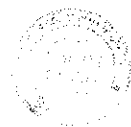


COPY

1 Steven C. Mahaffy, ASBN. 022934
2 MAHAFFY LAW FIRM, P.C.
3 PO Box 12959
4 Chandler, Arizona 85248
5 Phone: 480-659-7180
6 Fax: 480-659-5614
7 steve@mahaffylaw.com



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Attorneys for Plaintiffs

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

GERALD FREEMAN and JANICE FREEMAN,
husband and wife,

Plaintiffs,

v.

TOWN OF CAVE CREEK, a municipal corporation
of the State of Arizona; and CAHAVA SPRINGS
CORP, a corporation of the State of Minnesota;
DONALD R. SORCHYCH and SHARI JO
SORCHYCH, husband and wife;

Defendants.

CV2012-092643

Case No.

**COMPLAINT/APPLICATION FOR
DECLARATORY JUDGMENT
(A.R.S. §12-1832);
COMPLAINT FOR
INJUNCTIVE RELIEF AND
APPLICATION FOR TEMPORARY
RESTRAINING ORDER**

Plaintiffs Gerald and Janice Freeman, for their Complaint/Application for Declaratory
Judgment, and Complaint for Injunctive Relief and Application for Temporary Restraining Order,

allege as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiffs Gerald and Janice Freeman ("Freemans") are husband and wife whose primary
residence is 4856 East Morning Star Road in Cave Creek, Maricopa County, Arizona and as such
are dominant easement owners of an easement which traverses, in relevant part, property owned
by defendant Cahava Springs, Corp. Attached hereto and incorporated herein as Exhibit "A" is a

1 copy of the Freemans and Sorchychs' predecessor in interest, special warranty deed which
2 contains the easement description.

3 2. Defendant, Town of Cave Creek ("Town"); is an Arizona municipal corporation;

4 3. Defendant, Cahava Springs Corp., (hereinafter "Cahava") is a Minnesota corporation,
5 which owns real property in Maricopa County, Arizona.

6 4. Defendants Donald and Shari Jo Sorchych are husband and wife whose primary residence
7 is 5000 East Morning Star Road in Cave Creek, Maricopa County, Arizona and as such are
8 dominant easement owners of an easement which traverses, in relevant part, property owned by
9 defendant Cahava Springs, Corp. This Court has jurisdiction over the subject matter of this action
10 and jurisdiction over each of the parties.

11 5. Venue is proper in this Court.

12 **GENERAL ALLEGATIONS**

13 6. The Freemans, Sorchychs and Cahava are neighboring landowners of multiple- acre,
14 parcels in rural Cave Creek, Maricopa County, Arizona. Freemans and Sorchychs reside on their
15 property and Cahava property sits vacant.

16 7. Freemans and Sorchychs are dominant tenements of an easement which is physically
17 located upon the land of Cahava; thus, Cahava is a servient tenement regarding the easement.
18 Freemans and Sorchychs use the easement, which is the gravamen of this declaratory judgment
19 action, as exclusive means of ingress and egress to their respective homes.

20 8. Freemans have not given the Town permission to use the roadway easement. Upon
21 information and belief, Sorchychs have not given Town permission to use the roadway easement,
22 and as such, Sorchychs are joined to this lawsuit so they are bound by the ruling of this Court. If it
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1 is subsequently learned that Sorchych has given or attempted or attempts to give permission to
2 any third party, including the Town, to use the roadway easement, this Complaint will be
3 amended accordingly.

4 10. The central characteristics of this rural, desert neighborhood are quiet and beauty.
5 The mountains are close but the views are glorious; the desert plants are lush and plentiful, the
6 rocks loom, the hawks soar, the homes are set a good distance apart; horses are a part of this rural
7 landscape; however, what you notice first, is quiet.

8 11. The used portion of the roadway easement is approximately 8 feet in width, covered
9 with compacted, decomposed granite. Some portions of the roadway easement are bordered by
10 cliffs which are nearly 50 feet sheer drops, making it extremely dangerous when a car meets
11 oncoming foot, horse, or vehicle traffic. The roadway is not passable by two cars simultaneously.
12 In such a situation, one car is required to pull over into the drainage ditch to allow another to pass;
13 however, if a car goes too far into the ditch, the decomposed granite collapses. The ditches are
14 necessarily deep, and often times will require a bull-dozer or other powerful piece of equipment to
15 remove the vehicle. Similarly, horses and cars cannot pass simultaneously. Again, one party
16 necessarily has to leave the roadway so that the other may pass.

