

Beaver Valley Water Company Legal Dispute Timeline

Mr. Armstead has claimed in the past that he owns Beaver Valley Improvement Association's property and the former fire station building. These claims have been made to Beaver Valley residents as well as representatives of several state and local governments. In this regard, he has gone as far as fraudulently obtaining a demolition permit from Gila County to demolish the former fire station building. The Beaver Valley Improvement Association Board of Directors was directed by Gila County zoning personnel to engage attorneys to resolve ownership issues. The Board is legally bound to protect the Association's real property. Until Mr. Armstead relinquishes his false claims regarding ownership of Association property or the Courts make the declaration of ownership and quiet the title to the property, this dispute will continue.

<u>Date</u>	<u>Event</u>
May 22, 2017	Mike Armstead acquired Beaver Valley Water Company from Mike Davoren, the previous owner.
May 24, 2017	Andy Tobin of the Arizona Corporation Commission (ACC) held a public meeting at the Beaver Valley Volunteer Fire Station to discuss Beaver Valley Water Company outages, water quality and customer service issues.
July 1, 2017	Beaver Valley Volunteer Fire Department merged with a number of local volunteer fire departments to form Water Wheel Fire & Medical District under the leadership of Chief Ron Sattelmaier.
June 25, 2018	Emery Layton of Engineered With Layton (EWL) made a site visit to Beaver Valley Water Company facilities as requested and funded by the Arizona Department of Environmental Quality to ascertain system improvement needs and recommend upgrades.
July 13, 2018	Beaver Valley Water Company implemented Stage 4 water conservation measures to limit water usage in the community. Beaver Valley Water Company initiated hauling of potable water from other supply sources.
July 19, 2018	Beaver Valley Improvement Association (BVIA) received notice from Chief Ron Sattelmaier revealed that in part due to ongoing property boundary issues with Beaver Valley Water Company revealed after consolidation of the fire departments, Water Wheel Fire & Medical planned to remove all firefighting equipment from the Beaver Valley Facility and return ownership of the fire station to BVIA per terms of the deed that transferred the property to the Fire District in 1998.
August 8, 2018	Beaver Valley Water Company (BVWC) applied to the ACC for an Emergency Rate Surcharge to recover costs associated with hauling potable water.
August 24, 2018	The ACC held a public hearing to discuss Beaver Valley Water Company's request for an Emergency Rate Surcharge. A number of Beaver Valley residents attended the meeting and one testified with a request for ACC help in obtaining adequate supplies of good quality water for residents. ACC approved the Emergency Rate Surcharge to be recovered over a period of 12 months.

- September 1, 2018 Mike Armstead handed out copies of a proposed 50 year lease agreement for the third bay of the former fire station to a number of Beaver Valley residents with a written proposal to lease the fire station building for the purpose of building and operating a water treatment plant”.
- September 13, 2018 Ownership of the former Beaver Valley Volunteer Fire Department station was formally transferred back to BVIA by Warranty Deed.
- October 6, 2018 BVIA Board Meeting Minutes record “BVWC owner, Mike Armstead, presented a proposal to lease the Fire Dept property for a term of 50 years for \$1.00 per year. Ann Stoppa advised members present that lacking the power to dispose of common property by any means, the HOA Board can only defer Mr. Armstead’s proposal to the entire community. To this end, Ann stated that she would send a notice to all community residents of an initial community meeting, to be held October 20, 2018 10:00 AM at the fire station to acquaint members with Mr. Armstead’s proposal and receive community input”.
- October 18, 2018 Ann Stoppa, President of BVIA filed an application with Gila County Planning & Zoning for an Administrative Variance request to permit a 5’2” setback from Beaver Valley Water Company property for the third Bay of the Fire Station that was added in 2005 with the full knowledge of then owner Mike Davoren.
- November 2, 2018 Mike Armstead announced to neighbors that he planned to drill a new water well to improve water supplies for the community. To date, this well has not been completed.
- November 3, 2018 BVIA Board Meeting Minutes state “Ann Stoppa reaffirmed the requirement for a community vote in response to Mike Armstead’s proposal to lease the former fire station for water company operations. Mr. Armstead was not present at the meeting to update members on the current state of water company operations and continued necessity for stage 4 water restrictions”.
- November 27, 2018 Emery Layton of Engineered With Layton (EWL) made a report to the Arizona Department of Environmental Quality in which he recommended installation of new water treatment facilities inside the third bay of the former fire station which he’d been told was available for Beaver Valley Water Company use.
- December 18, 2018 Mike Armstead sent an appeal of BVIA’s Variance Request to the Gila County Board of Adjustment in which he accused the BVIA’s Board of Directors of being an organized criminal syndicate that engages in ongoing and continuing illegal Business Practices....
- January 3, 2019 Thanks to winter rains and snowpack, Beaver Valley Water Company returned to Stage 1 conservation measures.
- January 5, 2019 BVIA Board Meeting Minutes state “Ann read to members a letter received from Gila County Community Development advising that a hearing will be held by the Gila Co Board of adjustments on 1/17/19 at 9AM in the Gila Co supervisors conference room at 610 E Highway 260, Payson AZ The purpose of the hearing is to consider the merits of an appeal, by BVWC owner, Mike Armstead, to an Administrative variance application (AV-18-22) submitted 12/18/2018 by Ann Stoppa on behalf of BVIA. The variance application pertains to the setback requirements for the third bay of the BV community building. Ann encouraged all members to attend the meeting if possible.”

