

State of Arizona
COMMISSION ON JUDICIAL CONDUCT

Disposition of Complaint 19-253

Judge:

Complainant:

ORDER

October 16, 2019

The Complainant alleged a superior court judge failed to review his response and made improper rulings in an eminent domain matter.

The role of the Commission on Judicial Conduct is to impartially determine whether a judicial officer has engaged in conduct that violates the Arizona Code of Judicial Conduct or Article 6.1 of the Arizona Constitution. There must be clear and convincing evidence of such a violation in order for the Commission to take disciplinary action against a judicial officer.

The Commission does not have jurisdiction to overturn, amend, or remand a judicial officer's legal rulings. The Commission reviewed all relevant available information and concluded there was not clear and convincing evidence of ethical misconduct in this matter. The complaint is therefore dismissed pursuant to Rules 16(a) and 23(a).

Commission members Roger D. Barton and George H. Foster, Jr. did not participate in the consideration of this matter.

Copies of this order were distributed to all appropriate persons on October 16, 2019.

2019 - 253

COMPLAINT AGAINST A JUDGE

Name: _____ Judge's Name: _____

Instructions: Use this form or plain paper of the same size to file a complaint. Describe in your own words what you believe the judge did that constitutes judicial misconduct. Be specific and list all of the names, dates, times, and places that will help the commission understand your concerns. Additional pages may be attached along with copies (not originals) of relevant court documents. Please complete one side of the paper only, and keep a copy of the complaint for your records.

Case Background

Pages of Exhibit: On the City Council approved a Resolution condemning private property, hereafter called the "_____".

The _____ area is not true as I am not the property owner. The City of _____ never contacted the actual property owner for condemnation and thus never had the "_____" with "_____" as falsely stated in their Resolution. This is in violation of Arizona law, Statutory Prerequisites A.R.S. 12-1111 through 12-1129. (This document containing this falsehood was used by attorney _____ on _____ in _____ County _____ Court as "_____" in his argument to _____ Court Judge _____ that his Immediate Possession Eminent Domain condemnation of the Subject Property was legal. See Page _____ of Exhibit below.)

Page _____ of Exhibit: Based upon the falsity contained in the City Councils _____ Resolution, on _____ the _____ filed an improper lawsuit against me for Eminent Domain condemnation for land that I do not own. At number _____ again falsely states that I am the owner of the Subject Property. At number _____ cites the _____ City Councils _____ Resolution that triggered the improper lawsuit against me.

Page _____ of Exhibit: On _____ an Order To Show Cause was improperly filed against me in order to take "_____" that I do not own while failing to properly notify the actual owner of the Subject Property as required by Arizona law.

Page _____ of Exhibit: The Order for Immediate Possession of the Subject Property given to me by _____ in _____ Court to be approved and signed by _____ Court Judge _____ on _____ Number _____ in _____ is not true. _____ never contacted the owner of the Subject Property as he is required to do by Arizona law.

Pages _____ of Exhibit: My _____ Response to _____ Order to Show Cause that was improperly served to me. Pages _____ in _____ summarize the fact that _____ never contacted the Subject Property owner as required to do by law to pursue Eminent Domain and had knowingly breached a redaction awarded to me by a _____ Court Judge due to safety concerns.

Complaint Against Judge

At the _____ hearing in my Response to Show Cause, Judge _____ admitted that he did not _____ In my testimony, I told Judge _____ that I was not the owner of the Subject Property, and that the City _____ had filed an improper lawsuit for Eminent Domain condemnation against me as the property owner. I further told Judge _____ that the City had not contacted the Subject Property's owner. Judge _____ admitted that the "_____" was at the hearing. As I had written in my Response that the Judge failed to read, I told Judge _____ several times that the City _____ was violating Arizona state law per Statutory Prerequisites A.R.S. 12-1111 through 12-1129. After not reading my evidence contrary to the City's false claims, and apparently not believing my testimony that I was not the Subject Property owner and that the City's actions were improper, Judge _____ knowingly signed an Order for Immediate Possession of the Subject Property, without the _____ in _____ violation of state law.