17 12. Freemans have paid for all roadway maintenance on the easement since 1991.
18 Neither Cahava, nor Sorchych nor the Town have paid Freemans *anything* for roadway
19 maintenance. (Freemans are currently in a lawsuit against Sorchych seeking contribution for
20 roadway maintenance. *See Maricopa County case number CV 2005-051885*).

21 13. This roadway easement is the sole means of ingress and egress for Freemans and
22 Sorchychs. Freemans and Sorchychs are the only consistent roadway easement users; all other
23 uses are at the discretion of Freemans and Sorchychs. (There are other property owners in the area
24 who are considered dominant tenants; however, those properties are vacant land).

1 14. In addition to the property Cahava owns over which the easement traverses, Cahava
2 owns approximately 1000 acres which were to be developed by Cahava. Because of the downturn
3 in the economy/market Cahava's development plans were shelved. Some time ago, Cahava gave
4 80 acres to the Town; on March 19, 2012 Cahava gave 130 acres to the Town and the Town
5 "paid" Cahava's delinquent county taxes in the amount of \$170,000. Apparently, Cahava gave
6 Town the property as an "open space initiative."

7 15. Recently, Cahava also gave the Town permission to use Cahava's property to create
8 a "bridle path." The Town has created several bridle paths throughout rural Cave Creek which are
9 pathways used for horse-back riding, pedestrians and bicycles. These bridle paths are heavily used
10 and require significant maintenance and upkeep.

11 16. Cahava, as a servient tenement, has recently entered into a "license agreement" with
12 the Town ostensibly for the purpose of allowing Town to enter Cahava property to "survey" the
13 location of the bridle path; however, the Town has used the roadway easement without Freemans'
14 permission. The Town's use has unreasonably interfered with Freemans' use.

15 17. Freemans have not and will not give or grant the Town permission to use their
16 roadway easement as part of the bridle path.

17 18. As the servient tenement, Cahava has no legal ability to give permission to a third
18 party, including the Town, to use Freemans' easement; nevertheless, Cahava continues to insist
19 that it can give permission to the Town to use the existing easement for use by the public as a
20 bridle path.

21 19. Cahava, as the servient tenement, has recently given the Town permission to use
22 Freemans' roadway easement to be a part of the bridle path and the Town is using the easement.

23 20. Town employee Bambi Muller informed the Freemans that the Town intends to use
24 the Freemans' easement for purposes of a so-called "bridle path." Ms. Muller further informed
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1 Mr. Freeman that Cahava, the servient tenement, gave the Town verbal permission to “do
2 whatever they wanted” on the land of Cahava. The Town intends to use the easement as a bridle
3 path as a connection from the east side of Cave Creek to the west side of Cave Creek.

4 20. Upon learning the intentions of the Town, and after seeing unauthorized users on
5 the easement, Freemans caused a Notice of Trespass to be served upon the Town, which satisfies
6 the notice requirements of A.R.S. §13-1502, Criminal Trespass. That Notice stated that the Town
7 was

8 “ . . . EXPRESSLY PROHIBITED from entering upon the easement of Gerald and Janice
9 Freeman (a diagram showing the physical location of the easement is attached)(the express
10 grant of easement is contained in the Freeman’s deed which is publically available at the office
11 of the Maricopa County Recorder).” A copy of the Notice of Trespass is attached hereto and
12 incorporated herein as Exhibit “B.”

13
14 22. Thereafter, Cahava granted the Town a license for 90 days, ostensibly to “survey;”
15 however, the Town has marked the bridle path which markings lay directly on the easement. The
16 obvious intent of the Town is to use the easement, of which Freemans are the dominant tenement,
17 without any permission whatsoever from Freemans. The 90 day license was a ruse to get around
18 the Notice of Trespass which was served upon the Town.
19

20 23. Cahava does not have the legal authority to give permission to anyone to use the
21 Freemans’ easement as Freemans are the dominant tenement and Cahava is the servient tenement.

