

Pitkin County judge OKs 'forcible entry' to Mulcahy's home if needed

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Mulcahy residence in Burlingame Ranch neighborhood.

The forced sale of Lee and Sandy Mulcahy's Aspen house to the local affordable-housing authority took a major step forward Tuesday.

After a virtual hearing, Pitkin County District Judge Chris Seldin noted that Mulcahy "has lost every time" in the U.S. court system all the way up to the Supreme Court and has repeatedly declared he won't comply with court orders despite the fact that the Burlingame Ranch [home has been in receivership for a year](#).

So Seldin ordered Sheriff Joe DiSalvo to secure the Aspen-Pitkin County Housing Authority's access to the home for a pre-closing inspection within a week.

"The court fully anticipates that the sheriff will first attempt all peaceable means of accomplishing this objective," Seldin wrote in his order. "If necessary, however, the sheriff is authorized and directed to secure compliance with this order using whatever force is reasonably necessary in the circumstances, including forcible entry into the residence."

DiSalvo did not return a call Tuesday night seeking comment about Seldin's order. Undersheriff Alex Burchetta declined to comment, saying he hadn't seen the order yet.

APCHA officials also asked Seldin to order DiSalvo and his deputies to "secure Mulcahy's removal from the property," according to the order.

"This the court declines to do," Seldin wrote. If Mulcahy "unlawfully detains the property after closing," the remedy is to rely on the law to get it back, the order states.

DiSalvo has said previously he wants a peaceful end to the situation and will do whatever is necessary to carry out the eviction in that manner.

Reached by phone Tuesday night, the Mulcahys remained defiant.

"I will defend my home with my life," Lee Mulcahy said before declining to answer further questions.

Sandy Mulcahy, Lee's mother, said she and her son will not allow the pre-closing inspection to take place.

"I'm gonna be in the home when the SWAT team comes," she said. "There will be blood on the hands of individuals in Aspen. That home does not belong to APCHA."

Lee Mulcahy addressed Aspen City Council during public comment at the board's regular meeting Tuesday.

"I'm very sad today because it seems that the local judge ... he wants blood," he said of Seldin.

And then Mulcahy appealed directly to Mayor Torre, and asked for compromise by Mulcahy paying fines, showing compliance, and selling the house and then have the local government rent it to him and his mother.

"Mayor, you've got to stand up, you got to look at this and you got to say, 'Wait, hold on. Should we really send law enforcement to the Mulcahys to remove them?'"

"You can come together before there is violence," he said. "We will not surrender, we are Texans."

The mayor does not have the authority to trump a judge's order.

Mulcahy, a local artist, ran afoul of APCHA rules when the agency found him out of compliance with employment guidelines that say he must work 1,500 hours a year in Pitkin County. He sued APCHA and lost at the district court and Colorado Court of Appeals, while the Colorado and U.S. Supreme Courts [refused to hear the case](#).

That meant previous court decisions finding that Mulcahy violated the deed restriction on the property at 53 Forge Road and led to Tuesday's hearing with Judge Seldin, who appointed a receiver to sell the home on Mulcahy's behalf in November 2019.

Mulcahy requested the hearing and asked the judge to send the case to mediation, which APCHA resisted and Seldin denied, according to his order. Mulcahy once again repeated Tuesday that he will not comply with court orders, which Seldin condemned in no uncertain terms.

"Mulcahy's position is, at its foundation, that he is above the law," the judge wrote. "... (Using) language pregnant with veiled threats of violence, he asserts in essence that the judicial system's orders are illegitimate. Mulcahy's position is incompatible with citizenship in a civilized society."

That position left the judge with no choice.

"His continuing refusal (to comply with court orders) necessitates invoking the coercive powers of the court," Seldin wrote. "Based on his consistent representations that APCHA, the receiver and the court can expect no compliance from him, law enforcement involvement will be necessary to see the court's orders effectuated."

The pre-closing inspection must occur by Nov. 17, Seldin's order states. If Mulcahy doesn't allow it, the judge directed the receiver to transfer title of the home to APCHA according to the \$995,000 contract for the home and deposit the money with the court, which will then distribute it, according to the order.

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