

**TONTO HILLS IMPROVEMENT ASSOCIATION
42033 N. OLD MINE ROAD
CAVE CREEK, AZ 85331**

11 February 2011

Supervisor Don Stapley;
Maricopa County District 2
301 W. Jefferson, 10th Floor
Phoenix, Arizona 85003

Dear Mr. Stapley:

On 22 November of last year, Tonto Hills Improvement Association representatives, Ralph Spurgin and Charles Civer, met with you regarding NewPath's installation of two faux cactus cell towers in our community. At your request, in December 2010, I sent you a letter recapping the situation. You indicated you would refer the matter to the County attorney. We appreciate that you are seeking advice from the county attorney on the existing legislation, but we also believe that it is in the best interest of all county residents that you consider amending the Board of Supervisor's Resolution. This amendment will prevent reoccurrence of the problem in the future.

On September 5, 2001, when Jan Brewer was Chairman, the Board of Supervisors approved Resolution 2001-01. This resolution authorized the County Engineer to issue construction permits in public roads and rights of way. The Resolution listed the types of work for which these permits were required. The list included number 6: "Utility lines such as electric, television, telephones, communications and other franchised facilities." The Department of Transportation believes that faux cell towers fall within this definition. We disagree. The cell towers are permanent above ground structures, not utility lines. Also, although the Arizona Corporation Commission is authorized to issue a Certificate of Convenience and Necessity (CC&N) to tower entrepreneurs and cell system providers, these companies are not utilities and fall outside the regulatory authority of the Arizona Corporation Commission.

Our community has no information concerning NewPath's or any other communication company's planned system infrastructure within our community. NewPath is in the process of installing cell towers in the City of Carefree, and part of that system has five towers within a one half mile radius. Our major concern is this same method of coverage could happen in Tonto Hills without prior community notification.

Supervisor Stapley, your action in this regard will give your constituents some opportunity to have a say about what goes on in their neighborhood. We propose the Board of Supervisors either amend Resolution 2001-01 or pass a new resolution to the effect that faux cell tower construction meet the requirements of ARS 11-829, paragraph B as adopted by the Board of

Supervisors, specifically that: faux cactus, palm and similarly disguised cell towers and transmission installations, are covered under this Citizens Review Process for Zone Changes and Special Use Permits (Section 305 of the Maricopa County Zoning Ordinance) and would require local citizen participation before they could be erected.

The amendment or new resolution we are suggesting by the Board of Supervisors would afford Tonto Hills and other Arizona communities a level of involvement and protection. Please let us know if we can count on your support. If you have any questions, I can be reached at 480-575-5315.

Very respectfully,

Rick Nelson
THIA President