22 24. Cahava, as the holder of the servient estate has a duty to not interfere unreasonably
23 with the Freemans’ use and enjoyment of their easement. Further, an appurtenant easement may
24 not be used for the benefit of property other than the dominant estate.
25

26 25. Interference with an easement is a form of trespass; consequently, Freemans are
27 entitled to equitable relief against trespassers who interfere with their enjoyment of the servitude.
28

1 26. Additionally, an easement holder, as the owner of a property interest, is entitled to
2 protection from acts of third parties, such as the Town and the public, that interfere with their
3 enjoyment of the easement.

4 28. The actions of the Cahava and Town and its stated intent of using the easement for a “bridle
5 path” will unreasonably interfere with the Freemans’ use and enjoyment of the easement; will
6 make it much more difficult and more expensive to maintain and repair the easement; will greatly
7 increase the risk of liability; and is an unlawful taking.

8 29. Pursuant to Arizona Law, Freemans are entitled to injunctive relief and any and all other
9 remedies available at law or in equity.

10 30. Freemans, as persons who are successors in interest of their Grantor, seek determination
11 from this Court of a question of the law in Arizona, as follows:

- 12 • That the holder of a servient estate has a duty to not interfere unreasonably with the use and
13 enjoyment of the easement.
- 14 • That actions which make it more difficult to use an easement, actions that interfere with the
15 ability to maintain and repair the use and enjoyment of the easement, or that increase the risks
16 attendant to exercise of rights created by the easement are prohibited.
- 17 • That the holder of an easement is entitled to use the servient estate in a manner that is
18 reasonably necessary for the convenient enjoyment of the servitude.
- 19 • That the easement is an appurtenant easement and that an appurtenant easement may not be
20 used for the benefit of property other than the dominant estate.
- 21 • That the Town’s use of the private easement for public purposes is a taking.

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26 **COUNT I**
27 **(Declaratory Judgment, A.R.S. §12-1832)**
28

1 1. Plaintiffs reallege all previous allegations in this Complaint and incorporate them herein by
2 this reference.

3 2. There exists a real and justiciable controversy between Freemans, Sorchychs, Cahava and
4 the Town, regarding whether or not Cahava and the Town may use the Freemans' exclusive
5 easement and whether or not Defendant Cahava and/or Defendant Sorchych may give permission
6 to third parties, such as the Town and the public, to use the Freemans' exclusive easement.

7 3. The Freemans have a definite interest, as successors in interest of the Grantor, in their right
8 to the enjoyment and use without interference from Cahava, the Town, the public, Sorchychs, ,
9 and all other persons from using the easement for any purpose.

10 4. Cahava has denied the Freemans of their right to exclusive use their driveway which is
11 located upon the exclusive easement.
12

13
14 **COUNT TWO**
15 **Writ Of Injunction - A.R.S. §12-1801**

- 16 1. Plaintiffs incorporate by reference each and every allegation as if fully set forth herein.
17 2. Defendants' behavior is reasonably expected to continue to occur based upon the past
18 conduct and because the Town has announced, as reported by the Arizona Republic, that
19 Cahava will gift the easement to Town for the bridle path.
20 3. Based on Defendants' conduct, a substantial, material and actual injury to Freemans exists.
21 This Court should enjoin Defendants, and all of them, temporarily, preliminarily and
22 permanently from further harming Freemans by trespassing upon their exclusive easement
23 and from continuing construction of the bridle path.
24

25 **COUNT THREE**
26 **Private Nuisance**

- 27 1. Plaintiffs incorporate by reference each and every allegation as if fully set forth herein.
28

- 1 2. Defendants have the duty to not interfere with Plaintiffs' private right of the use and
2 enjoyment of their easement;
- 3 3. By their actions aforesaid, Defendants have adversely affected Plaintiffs in the use and
4 enjoyment of their easement. As such Defendants have breached their duty to Plaintiffs.
- 5 4. By their actions aforesaid, defendants have damaged Plaintiffs in an amount to be proved at
6 trial.