Under Old Business, Meeting Minutes further record that “Ann advised that any decisions regarding the future use(s) of our community building will have to await the outcome of Mike Armstead’s appeal of the previously submitted variance application (AV-18-22)”.

January 15, 2019 BVIA was notified by Gila County that the Variance Hearing previously scheduled for January 17, 2019, was being continued until BVIA was able to obtain legal proof of ownership for the former fire station building.

January 18, 2019 BVIA’s Board of Directors approved engagement of Tony Cullum Law Group to represent the homeowner’s association and present Mike Armstead with a Demand Letter for any documents he may have that prove his ownership of the building.

Jan. – Feb., 2019 With no authorization from BVIA, Mike Armstead had one of his workers dig a tunnel under the side of the third bay of the former fire station in search of possible water lines.

February 9, 2019 BVIA Board Meeting minutes state "Old Business – A lengthy, heated discussion ensued regarding two conflated issues: (1) BVWC operations and progress toward securing water for the community and (2) community response to idea of leasing a portion of the community center to BVWC for construction and operation of a water filtration plant.

Board member, Wil Santora, explained that a great deal of confusion and misperception among residents is caused by erroneously conflating these two issues. He noted that BVIA has no control nor influence over BVWC operations and rates. He further noted that BVWC operational difficulties are not due to BVWC use or non use of the community property.

Mrs. White submitted to members present her review of the current situation regarding BVWC, potential near term and long range solutions, and ultimate goal of ‘safe, inexpensive water for Beaver Valley Estates.’

Wil Santora asked Mike Armstead whether he (Mr. Armstead) would consider a “value-for-value” exchange of a portion of the community center for an equal “value” of BVIA ownership of BVWC. Mr. Armstead responded that he did not consider that to be a viable option.

Mr. Armstead claims BVWC has a ‘main’ water line running beneath the third bay of the community center; he has commenced tunneling beneath the building slab in attempts to locate the pipe.

Mrs. White proposed that the Board prepare a petition, to be mailed to all BV property owners, via registered mail, seeking assent of 80% of property owners to lease of the third bay to BVWC. Ann advised that BVWC would need to provide a fully detailed, final proposal before members could know what they were being asked to assent to. She asked Mr. Armstead whether he could provide such a proposal. Ann noted that if any changes were made to the proposal after being submitted by BVWC, the entire petition process would have to be started from the beginning.”

Jan. – Feb., 2019 Mike Armstead commenced clean-out of accumulated sludge from the Beaver Valley Water Company storage pond adjacent to the former fire station.

