

## George Burton

---

**From:** tcj@theclintonjames.com  
**Sent:** Sunday, April 09, 2017 9:25 AM  
**To:** Mayor Michael Collins; Council Member David Sherf; Council Member Paul Dembow; Council Member Mark Stanton; Council Member Scott Moore; Council Member Julie Pace; Vice Mayor Jerry Bien-Willner; Kevin Burke; Eva Cutro; George Burton; Paul Michaud; Duncan Miller  
**Subject:** "Case No. 17-119" Homeowner Opposition

Richard Chambliss, Chairman  
TOWN OF PARADISE VALLEY  
Board of Adjustment  
6401 East Lincoln Drive  
Paradise Valley, Arizona 85253

Dear Chairman Chambliss and members:

I am writing to you in support of upholding the appeal before the Board of Adjustment - "Case No. 17-119" for April 12<sup>th</sup> 2017.

As you are well aware, TMS Ventures has a Hillside Building Committee application currently being processed by the Town of Paradise Valley. This project is at a portion of Camelback Mountain that is higher and steeper than any ever built – 53% slope. TMS Ventures also has sued adjoining properties for access – **as this property does not have a roadway or even a legal access.** Recently its motion for summary judgement to obtain an easement was denied, thus is an ongoing litigation case.

Any and all residences and roadways must meet the Zoning Ordinance, Town Code and Subdivision Code requirements here in Paradise Valley. The Zoning Administrator herself stated in the letter being appealed – “development and processing requirements are dependent upon the final outcome of the Pending Litigation.” For this very reason, the Zoning Administrator refuses to issue a decision regarding other needs - subdivision plat, conditional use permit for a roadway, and multiple variance requirements - until the litigation is resolved by the courts.

**Yet this very same reason has not been applied in proceeding with a hillside committee review!** It is irrational - the town is unable to proceed with reviewing for lot platting, a roadway permit and multiple variances yet CAN REVIEW THE HOUSE TO BE BUILT!

Now for over a year the town has and continues to spend valuable resources – both time and monetary on a project that not only does not have a roadway – but clearly needs to establish legal access. To allow TMS to obtain a decision by the HSC without all information has been and continues to be a waste of our town and property owners resources.

To put this in simple language – this is the cart before the horse – and needs to be righted! There is not legal access nor a roadway in place.

The Zoning Administrator decision to proceed with an “at risk” application is an erroneous decision, in direct violation of the Town’s Ordinances and should be reversed.

Sincerely,

Clinton James  
Owner of 5405 E. San Miguel Ave. Paradise Valley, AZ 85253  
602.821.8201 Cell

CONFIDENTIALITY NOTICE: This e-mail is subject to the Electronic Communications Privacy Act, 18 U.S.C. §§ 2510-2521, and may be legally privileged. The information contained in this e-mail message is confidential information intended only for the use of the individual or entity named above. If the reader of this message is not the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us, and delete the original message. Thank you. [tcj@TheCintonJames.com](mailto:tcj@TheCintonJames.com)

## George Burton

---

**From:** Duncan Miller  
**Sent:** Monday, April 10, 2017 10:07 AM  
**To:** George Burton  
**Cc:** Eva Cutro  
**Subject:** FW: Board of Adjustment Meeting April 12.

**From:** Julie Pace [<mailto:juliepace1313@gmail.com>]  
**Sent:** Sunday, April 09, 2017 11:10 AM  
**To:** Duncan Miller  
**Subject:** Fwd: Board of Adjustment Meeting April 12.

For BOA

----- Forwarded message -----

**From:** Al Harrison <[7alharrison@gmail.com](mailto:7alharrison@gmail.com)>  
**Date:** Sun, Apr 9, 2017 at 10:30 AM  
**Subject:** Fwd: Board of Adjustment Meeting April 12.  
**To:** [juliepace1313@gmail.com](mailto:juliepace1313@gmail.com)  
**Cc:** Teresa Zachariah <[jtzachariah@yahoo.com](mailto:jtzachariah@yahoo.com)>

Begin forwarded message:

**From:** Al Harrison <[7alharrison@gmail.com](mailto:7alharrison@gmail.com)>  
**Subject:** Board of Adjustment Meeting April 12.  
**Date:** April 9, 2017 at 12:26:36 PM CDT  
**To:** [mcollins@paradisevalleyaz.gov](mailto:mcollins@paradisevalleyaz.gov)

Dear Mayor Collins,

Ref Case 17-119

As one of the 4 neighbors most directly, and seriously affected by any possible construction high above us on Camelback Mountain I fully support those communications sent to your Council and Board of Adjustment by Julie Pace, Teresa Zachariah, and other residents of Stone Canyon on the issue under consideration. Putting it bluntly, something as important as this, which flies in the face of town codes and where there is no legal access to the site, would be a failure of duty by our representatives if it is not stopped now and avoid further costs and time.