7
8 **RELIEF REQUESTED**

9 **Declaratory Judgment**

- 10 1. Pursuant to A.R.S. § 12-1832, the Freemans seek a determination and declaration of the
11 law in Arizona, and their rights under the Special Warranty Deed with the easement
12 reservation, a declaratory judgment from this Court declaring that:
- 13 a) That the holder of a servient estate has a duty to not interfere unreasonably with the use and
14 enjoyment of the easement.
- 15 b) That actions which make it more difficult to use an easement, actions that interfere with the
16 ability to maintain and repair the use and enjoyment of the easement, or that increase the risks
17 attendant to exercise of rights created by the easement are prohibited.
- 18 c) That the holder of an easement is entitled to use the servient estate in a manner that is
19 reasonably necessary for the convenient enjoyment of the servitude.
- 20 d) That the easement is an appurtenant easement and that an appurtenant easement may not be
21 used for the benefit of property other than the dominant estate.
- 22 e) That the Town's use of the private easement for public purposes is a taking.
- 23
- 24 2. Pursuant to A.R.S. § 12-1838, if this Complaint/ Application be deemed sufficient, the
25 Court should, on reasonable notice, require Defendants to appear and show cause why
26 further, supplemental relief should not be granted forthwith, in the interests of justice.
- 27
28

1 3. Pursuant to A.R.S. § 12-1840, Freemans seek an award of costs incurred in the prosecution
2 of this action as this Court may determine are equitable and just.

3 4. Freemans also seek:

- 4 A. Compensatory damages according to proof;
- 5 B. Injunctive relief, temporary and permanent, as prayed;
- 6 C. Punitive damages, against those defendants for which it is available, as Defendants’
7 conduct was/is gross, wanton, willful, and malicious;
- 8 D. Costs and attorneys’ fees;
- 9 E. Pre- and post-judgment interest;
- 10 F. Any other relief needed to provide Freemans with a complete remedy including the
11 following:
12

13 **Injunctive Relief -Temporary and Permanent**

14 **A. Temporary Restraining Order.**

15 That the Court issue an immediate Temporary Restraining Order, without the requirement
16 to deliver notice to the Defendants prior to effect, preventing the Defendants, and each of them and
17 their officers, agents, servants, employees, attorneys, and all persons in active concert or
18 participation with them and each of them from entering upon and/or from trespassing upon the
19 easement, and specifically to Cahava from granting any third party, including Town, from entering
20 upon and/or using, and/or constructing a bridle path upon the easement and specifically to Town
21 from entering upon the easement or allowing or encouraging any person on behalf of Town to
22 enter upon the easement or constructing a bridle path upon the easement.
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25 **B. Records Preservation and Expedited Discovery**

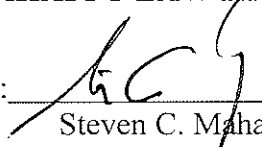
1 That the Court Issue an Order requiring Defendants to preserve any and all records related
2 to the subject matter of this request that are in their custody, possession or subject to their control,
3 and to respond to discovery on an expedited basis.

4 **C. Preliminary Injunction**

5 That the Court issue a preliminary injunction, upon notice preventing the Defendants, and
6 each of them and their officers, agents, servants, employees, attorneys, and all persons in active
7 concert or participation with them and each of them from entering upon and/or from trespassing
8 upon the easement, and specifically to Cahava from granting any third party, including the Town,
9 from entering upon and/or using, and/or constructing a bridle path upon the easement and
10 specifically to Town from entering upon the easement or allowing or encouraging any person on
11 behalf of Town to enter upon the easement or constructing a bridle path upon the easement.
12

13 Respectfully submitted this 13th day of April, 2012.

14 **MAHAFFY LAW FIRM, P.C.**

15
16 By: 
17 Steven C. Mahaffy
18 Mahaffy Law Firm, PC
19 P. O. Box 12959
20 Chandler, Arizona 85248
21 Phone: (480) 659-7180

22 Attorneys for Plaintiffs

23 **VERIFICATION**

24 I, Gerald Freeman, Plaintiff herein, do state under the penalty of perjury that I have read the
25 above Complaint, that I know the contents thereof, and that it is true of my own knowledge,
26 except the matters stated therein on information and belief, and that as to those matters, I believe
27 the Complaint to be true.

28 Dated this 13 day of April, 2012.


Gerald Freeman, Plaintiff

COMPLAINT/APPLICATION FOR DECLARATORY JUDGMENT
(A.R.S. §12-1832); COMPLAINT FOR
INJUNCTIVE RELIEF AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER

EXHIBIT "A"

Unofficial Document

STATE OF ARIZONA
COUNTY OF **MARICOPA** Hereby certify that the within instrument was filed
in DOCKET and indexed in DEEDS

at the request of
When recorded, mail to:
Alan Simberloff
954 Westminister Avenue
Hillside, NJ 07205

Witness my hand and official seal.