- Jan. – Feb., 2019 A rainstorm caused accumulated pond sludge to run down from the Beaver Valley Water Company storage pond berm onto BVIA property and up against the former fire station building.
- March 9, 2019 BVIA Board Meeting Minutes – “Correspondence - Ann Stoppa reported that no response had been received from Mike Armstead to her letter to him requesting his plans for repairing damage to HOA property caused by tunneling beneath the third bay of the community center.”
- June 1, 2019 BVIA Board Meeting Minutes – “General Membership Comments -
A. Member Sam Baker requested to know whether the board engaged an attorney in the property ownership dispute between the HOA and BVWC. Ann Stoppa advised that the board had hired an attorney and that the attorney had filed a Quiet-Title Action against BVWC.
B. Member Peggy Hatch requested to know when the Quiet-Title Action would take effect. Ann replied that her understanding was that the BVWC had 20 days to respond before the matter would go to court. Ann also reported that the HOA attorney has advised that the HOA should fill in all holes excavated by BVWC to avoid liability should someone suffer injury due to those excavations.
C. Member Bill Campbell asked whether there was a ‘cap’ on attorney fees in the property dispute. Ann replied that there was no cap, but that should the HOA prevail in the dispute the legal fees and cost would be assigned to BVWC.”
- June 24, 2019 Emery Layton of Engineered With Layton (EWL) made a resubmittal of his previous November 27, 2018 report to the Arizona Department of Environmental Quality in which he noted that adjustments would need to be made to his previous recommendations since Mr. Armstead doesn’t have a deed or contract for use of the former fire station’s third bay.
- June 28, 2019 Roger Kriemeyer, Vice President of BVIA, delivered a letter to Mike Armstead in which he requested timely repair and remediation of the tunnel dug under the third bay of the former fire station by Mike Armstead’s personnel.
- June 30, 2019 Beaver Valley Water Company filed an application for a Permanent Rate Change with the Arizona Corporation Commission.
- July 10, 2019 Mike Armstead responded to Roger Kriemeyer’s letter by refusing to make the necessary repairs and accusing BVIA board members of criminal interference, harassment and undermining Beaver Valley Water Company.
- July 17, 2019 A water leak mysteriously developed in the tunnel area illegally excavated by Mike Armstead’s worker beside the former fire station’s water supply line and meter. Mr. Armstead demanded and received access to the building to repair the leak. After cutting and removing a 4 foot by 8 foot section of third bay floor, the leak was found to be from the Beaver Valley Water Company plastic line feeding the building water meter. In addition, the excavation uncovered a 6 inch Beaver Valley Water Company main under the floor of the building’s third bay.
- August 3, 2019 BVIA Board Meeting Minutes – “Old Business - Gary (Labute) presented an update on the ongoing dispute between BVWC and BVIA over the water leak beneath the community center, the disconnection of the water meter and failure or refusal of BVWC to reestablish water service to the community center. He noted consideration of a proposal for the HOA to drill a community well to service the community center and common areas. Roger Kreimeyer reported that repairs to the leak would involve also moving the water meter to a different

location. The plumbing company contacted by Roger quoted a price of \$1000.00 (plus a payment of \$500.00 to BVWC) to move the meter, Mark Hallett moved to have Gary sign the forms necessary to authorize our HOA attorney to initiate legal actions on behalf of the HOA in the property ownership dispute with BVWC. Mark also moved to discontinue discussions with BVWC ownership regarding the dispute. Both motions were seconded and approved by the Board.”