Save Camelback Mountain isn't just a slogan, but our inheritance to future generations.

Respectfully,  
Alfred and Ingrid Lenz Harrison  
5519 East San Miguel  
Paradise Valley, Az.

## George Burton

---

**From:** Duncan Miller  
**Sent:** Monday, April 10, 2017 10:07 AM  
**To:** George Burton  
**Cc:** Eva Cutro  
**Subject:** FW: SaveCamelback.org and April 12 BOA Meeting  
**Attachments:** 160315ZachariahTeresa.pdf; 170405BOALETTER.docx

**From:** Julie Pace [<mailto:juliepace1313@gmail.com>]  
**Sent:** Sunday, April 09, 2017 11:12 AM  
**To:** Duncan Miller  
**Subject:** Fwd: SaveCamelback.org and April 12 BOA Meeting

more emails ir received to go to BOA

----- Forwarded message -----

**From:** <[TFHUSBAND@aol.com](mailto:TFHUSBAND@aol.com)>  
**Date:** Sat, Apr 8, 2017 at 4:49 PM  
**Subject:** Fwd: SaveCamelback.org  
**To:** [juliepace1313@gmail.com](mailto:juliepace1313@gmail.com)

**Best Regards, Tom**

**Thomas F. Husband, President  
Save Camelback Mountain  
5520 E. San Miguel Avenue  
Paradise Valley, Arizona 85253**

***Thomas F Husband  
5520 East San Miguel Avenue  
Paradise Valley, AZ 85253***

Mrs. Teresa Zachariah  
5505 E San Miguel Avenue  
Paradise Valley, AZ 85253

March 15, 2016

Dear Teresa:

I don't want to alarm you but I don't believe that you appreciate the magnitude of the problem that will present itself if the project at 5507 goes to completion and the 400 foot roadway over the purported easement becomes a reality.

Our architect, Sam West, has analyzed the September 2014 damage we incurred from the rain which fell and ran onto our property from San Miguel Avenue. His analysis was based upon a 3.5 inch rainfall over a one hour period which is what our 100 year Rain Event is estimated to be.

So, using that number and calculating what we can expect to deal with on a per acre basis, it comes to 95,040 gallons/acre or 793,133 pounds/acre. All you need to do is figure out how many acres will be feeding the 400 foot roadway and you can approximate the total amount of water that will hit the roadway.

Now, assuming that the roadway has the maximum allowable slope of 30 degrees, the effect of gravity at 30 degrees will be 19.2 feet/sec<sup>2</sup>. It is interesting to compare that to the gravitational effect at a 52% (46.8°) slope which is 23.3 feet/sec<sup>2</sup> because it means that water will be arriving at the roadway from the hillside with a greater gravitational effect than the water running down the roadway.

If the 95,040 gallons or 793,133 pounds of water is to reach your driveway over a one hour period, it will be arriving at 1584 gallons or 13,218 pounds (6.6 tons) per minute assuming a linear flow rate. You can just multiply these numbers by the number of acres that you think are above the roadway to get the cumulative effect.

If gravity were the only effect on this storm water, it would be flowing out of the end of the roadway at almost 85 mph. I leave it to the hydrologists to refine this number based upon any other forces at play.

But not to worry because all of this additional water, along with drainage normally associated with your property, will just run down your driveway and onto the cul-de-sac like it did last time. Along with tons of the dirt which hold your boulders in place this water will then run onto our property from the cul-de-sac. When storm water ran down your driveway during the 100 year event, our property was badly damaged and we have a keen interest in preventing a repeat of this debacle in the future. That is why I have written this letter. We are relying on the Town to correct this problem, not aggravate it..

Very truly yours,

A handwritten signature in black ink that reads "Tom". The signature is written in a cursive style with a long horizontal stroke at the end.

