

Control Number: 43971



Item Number: 34

Addendum StartPage: 0

House Bill (HB) 1600 and Senate Bill (SB) 567 83<sup>rd</sup>  
Legislature, Regular Session, transferred the functions  
relating to the economic regulation of water and sewer  
utilities from the TCEQ to the PUC effective  
September 1, 2014

43971

SCOTT E. RECTENWALD

ATTORNEY AT LAW  
110 WEST FANNIN STREET  
MARSHALL, TEXAS 75670  
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(903) 938-3310 FAX

SRectenwald@aol.com

August 25, 2010

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P.O. Box 13087  
Austin, Texas 78711-3087

Re: My clients: Richard Getzschman, Joann Getzschman, John Foster, Martha Foster, Cecil Workman, and Gloria Workman  
Application for a CCN filed by Hidden Village Property Owners Association, Inc.  
Camp County, Texas

Dear Sirs and Madames:

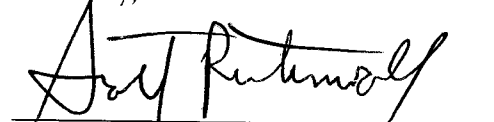
I represent the following persons: Richard Getzschman, Joann Getzschman, John Foster, Martha Foster, Cecil Workman, and Gloria Workman. My clients request a hearing with regard to the above referenced application for a CCN being made by Hidden Village Property Owners Association, Inc. These persons would be adversely affected by the granting of the CCN for the following reasons:

1. Hidden Village Property Owners Association has attempted to charge its members for water by assessing "maintenance fees" for each of the lots owned in the Hidden Village Subdivision. In other words, fees are charged on a per lot basis, regardless of the amount of water used by any particular member. HVPOA proposes to continue this fee structure, which is grossly unfair to Mr. And Mrs. Getzschman, and Mr. And Mrs. Foster, who own more than one lot in the subdivision. Some of the lots owner by my clients are unimproved and have no operating water service to them. The practical effect of the proposed fee structure is that these persons would pay many thousands of dollars per year for water, regardless of their usage. At the same time, other property owners in the subdivision would pay only for their single lot, and my clients would bear a disproportionate part of the cost for water. My proposed adjustment is to require metering of each individual property so that charges for service are borne by those persons using the water.

2. The Hidden Village Property Owners Association has continued to violate its own restrictive covenants in charging amounts for "maintenance fees" which exceed the permitted assessments under those covenants. A copy of the applicable covenants is included with this letter. My proposed adjustment to the application would be to require HVPOA to provide proof of amendment to the restrictive covenants, approved by the vote of the required number of members, and signed by said members as required under the Third Amended Restrictive Covenants included with this letter. (There has recently been an attempt to amend the restrictive covenants which we believe is ineffective for several reasons, but mainly for the reason that the attempted amendment does not comply with the procedure for amending the covenants contained in the Third Amended Covenants, i.e. the document is not signed by 75% of the property owners and recorded in the deed record.)
  
3. The Hidden Village Property Owners has continued a course of conduct that indicates that the individuals that comprise the board of directors are either grossly negligent or malicious in the use of their powers. The HVPOA has terminated water service to Mr. And Mrs. Foster and Mr. And Mrs. Workman because they have refused to pay fees in excess of those permitted by the restrictive covenants. Additionally, the HVPOA has failed to abide by the provisions of 30 Tex.Admin. Code 291, Subchapter E in providing water service and in terminating my clients' services. HVPOA Board members and their spouses, agents or employees have also personally threatened or been abusive to some of my clients. I have no proposed adjustment to the application for this issue because the only resolution to this matter would be to have a new board of directors elected, or to form a different entity to make application for the CCN.

Please notify me at the address on this letterhead of any hearing that is set in this matter. Thank you for your assistance.

Sincerely,

  
\_\_\_\_\_  
Scott Rectenwald

cc: Mr. Richard Getzschman  
Mr. John Foster  
Mr. Cecil Workman c/o John Foster

4/68

THIRD AMENDED  
PROTECTIVE AND RESTRICTIVE COVENANTS  
WHISPERING HILLS SECTION II  
HIDDEN VILLAGE  
CAMP COUNTY, TEXAS

*original*

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WATER & POWER

Whereas, the undersigned, EquiChase, Ltd., owner of seventy five percent (75%) or more of Whispering Hills Section II, hereinafter also known as Hidden Village, desires to amend said Protective and Restrictive Covenants, the undersigned does hereby adopt, impose, and place upon the land comprising said Subdivision the following amendments to the previously recorded Protective and Restrictive Covenants as set forth herein:

1. There shall be established an Architectural Control Committee composed of three (3) members appointed by the undersigned (and/or by designees of the undersigned, from time to time) to protect the owners of lots in Whispering Hills Section II against such improper use of lots as will depreciate the value of their property; to preserve, so far as practicable, the natural beauty of said property; to guard against the placement thereon of poorly designed or proportioned structures and structures manufactured of improper or unsuitable materials, to obtain harmonious architectural schemes; to insure the highest and best development of said property; to encourage and secure attractive camping usage thereon; to secure and maintain proper setbacks from street, and in general to provide adequately for a high type of quality of improvements in said property, and thereby to enhance the value of investments made by purchasers of lots therein. The initial Architectural Control Committee shall consist of Robert R. White, Patrick S. White and Bill Cromer. The members of the Architectural Control Committee (other than the undersigned), shall serve on such committee at the pleasure of the undersigned. The undersigned, its successors and assigns, shall have the absolute right to appoint replacements and successors to the Architectural Control Committee. A majority vote of the Architectural Control Committee will be required for approval for any plan. Any decision to approve or disprove of any plan submitted to said Committee shall be solely in the discretion of said Committee.