- August 7, 2019 Mike Armstead approached Gila County personnel claiming ownership of the former fire station and fraudulently requested and obtained a demolition permit for the building.
- August 9, 2019 Gila County personnel realized their mistake and canceled the building demolition permit previously issued to Mike Armstead.
- August 29, 2019 Tony Cullum Law, representing BVIA, filed a Complaint in the Gila County Superior Court for Preliminary Injunction against Beaver Valley Water Company to resolve ownership issues related to the former fire station and prevent any additional damage to the former fire station by the water company.
- September 3, 2019 An Order Setting Hearing was set by Gila County Superior Court Judge Honorable Timothy M. Wright for Wednesday, September 11, 2019.
- September 10, 2019 Beaver Valley Water Company requested a continuance to give the water company attorney time to review the facts and history of the dispute. The Hearing was continued to Wednesday, October 2, 2019.
- September 19, 2019 Beaver Valley Water Company’s attorney, Michael Harper, resigned from the case due to a potential conflict of interest issue.
- October 1, 2019 At the request of Beaver Valley Water Company’s new legal team at Osborn Maledon, the scheduled October 2, 2019 Hearing was continued to give the new attorneys time to review the case.
- November 7, 2019 Tony Cullum Law, representing BVIA, proposed an initial settlement offer to Beaver Valley Water Company’s attorneys to settle all claims between BVIA and the water company.
- December 20, 2019 Beaver Valley Water Company’s attorneys responded with a total rejection of BVIA’s offer and a threat that the former fire station will be demolished unless BVIA allows the water company use of the building for a water treatment facility.
- February 18, 2020 Tony Cullum Law and Beaver Valley Water Company’s attorneys agreed to use Mr. Shawn Aiken as a dispute mediator regarding these ownership issues. Both parties agreed to check their schedules and agree to a Mediation date with Mr. Aiken as soon as possible.
- April 6, 2020 Tony Cullum Law, representing BVIA, proposed a date of June 4, 2020 for Mediation to Beaver Valley Water Company’s attorneys at Osborn Maledon, PA.
- May 26, 2020 Beaver Valley Water Company’s legal counsel at Osborn Maledon tentatively agreed to Mediation in August of 2020.

May 29, 2020 Board Member Jim Wigert requested that BVIA post a draft Attorney to Attorney Rule 408 privileged communication on the BVEstates1 community website. The draft communication had been forwarded to Mr. Wigert by Mike Armstead. Due to conflict of interest concerns, the request to post the document was denied.

June 1, 2020 The draft Attorney to Attorney privileged Rule 408 Settlement communication provided by Mike Armstead was posted on Nextdoor Beaver Valley by neighbor B. Reline. Due to this breach, Tony Cullum Law notified water company attorneys at Osborn Maledon that the privileged communication had become public information.

July 8, 2020 Water Company attorneys at Osborn Maledon filed a Motion to Withdraw as Beaver Valley Water Company's counsel with the Gila County Superior Court. The reason for their withdrawal is subject to speculation. This motion was approved and plans for Mediation by Mr. Shawn Aiken were cancelled.

July 24, 2020 Sherra Kissee took over as Beaver Valley Water Company attorney and filed a Motion to Deny BVIA's Revised Complaint with Gila County Superior Court.

August 27, 2020 Beaver Valley Water Company attorney Sherra Kissee filed an Application for an Immediate Preliminary Injunction and Temporary Restraining Order against BVIA based on a false accusation by the water company that BVIA had authorized and approved earthwork in the river bottom. The earth work was actually performed above the upper crossing in the neighborhood by a neighbor with good intent, but without the foreknowledge or approval of the BVIA Board of Directors.

August 31, 2020 Tony Cullum Law, on behalf of BVIA, filed a Motion to Dissolve the Application for Immediate Preliminary Injunction and Temporary Restraining Order with the Gila County Superior Court.

September 1 2020 Gila County Superior Court Judge Timothy Wright denied Beaver Valley Water Company's Motion for Reconsideration of BVIA's Revised Complaint.

September 3, 2020 Water Company attorney Sherra Kissee filed a Counterclaim against BVIA.

September 11, 2020 Water Company attorney Sherra Kissee informed Tony Cullum Law that the water company was no longer interested in resolving the dispute through Mediation.

September 21, 2020 BVIA received a Request for Information Regarding an Alleged Violation from Kathleen Tucker of the U.S. Army Corps of Engineers regarding the earthwork performed in the river bottom. The complaint was apparently filed by Beaver Valley Water Company.

October 8, 2020 In a virtual hearing with both sets of attorneys, Gila County Superior Court Judge Timothy Wright denied the Application for Immediate Preliminary Injunction and Temporary Restraining Order filed by Beaver Valley Water Company attorney Sherra Kissee related to the river bottom earthwork.

October 29, 2020 Gila County Superior Court Judge Timothy Wright dismissed the majority of the water company's Counterclaims but gave their attorney leave to file an Amended Counterclaim.

November 2, 2020 Tony Cullum Law, representing BVIA, restated BVIA's previous settlement offer of Nov. 7, 2019 to the water company's attorney.