## CALCULATIONS:

100 YEAR STORM EVENT: 3.5 inches of rain in a 1 hour period.

1 Gallon [US] = 8.345 264 109 3 Pounds

1 Cubic foot = 7.480 519 480 6 Gallons [US]

1 Cubic foot = 62.426 910 741 Pounds

3.5 inches of water a square foot of ground is  $504 \text{ in}^3$

$1 \text{ in}^3 = 0.004329 \text{ gal}$

$504 \text{ in}^3/\text{ft}^2 \times 0.004329 \text{ gal/in}^3 = 2.1818 \text{ gal/ft}^2$

1 acre =  $43,560 \text{ ft}^2$

Gallons per Acre:  $\text{gal/acre} = 43,560 \text{ ft}^2 \times 2.1818 \text{ gal/ft}^2 = 95,040 \text{ gal/acre}$

1 gallon = 8.345264 lbs. (pounds)

Pounds per Acre:  $95,040 \text{ gal/acre} \times 8.345264 \text{ lbs./gal} = 793,133 \text{ lbs./acre}$

Slope  $30^\circ$ :  $\text{Sine} = 0.6 \quad \times 32\text{ft/sec}^2 = 19.2 \text{ ft./sec}^2$

Slope  $46.8^\circ$   $\text{Sine} = 0.72896862 \quad \times 32\text{ft/sec}^2 = 23.3 \text{ ft./sec}^2$

Velocity:  $V = u + at$  (u is initial velocity) Assumed  $u=0$  for this analysis.

$S = 1/2(at^2) \quad s = 400 \text{ ft.} \quad 400 = 19.2t^2/2 \quad t^2 = 800/19.2 = 41.67 \quad t = 6.45 \text{ sec.}$

$V = 19.2 \times 6.45 = 123.84 \text{ feet/sec} \quad 84.4 \text{ mph}$

SAVE CAMELBACK MOUNTAIN  
ARIZONA NON-PROFIT CORPORATION

April 5, 2017

**VIA HAND DELIVERY**

Mr. Richard Chambliss, Chairman  
Board of Adjustment  
Town of Paradise Valley  
6401 E. Lincoln Drive  
Paradise Valley, Arizona 85253

Dear Mr. Chambliss

You are in receipt of the December 29, 2016 letter from Francis J. Slavin to Ms. Eva Cutro and Mr. Richard Chambliss (the "Slavin Letter") which, among other things, addresses variances which may be requested in connection with the application submitted by TMS Ventures, LLC.

The purpose of this letter is to invite your attention to additional variances which may arise in connection with the roadway discussed in the Slavin Letter.

The variances discussed in paragraphs A, B and C pertain to the width of the roadway which may be 20 feet in width. Consider this in connection with the variances discussed in paragraphs E and F pertaining to retaining walls which zoning ordinances limit the length to 100 feet and height to 8 feet.

Please consider the retaining wall required for a roadway approximately 580 feet in length and 20 feet in width cut into a mountain with a 53% (47.7<sup>0</sup>) slope. We know from our tenth grade geometry class that a 45<sup>0</sup> triangle has equal sides and, therefore, a foot along the x-axis will result in a foot up the y-axis. So, a 20 foot roadway would have a 20 foot high retaining wall.

**This means we would have a 20 foot high and 580 foot long retaining wall running across the face of Camelback Mountain!**

We doubt that you would find that acceptable and ask that you consider this potential problem in advance of considering granting any of the other variances.

Sincerely,

Thomas F. Husband, President  
Save Camelback Mountain  
Arizona non-profit corporation  
5520 E. San Miguel Avenue  
Paradise Valley, AZ 85253

Cc:

Catherine Kauffman, Town BOA Member (via hand-delivery)

Emily Kile, Town BOA Member (via hand-delivery)

Eric Leibsohn, Town BOA Member (via hand-delivery)

Jon Newman, Town BOA Member (via hand-delivery)

Hope Ozer, Town BOA Member (via hand-delivery)

Quinn Williams, Town BOA Member (via hand-delivery)

## George Burton

---

**From:** Duncan Miller  
**Sent:** Monday, April 10, 2017 10:08 AM  
**To:** George Burton  
**Cc:** Eva Cutro  
**Subject:** FW: Camelback Mt.

**From:** [juliepace1313@gmail.com](mailto:juliepace1313@gmail.com) [<mailto:juliepace1313@gmail.com>] **On Behalf Of** Julie Pace  
**Sent:** Monday, April 10, 2017 9:35 AM  
**To:** Duncan Miller  
**Subject:** Fwd: Camelback Mt.

