue.

The county Board of Supervisors recently changed the zoning of his property back to farmland, a move that Herbert says reduces the value of his 40-acre lot south of Casa Grande by more than half a million dollars.

Herbert plans to file a claim against the county for the loss under the 2006 voter-approved Private Property Rights Protection Act, which requires that landowners be compensated for their property if its value is reduced by a government agency.

Herbert, a contractor from Ahwatukee, bought the land just south of Interstate 8 after a friend who works in real estate showed him the lot. Thinking it would be a good investment, he planned to turn the piece of desert into an RV park.

"That was the game plan," Herbert said, until the county changed the zoning on his land.

"I just felt ripped off. I never dreamed that the government would do this to anybody."

Herbert's case is another example of how the state law, also known as Proposition 207, has pitted private-property interests against government entities that say they're trying to practice good urban planning.

Last fall, Pinal County officials started invoking a 2-decade-old clause attached to zoning cases that allows the Board of Supervisors to revert the zoning on land that has seen little or no development in 18 months.

Of the 29 cases reviewed, four, including Herbert's, had been "down-zoned."

County officials say the stipulation prevents speculative zoning and ensures that infrastructure and roads keep up with surrounding development.

When developers are granted zoning, they agree to put in sewers, roads and other infrastructure.

But if developers sit on their land, infrastructure that residents count on gets delayed, Pinal County Supervisor David Snider said.

Snider added that in some of the cases, zoning was granted to landowners almost 20 years ago. After two decades, things such as design standards, development patterns and land-use patterns change.

The ability to revert zoning allows the county to make sure developments keep up with the times, Snider said.

"Based on input from the city of Casa Grande and the merits, this zoning had been in place for 20 years with nothing happening, and no prospect of anything happening in the immediate future," Snider said about Herbert's case.

"City staff met with the applicant and expressed a very strong interest in not having that zoning continue. It was not in keeping with the city's general plan for that area."

Snider said he could not comment specifically on Herbert's Proposition 207 claim.

Herbert said he was making progress on getting a road built in the area, work that is now delayed with the recent zoning reversion.

Now, with his land zoned general rural, he can put only 32 RV lots on the land, as opposed to the 600 to 800 he might have been able to build before. He wants the county either to compensate him for the loss in value to his land or restore the zoning for an RV park.

Court Rich, Herbert's attorney, said the Proposition 207 claim would be filed with the county before considering a lawsuit.

"It was unbelievable," Rich said of Herbert's zoning reversion. "It was totally un-American. We don't think that there's any defense for this at all under Prop. 207. It's clear the county owes him for the diminished value of his property."

Source: <http://www.azcentral.com/news/articles/0210propertyrights0210.html>