County Recorder

Compared
Photostated
Fee:

By

Deputy Recorder

201-771606 V3

SPECIAL

WARRANTY DEED

For the consideration of Ten Dollars, and other valuable considerations, **BARKER ENTERPRISES, LTD.**, an Arizona Limited Partnership

hereafter called the Grantor, whether one or more than one, conveys to **ALAN SIMBERLOFF**, a married man, as his sole and separate property

the following real property situated in **Maricopa** County, Arizona, together with all rights and privileges appurtenant thereto, to wit:

The North half of the Northwest quarter of Section 17, Township 6 North, Range 4 East of the Gila and Salt River Base and Meridian, Maricopa County, Arizona;
TOGETHER with an easement for existing roadway as it existed on October 2, 1969 across the North half of the North half of the South half of the Northwest quarter, the South half of the North half of the South half of the Northwest quarter, and the North half of the South half of the South half of the Northwest quarter of said Section, as reserved in instruments recorded in Docket 7870, pages 605, 607 & 610, Records of Maricopa County, Arizona;
EXCEPTING from the land described herein all the coal and other minerals in the land, as reserved unto the United States in Patent of said land, pursuant to the provisions and limitations of the Act of December 29, 1961 (39 Stat., 862).
Reserving unto the Grantor herein an exclusive easement for ingress, egress, utilities and water lines over the South 33 feet of the within described property.

Trust disclosure attached and by reference made a part hereto.

Subject to current taxes and other assessments, reservations in patents and all easements, rights of way, encumbrances, liens, covenants, conditions, restrictions, obligations, and liabilities as may appear of record, Grantor warrants the title onl. as to the acts of the Grantor herein.

Dated this 26 day of May, 19 83
BARKER ENTERPRISES, LTD., an Arizona Limited Partnership
First Interstate Bank of Arizona, N.A.
as Co-Trustee, General Partner
By: Warren Ralph V.P.
Warren Ralph, Vice President
By: Kay F. Smith
Kay F. Smith, Asst. Trust Officer

Clark J. Barker III
Clyde J. Barker, III, Co-Trustee, General Partner

Recorded in official records of Maricopa County, Arizona
STATE OF ARIZONA)
DATE JUL 20 1983-12 00 FFF 70 PGS 3
County of Maricopa) ss BILL HENRY, COUNTY RECORDER 14

On this the 15th day of July, 19 83, before me, the undersigned officer, personally appeared Warren Ralph and Kay F. Smith, who acknowledged themselves to be Vice President and Assistant Trust Officer, of FIRST INTERSTATE BANK OF ARIZONA, N.A., a national banking association, and as such officers being authorized so to do, executed the foregoing instrument for the purpose therein contained, by signing the name of the association by themselves as such officer.

IN WITNESS WHEREOF, I hereto set my hand and official seal.
Gloria A. Cook
Notary Public

My commission expires:
December 5, 1985

83 284470

Pursuant to Section 33-401 ARS, the beneficiaries and their addresses are:

Clyde J. Barker III
7211 W. Angela Avenue
Peoria, AZ 85345

John A. Barker
7211 W. Angela Avenue
Peoria, AZ 85345

James D. Barker
7211 W. Angela Avenue
Peoria, AZ 85345

G. Sharon Anderson
PO Box 481
Normon Lake, AZ 86035

Unofficial Document

Christine S. Anderson
PO Box 481
Normon Lake, AZ 86035

Curtis R. Anderson
PO Box 481
Normon Lake, AZ 86035

COMPLAINT/APPLICATION FOR DECLARATORY JUDGMENT
(A.R.S. §12-1832); COMPLAINT FOR
INJUNCTIVE RELIEF AND APPLICATION FOR TEMPORARY
RESTRAINING ORDER

EXHIBIT "B"



MAHAFFY LAW FIRM, P.C.

PHONE 480.679.1120
FAX 480.679.9671

March 2, 2012

Town of Cave Creek – Town Council
c/o Marlene Pontrelli, via email only: Marlene.Pontrelli@mwmf.com
Mariscal, Weeks, McIntyre & Friedlander
2901 N. Central Avenue, Suite 200
Phoenix, AZ 85012

Notice of Trespass

*To: Town of Cave Creek, municipal entity, and all persons wherever situated; You are hereby **EXPRESSLY PROHIBITED** from entering upon the easement of Gerald and Janice Freeman (a diagram showing the physical location of the easement is attached)(the express grant of easement is contained in the Freeman's deed which is publically available at the office of the Maricopa County Recorder)*

Dear Mayor of the Town of Cave Creek and its Council,
(sent in care of your attorney, Marlene Pontrelli):

I write as attorney for Gerald and Janice Freeman and regarding their easement for ingress and egress which, in part, traverses property owned by Cahava Springs, Corp., (hereinafter "Cahava"). The purpose of this letter is to give Notice that the Town of Cave Creek and all persons are hereby expressly prohibited from entering upon the easement of Gerald and Janice Freeman.