----- Forwarded message -----

**From:** **Jane Jozoff** <[Jane@jozoff.com](mailto:Jane@jozoff.com)>  
**Date:** Mon, Apr 10, 2017 at 8:05 AM  
**Subject:** Camelback Mt.  
**To:** "[mcollins@paradisevalleyaz.gov](mailto:mcollins@paradisevalleyaz.gov)" <[mcollins@paradisevalleyaz.gov](mailto:mcollins@paradisevalleyaz.gov)>  
**Cc:** Julie Pace <[Julie@scottsdalephoto.com](mailto:Julie@scottsdalephoto.com)>

If a permit is issued to build high up on our mountain on a 53% grade, it will certainly be the end of the Hillside Code. Surely there's a way to halt this madness over here in Stone Canyon!

Sent from my iPhone

--  
Julie Pace  
602.322.4046

## George Burton

---

**From:** Duncan Miller  
**Sent:** Monday, April 10, 2017 10:09 AM  
**To:** George Burton  
**Cc:** Eva Cutro  
**Subject:** FW: Stone Canyon

**From:** [juliepace1313@gmail.com](mailto:juliepace1313@gmail.com) [<mailto:juliepace1313@gmail.com>] **On Behalf Of** Julie Pace  
**Sent:** Monday, April 10, 2017 9:36 AM  
**To:** Duncan Miller  
**Subject:** Fwd: Stone Canyon

FYI, for the BOA packet. I will try to send you whatever i am copied on thanks

----- Forwarded message -----

**From:** **Jane Jozoff** <[Jane@jozoff.com](mailto:Jane@jozoff.com)>  
**Date:** Mon, Apr 10, 2017 at 8:09 AM  
**Subject:** Stone Canyon  
**To:** "[ecutro@paradisevalleyaz.gov](mailto:ecutro@paradisevalleyaz.gov)" <[ecutro@paradisevalleyaz.gov](mailto:ecutro@paradisevalleyaz.gov)>  
**Cc:** Julie Pace <[Julie@scottsdaledailyphoto.com](mailto:Julie@scottsdaledailyphoto.com)>

Eva, Hope we are seeing the end of the Hillside Code. Stone Canyon residents are at risk to future desecration of Camelback if the current request to build on a 53% grade is approved. Sorry I'm out of town this week when the BOA meets. Best regards, Jane

Sent from my iPhone

--  
Julie Pace  
602.322.4046

## George Burton

---

**From:** Robin Daggett <robin@daggettaz.com>  
**Sent:** Monday, April 10, 2017 10:13 AM  
**To:** Mayor Michael Collins; Council Member David Sherf; Council Member Paul Dembow; Council Member Mark Stanton; Council Member Scott Moore; Council Member Julie Pace; Vice Mayor Jerry Bien-Willner; Kevin Burke; Eva Cutro; George Burton; Paul Michaud; Duncan Miller  
**Subject:** Uphold the Appeal - Case No. 17-119  
**Attachments:** Richard Chambliss.docx

Please see attached letter

Richard Chambliss, Chairman  
TOWN OF PARADISE VALLEY  
Board of Adjustment  
6401 East Lincoln Drive  
Paradise Valley, Arizona 85253

Dear Chairman Chambliss and members:

I am writing to you in support of upholding the appeal before the Board of Adjustment - "Case No. 17-119" for April 12<sup>th</sup> 2017.

As you are well aware, TMS Ventures has a Hillside Building Committee application currently being processed by the Town of Paradise Valley. This project is at a portion of Camelback Mountain that is higher and steeper than any ever built – 53% slope. TMS Ventures also has sued adjoining properties for access – **as this property does not have a roadway or even a legal access.** Recently its motion for summary judgement to obtain an easement was denied, thus is an ongoing litigation case.

Any and all residences and roadways must meet the Zoning Ordinance, Town Code and Subdivision Code requirements here in Paradise Valley. The Zoning Administrator herself stated in the letter being appealed – “development and processing requirements are dependent upon the final outcome of the Pending Litigation.” For this very reason, the Zoning Administrator refuses to issue a decision regarding other needs - subdivision plat, conditional use permit for a roadway, and multiple variance requirements - until the litigation is resolved by the courts.

**Yet this very same reason has not been applied in proceeding with a hillside committee review!** It is irrational - the town is unable to proceed with reviewing for lot platting, a roadway permit and multiple variances yet CAN REVIEW THE HOUSE TO BE BUILT!

Now for over a year the town has and continues to spend valuable resources – both time and monetary on a project that not only does not have a roadway – but clearly needs to establish legal access. To allow TMS to obtain a decision by the HSC without all information has been and continues to be a waste of our town and property owners resources.