Judge _____ to read my Response rebutting the City _____ falsehoods and his complicity in the City's wrongful taking of private property is the focus of my complaint.

CONFIDENTIAL

Arizona Commission on Judicial Conduct
1501 W. Washington Street, Suite 229
Phoenix, Arizona 85007

FOR OFFICE USE ONLY

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RESOLUTION NO.

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY
COUNTY, ARIZONA, APPROVING THE USE OF EMINENT DOMAIN TO
ACQUIRE PROPERTY NECESSARY FOR THE DRAINAGE
IMPROVEMENTS.

RECITALS:

WHEREAS, the City must improve the drainage on
by constructing new City infrastructure; and,

WHEREAS, a parcel of private property must be acquired by the complete
the project; and,

WHEREAS, despite lengthy negotiations the City and the Owner of the private
property required for the project have been unable to reach a mutually acceptable
agreement; and

WHEREAS, the City has considered alternatives available to it, have balanced the
public good and the private injury resulting from the acquisition of the property and have
determined that locating the public improvements on the property results in the greatest
public good and the least private injury.

ENACTMENTS:

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY
AS FOLLOWS:

Section 1 THAT the City finds the property depicted in Exhibit "A" to be
necessary for a public purpose, namely the construction of critical infrastructure.

Section 2 THAT, the City Legal Department is authorized to acquire
the property required for this project through the eminent domain process.

Section 3 THAT, the Mayor and Staff are hereby authorized to take any and all
steps deemed necessary to accomplish the above.

Section 4 THAT by approving this Resolution authorizing the acquisition of the
real property described in Exhibit A, the City accepts the dedication of said property as of
the date of recordation of the executed deed[s].

RESOLUTION NO.

PAGE 2

PASSED AND ADOPTED by the Mayor and Council of the City

this _ day of

ATTEST:

APPROVED AS TO FORM:

CERTIFICATION OF RECORDING OFFICER

STATE OF ARIZONA
County

)
) ss.

I, the undersigned _____ being the duly appointed, qualified City Clerk of the
City _____ County, Arizona, certify that the foregoing Resolution
_____ is a true, correct and accurate copy of Resolution No _____ passed and
adopted at a Voting Meeting of the Council of the City _____ County,
Arizona, held on the _____ day of _____, at which a quorum was
present and, by a _____ vote, _____ voted in favor of said resolution.

_____ hand and sealed this _____ day of

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Attorney for Plaintiff

IN THE COURT OF THE STATE OF ARIZONA
IN AND FOR THE COUNTY OF

)	No.
)	
	Plaintiff,)	
v.)	COMPLAINT
)	
)	
)	
	Defendants.)	

The City (" "), by and through counsel undersigned, for its complaint against defendant alleges:

1. The City is a _____ authorized to and doing business in _____ County, AZ.
2. Defendant is the _____ of a legal entity authorized to and doing business in _____ County, AZ.
3. Jurisdiction and Venue are appropriate with this Court.
4. This condemnation action is brought under the provisions of A.R.S. § 12-1111(4)
5. Defendant is believed to be the owner of a parcel of land described by the attached Exhibit "A".
6. The City is a _____ of the State of Arizona which has the power to bring condemnation proceedings under A.R.S. 12-1111(4).
7. On _____ the City's Council passed a Resolution which authorizes and directs

**THE COMMISSION'S POLICY IS
TO POST ONLY THE FIRST FIVE
PAGES OF ANY DISMISSED
COMPLAINT ON ITS WEBSITE.**

**FOR ACCESS TO THE
REMAINDER OF THE
COMPLAINT IN THIS MATTER,
PLEASE MAKE YOUR REQUEST
IN WRITING TO THE
COMMISSION ON JUDICIAL
CONDUCT AND REFERENCE
THE COMMISSION CASE
NUMBER IN YOUR REQUEST.**