This Notice satisfies the notice requirement of A.R.S. §13-1502, Criminal Trespass. From the date of this letter forward any Town of Cave Creek employee, representative, agent or anyone acting on your behalf will be reported to the appropriate law enforcement authority for prosecution to the fullest extent of the law. I am informed that Town of Cave Creek employees have been traveling on the Freemans' easement while performing work on Cahava property for a bridle path which is planned. Any and all use of the Freemans' easement by the Town of Cave Creek *must stop immediately*.

Town of Cave Creek employee Bambi Muller, informed the Freemans that the Town intends to use the Freemans' easement for purposes of a so-called "bridle path." Ms. Muller further informed Mr. Freeman that Cahava, the servient tenement, gave the Town of Cave Creek verbal permission to "do whatever they wanted" on the land of Cahava.

Town of Cave Creek – Town Council
c/o Marlene Pontrelli
March 2, 2012
Page 1 of 3

Whether and what Cahava actually gave permission to do will be a matter for another day; however, what Cahava *did not do* is give permission to anyone to use the Freemans' easement. Cahava does not have the legal ability to give permission to anyone to use the Freemans' easement and more importantly, no one, not even Cahava, can create an easement without complying with the statute of frauds.

I remind you that Freemans are the dominant tenement and Cahava is the servient tenement as regards the easement at issue. In Arizona and throughout the nation, the rule is that the holder of the servient estate has a duty not to interfere unreasonably with the use and enjoyment of the easement. Similarly, actions that make it more difficult to use an easement, actions that interfere with the ability to maintain and repair improvements built for its enjoyment, or that increase the risks attendant on exercise of rights created by the easement are prohibited. The holder of an easement is entitled to use the servient estate in a manner that is reasonably necessary for the convenient enjoyment of the servitude. Further, an appurtenant easement may not be used for the benefit of property other than the dominant estate. *See for example, Restatement of the Law, Third, Property (Servitudes) Sections 4.9; 4.10 and 4.11 and comments thereunder.*

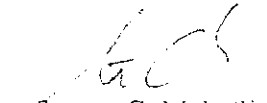
Interference with an easement is a form of trespass; consequently, Freemans are entitled to equitable relief against trespassers who interfere with their enjoyment of the servitude. Since interference with an easement may cause a diminution in the value of the dominant estate, courts may award compensatory damages to the easement holder together with or in lieu of an injunction. If the interference is aggravated, or in reckless disregard of the dominant owners' rights, punitive damages may be allowed. Additionally an easement holder, as the owner of a property interest, is entitled to protection from acts of third parties that interfere with enjoyment of the easement. Such protection is available against third parties [Town of Cave Creek] to the same extent that it is available against the servient estate owner. *See for example: The Law of Easements & Licenses in Land section 8:32 and 8:33. See also: Kao v. Haldeman, 728 A.2d 345 (Pa. 1999) (easement holder entitled to injunction against unauthorized intrusion on the roadway by third persons).* Quite obviously, your actions and stated intent of using the easement for a "bridle path" will unreasonably interfere with the Freemans' use and enjoyment of the easement. It will also make it more difficult and more expensive to maintain and repair the easement and will increase risks. As such you are *expressly prohibited* from using the easement. Furthermore, given that your letter of December 2012, which requested gift deeds of a 33 foot easement, resulted in only one person, Donald Sorchych, gifting his property to you for purposes of the bridle path, your unilateral interference with the Freemans' easement appears to be in reckless disregard of the Freemans' rights.

If you do not immediately stop using the easement and provide me written assurances of such cessation before Tuesday, March 6, 2012 at 11:00 a.m. then I will seek a temporary and permanent restraining order, damages, and attorney fees against the Town of Cave Creek, restraining The Town of Cave Creek from entering upon and continuing to damage the Freemans' easement. If I do not hear from you or your attorney by before

Tuesday, March 6, 2012 at 11:00 a.m., I will also assume that The Town of Cave Creek does not require notice prior to my obtaining an ex-parte temporary restraining order.