To put this in simple language – this is the cart before the horse – and needs to be righted! There is not legal access nor a roadway in place.

The Zoning Administrator decision to proceed with an “at risk” application is an erroneous decision, in direct violation of the Town’s Ordinances and should be reversed.

Sincerely,

Robin Daggett,

Paradise Valley Resident

## George Burton

---

**From:** jtzachariah@aol.com  
**Sent:** Tuesday, April 11, 2017 7:58 AM  
**To:** Mayor Michael Collins; Council Member David Sherf; Council Member Paul Dembow; Council Member Mark Stanton; Council Member Scott Moore; Council Member Julie Pace; Vice Mayor Jerry Bien-Willner; Kevin Burke; Eva Cutro; George Burton; Paul Michaud; Duncan Miller  
**Subject:** "Case No. 17-119"

Chairman Chambliss,

I am Teresa Zachariah and I live at 5505 E San Miguel. In reference to

For over a year it is disgraceful and beyond my understanding how we continue to spend the town's resources on a home building project ->

- 1) That has no roadway access
- 2) That has no legal access
- 3) That threatens the safety and aesthetics of the Icon of this valley - Camelback Mountain

*But I am beginning to understand the reason behind stagnation and frustration in regards to government bureaucracy – playing volley ball with issues and unwillingness to make a decision and stand up for what is right.*

The appeal before you is a decision to continue to review the TMS application at the Hillside Committee. A mistake was made long ago – and continuing to make mistakes to cover it up will not right it. The staff report and recommendation is wrong.

### **Decision ->**

**This is a decision – the statement made in the staff report attempts to make this a notice rather than decision. But this is clearly a decision. A decision to accept and proceed with HSC building review began dating back to at least 2013.**

- 1) An erroneous decision was made in 2013 per Town attorney – he stated the town believed there was an implied way of necessity and the town accepted and began the review process.
- 2) An erroneous decision to proceed with a review of a proposal of a home without a roadway or even legal access.
- 3) An erroneous decision to proceed with an incomplete application to HBC twice- a) concept review application was accepted with blank checklist -> Title report (if roadway dedication is required -THIS WAS BLANK), and b) formal review application checklist again left blank -> leaves half street or right of way improvements blank!!!
- 4) An erroneous decision to **allow a review and decision by some bodies of the town but not others – >**
  - Decision to proceed ->
    - a) 2016 BOA review for variance
    - b) 2016 HBC review

No decision to proceed ->

- a) Lot platting
- b) Roadway approval
- c) Multiple variances needed for roadway

### **Prejudice ->**

**There is obvious prejudice from the beginning – > (staff report states "this will not prejudice the appellants")**

#### **1) Prejudice resulting from conflict of interest ->**

- a) allowing an applicant to be represented by an attorney with a conflict of interest -> Doug Jordan has a long standing working /advisory relationship with the PV Town staff, as he was the prior Town Attorney and still represents the Town in some capacities today.
- b) the applicant's attorney, Douglas Jordan, writing letters for the Town to support his case- > allowing TMS's attorney to write a letter for the current Town Attorney to then sign and forward as his own, stating the Town agrees with the implied way of necessity theory as a basis for legal access to the TMS Property

**2) Prejudice resulting from violations of Town Codes and Ordinances** – > this project is in direct violation of the Town's one house per acre requirement – as the access/roadway (600 ft. plus) will diminish adjoining properties to less than 1 acre

**3) Prejudice resulting from valid safety concerns** - >building on a 53% slope in a boulder field above us, providing inadequate fire safety access and controls, and causing a de-stabilization of the hillside will forever impact existing nearby residences

**4) Financial prejudice** – We have had to spend substantial sums of money to oppose the actions of TMS and the Town over the past year and to hold the Town accountable for its failure to enforce its own hillside, building and safety codes and ordinances

**5) Judicial prejudice** – that is the entire reason the Town has been deliberately led down this erroneous path by the applicant/ and his attorney – to prejudice: 1) the court and 2) future decisions by the Town – by obtaining a Hillside approval.

**Property rights →**

**Property rights are very important to Town residents – however property rights is a pleural term that affects many – all property rights in this case should be considered.**

This decision of the Zoning Administrator should be reversed as the decision to proceed with review of this massive project should not waste further resources of this Town and its citizens until TMS has proof that it can meet the minimum requirement of having legal access to its property.

Sincerely,

Teresa Zachariah