November 8, 2020 Water Company attorney Sherra Kissee filed a set of Amended Counterclaims against BVIA.

November 23, 2020 Tony Cullum Law, BVIA's attorneys, filed a Motion to Dismiss the water company's Counterclaims.

November 30, 2020 Kathleen Tucker of the U.S. Army Corps of Engineers dismissed all charges against BVIA relating earthwork performed in the river bottom by one of the neighbors.

December 3, 2020 Water Company attorney Sherra Kissee filed a Motion to Dismiss BVIA's previous Motion to Dismiss Counterclaims.

January 28, 2021 Gila County Superior Court Judge Timothy Wright ruled that the majority of the Counterclaims filed by Beaver Valley Water Company were dismissed. Tony Cullum Law plans to actively pursue resolution of remaining claims in a timely manner.

February 27, 2021 Beaver Valley Water Company's attorney notified Gila County Superior Court and BVIA of their intent to file an appeal with the Arizona Court of Appeals despite the fact that no final or summary judgement had yet been ruled by Gila County Superior Court.

March 26, 2021 Beaver Valley Water Company's attorney requested a Stay in all Gila County Superior Court proceedings.

April 15, 2021 Gila County Superior Court denied the Motion to Stay Trial Court Proceedings filed by Beaver Valley Water Company's attorney.

May 8, 2021 Beaver Valley Improvement Association's Board of Directors agreed to engage Attorney Kiersten Murphy of the Henze Cook Murphy PLC, Attorneys at Law to represent the association's case at the Arizona Court of Appeals.

June 4, 2021 Beaver Valley Water Company's attorney filed a Motion to Dismiss their previous Appeal Action Request.

June 24, 2021 Beaver Valley Improvement Association's attorneys filed a Motion for Summary Judgement on prior claims and requested relief from Gila County Superior Court.

June 29, 2021 Beaver Valley Water Company engaged a new attorney with the Brentwood Law Group to represent their interests. That attorney requested a time extension to allow them to prepare and respond to Beaver Valley Improvement Association's attorneys Motion for Summary Judgement.

July 20, 2021 Gila County Superior Court set oral arguments on Beaver Valley Improvement Association's Motion for Summary Judgement for September 22, 2021

October 15, 2021 Gila County Superior Court granted Beaver Valley Improvements Association's motions for Summary Judgement on the majority of counts filed against Beaver Valley Water Company. A Trial Setting Conference was scheduled for December 17, 2021.

- November 2, 2021 Beaver Valley Water Company filed an Amended Rate Application with the Arizona Corporation Commission based on 2020 financial and operating data. In the amended application, Beaver Valley Water Company requested an increase in all charges and an additional surcharge for recovery of legal fees incurred due to the property dispute with Beaver Valley Improvement Association.
- December 27, 2021 Beaver Valley Improvement Association and Beaver Valley Water Company attorneys agreed to attempt resolution of all disputes through a Mediation by retired Judge James Hancock on January 26, 2022. The previously scheduled Trial Setting Conference was temporarily deferred pending results of the Mediation.
- January 26, 2022 Beaver Valley Improvement Association's Board of Directors and attorneys attended a Mediation Session with Judge Hancock presiding and negotiating with Beaver Valley Water Company's owner and attorneys. Both parties agreed to postpone any further legal action for six months to give the owner of Beaver Valley Water Company the opportunity to arrange a sale of the company to Beaver Valley Domestic Water Improvement District.
- April 12, 2022 The Arizona Corporation Commission met and approved Beaver Valley Water Company's requested hike in monthly meter and volume charges for its customers.
- In addition, the Arizona Corporation Commission approved their Staff's recommendation that Beaver Valley Water Company charge its customers an Emergency Repair and Replacement Fund surcharge to accrue a Reserve Fund of \$72,500 over a 60 month period. The Emergency Repair and Replacement Fund surcharge will collect an additional \$4.04 to \$6.06 per month from each account, depending on meter size. Account balance and withdrawals will be monitored and approved by Arizona Corporation Commission Staff.
- The Arizona Corporation Commission followed its staff's recommendation to deny Beaver Valley Water Company's request to charge a legal expense recovery surcharge to its customers.