

Ranch owner prevails in gun rights dispute with neighbors and Yavapai County



Matt Hinshaw/The Daily Courier
Brad DeSaye, right, owner of Headhunter Ranch LLC in Williamson Valley, listens to his attorney Alex Vakula Tuesday morning during a hearing about alleged Yavapai County code violations.

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PRESCOTT - In what has become an issue pitting gun rights against land use codes, a Williamson Valley landowner had his Second Amendment rights upheld in a Tuesday hearing in Prescott.

Brad DeSaye, owner of Headhunter Ranch LLC, said he never intended to build gun ranges on his property.

"The wild rumors that brought us to this point hopefully were dispelled a little bit," DeSaye said. "I feel vindicated that they dismissed it, but at the same time I feel frustrated and I expect the county to come back at me in a different way. This is a private property right; a Second Amendment issue."

After more than three hours of testimony on Tuesday, Yavapai County Hearing Officer Peter Van Harin ruled in DeSaye's favor, allowing him to shoot firearms on his property, overriding the objections of his neighbors and Yavapai County land use officials.

On Sept. 6, DeSaye received a Notice of Violation from the Yavapai County Development Services Department informing him that what appeared to be a gun range on his property violated Section 400 Non-permitted Use or Disallowed Use, and Section 501 Accessory Uses of the county's zoning ordinances. The county was seeking a \$500 fine and sanctions of \$5,000 if DeSaye did not bring his property back into compliance.

The construction on the property had nothing to do with building a gun range, even though he does shoot guns on the property, DeSaye testified during the hearing. The grading and berm building were preparing the property for the future construction of greenhouses and a pond, as well as irrigation systems for the growing of wheat. He also will have cattle and horses on the property.

"In fact, I think two days after I purchased the property was the first time I went out there with my two sons and threw out some soda cans into a hillside and plinked them," DeSaye said. "So, I have shot out there several times."

Yet, several of DeSaye's neighbors testified that they were told by various associates of DeSaye's - and even DeSaye himself - that he was constructing a gun range on the property.

"In mid-may, Butch Tracey, the owner of T&H Construction, contacted me about possibly using water from my ranch," said Jim Puntenney, whose ranch sits next to DeSaye's property. "Then that same day he (Tracey) told me there was going to be a 1,000 yard gun range. He was going to grade the property and there was going to be a pistol range and a skeet shooting area and a residence for a caretaker."

During the hearing, DeSaye's legal counsel, Alex Vakula from the Vakula Law Firm in Prescott, and co-counsel, Jeffrey Gross, from the Gallagher & Kennedy Law Firm in Phoenix, repeatedly pointed out to Van Harin that there is no definition of a gun range in the county's zoning ordinances, nor has the county provided an explanation as to how the activity on DeSaye's property constitutes a gun range.

According to Vakula, shooting is permitted because DeSaye's property falls under the county's agricultural exemption and classification and it is exempt from the zoning laws.

Vakula and Gross stated that the county was infringing on DeSaye's Second Amendment Right to Bear Arms through their attempt to bar him from shooting on his property.

"Mr. DeSaye has legitimate Second Amendment rights," Gross said. "Those Second Amendment rights include the right to use his property to shoot guns."

However, according to Steve Mauk, director of Development Services, the case was a land-use question, not a Second Amendment question.

"We are not saying that people can't shoot guns on their property," Mauk said. "The attorney was really asserting that the county was saying that people couldn't shoot on their property and that's not what the county was saying."

After listening to testimony from numerous individuals, including county Senior Land Use Specialist, Lynn Chaplin, resident Alan Nel, and Brad Fain, whose family has been ranching in the area for more than 100 years, Van Harin made his ruling.

"This is a very difficult case, as you all might imagine. Most land use cases involving

neighbor versus neighbor are difficult," Van Harin said. "The problem I have with this case is with the agricultural exemption... there has been a lot of speculation that the main use of this property has not been for agriculture, but for a shooting range, and the county has failed to prove that."

While the ruling puts an end to the county's violation complaint, residents in the area can pursue civil actions against DeSaye, Van Harin said.

"I don't think there were enough facts presented. I'm disappointed that the shooting will be going on," resident Jack Hansen said. "He has to come up with his agricultural permit again, so maybe something will happen there."

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