Very truly yours,

Mahaffy Law Firm, PC

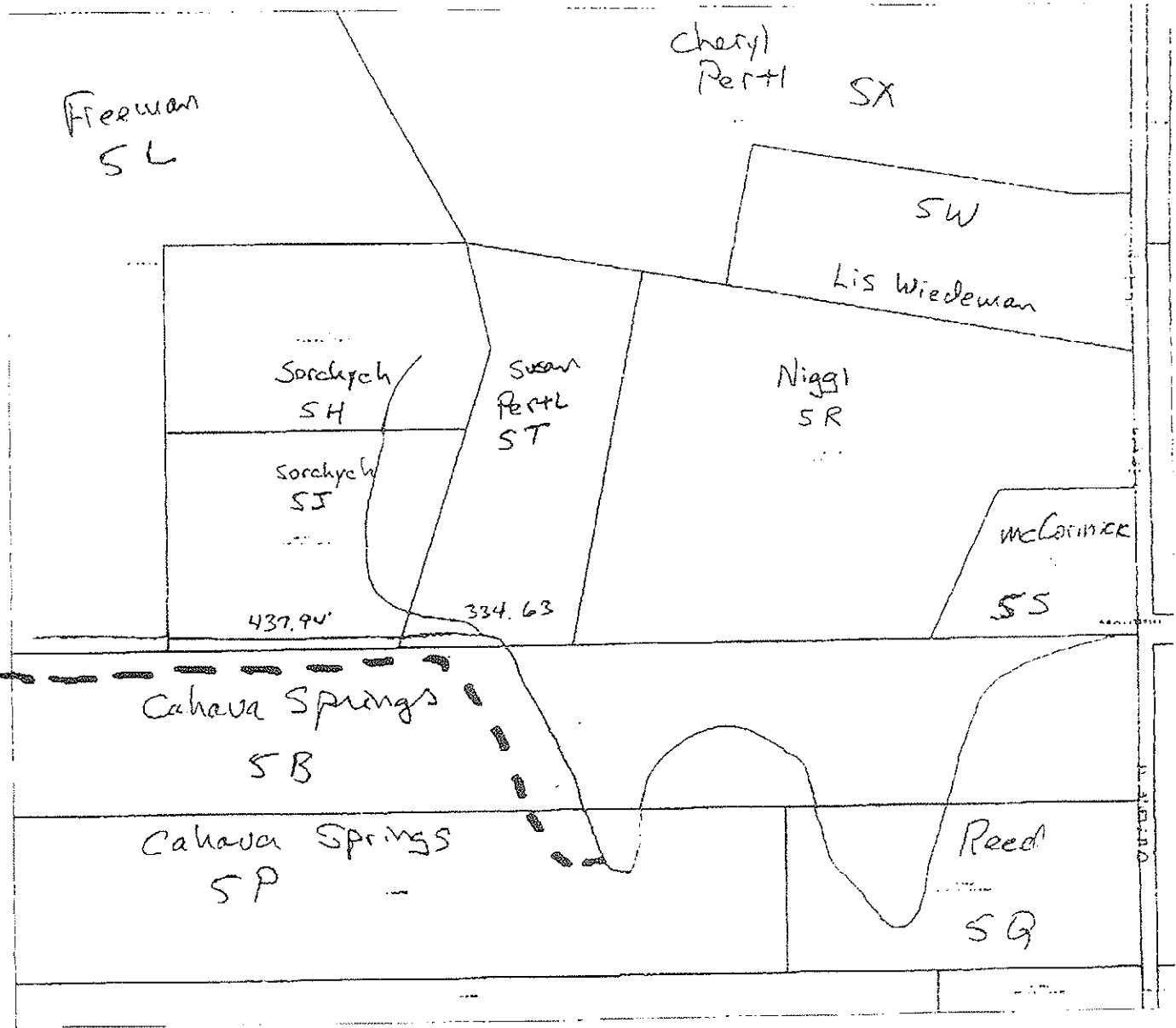


Steven C. Mahaffy

Enclosure

c. Gerald and Janice Freeman
Stephen Anderson, Esq. for Cahava *via* email only

County Parcels



--- "Bridle Path"