Neither the undersigned, nor the Architectural Control Committee, or the members of said committee, shall have any liability or responsibility at law or in the equity on account of the enforcement of, nor on account of the failure to enforce these restrictions.

- 1 (a). These Protective and Restrictive Covenants shall apply to the following lots in Whispering Hills Section II:

Block Numbered Seven (7)

Lots 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 19, 30, 31, 33, 34, 35, 36, 37, 38, 39, 40.

Block Numbered Eight (8)

Lots 1, 2, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 30, 31, 33, 34.

Block Numbered Nine (9)

Lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, and 20.

Block Numbered Ten (10)

Lots 1, 2, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, 36, 37, 38.

2. Subject to the provisions numbered hereunder, all lots are restricted to use for single family purposes only with only one camper unit to be used on any one lot.
3. No improvements shall be placed or maintained on any lot covered and affected by these Protective and Restrictive Covenants unless the owner thereof has obtained approval in writing in advanced by the Architectural Control Committee. Among the improvements which may be pre-approved by the Architectural Control Committee in writing are the following:
  - (a) Concrete pad
  - (b) Picnic table
  - (c) Outdoor lighting
  - (d) Boat dock (maintenance schedule must also be approved)
  - (e) Fishing pier
  - (f) Storage building
  - (g) Dwelling, or Permanent Residence
4. No fences shall be built on any camper lot.
5. No permanent structure may be built on any camper lot, however, a permanent residence may be constructed on **certain designated lots** in Section II provided the following:
  - (a) Owner has purchased a combination of contiguous lots totaling four tenths (0.40) acre or more.
  - (b) Construction plans and building placement plans have been submitted in writing and owner has written approval of the Architectural Control Committee.
  - (c) Exterior walls of residence or any other structure shall not be composed of materials other than brick, stone, or wood, provided, however exceptions

to this particular requirement may be made on an individual basis by the Architectural Control Committee.

- (d) All outbuildings, storage buildings or other buildings located on any lot in Whispering Hills Estates Section II shall be constructed from the same materials which comprise the residence located on said lot.
- (e) Any construction begun on any structure must be complete on the exterior within 180 days from the date of commencement.

**\_\_\_\_\_**, camper, or structure shall be located nearer to the side street line than five (5) feet or nearer to the side lot line or rear lot line than five (5) feet. "Side lot line" and "rear lot line", respectfully, as used in the paragraph in respect to any two or more contiguous whole and /or fractional lots owned by (and/or under a contract to be conveyed by the undersigned to) the same person or persons and used as a single site, shall therefore mean, respectfully each and/or either of the two outermost side lot lines and the rear lot lines furthest from the front lot line considering said contiguous whole and/or fractional lots as one lot. No travel trailer, camper or structure shall be located nearer to the front lot line than twenty (20) feet. In order to secure the most effective usage of space for all camper lots, the Architectural Committee reserves the right to **require certain placement** of campers on camper lots when and where the situation merits, in the sole judgement of the Architectural Committee

- 7. No animals or birds, other than household pets shall be kept on any lot. Pets may not be left unattended. Dogs must be restrained and/or leashed and refrained from barking. No noisy, noxious or offensive activity shall be carried on upon any lot, nor shall anything be done thereon which may be or may become an annoyance or nuisance to the neighborhood.
- 8. Camping trailers, fifth wheel trailers, mini-motor homes, travel trailers and motorhomes, (one per lot only) shall be of good appearance and in good repair and commercially manufactured, and subject to the approval of the Architectural Control Committee. (No converted buses are permitted.) Tents, pick-up campers, van conversions and similar types of temporary camping equipment may not be left on a lot unattended for more than 24 consecutive hours. Tents shall be free of litter, rubbish, trash, and other debris. No unsanitary conditions shall be allowed to exist on any lot.
- 9. **\_\_\_\_\_** along and within five (5) feet of the rear lines, front lines, and side lines of all lots in this subdivision for the construction, operation and perpetual maintenance of conduits, poles, wires and fixtures for electric lights, gas lines, telephone, water lines, sanitary and storm sewers, road drains and other public and quasi-public utilities and to cut and/or trim any trees which at any time may interfere or threaten to interfere with the maintenance of such lines; with right of ingress to and egress from said premises to employees of said utilities.

It is understood and agreed that it shall not be considered a violation of the provisions of the easement if wires or cables carried by such pole lines pass over some portions of said lots not within the easements as long as such lines do not hinder the construction of permitted buildings on any lots in Whispering Hills Section II.

The undersigned and/or their designees may, on any lot and/or lots then owned by them, construct, maintain, use and allow to be used by others, parks, swimming pools, boat ramps, fishing piers, playgrounds, community center buildings, sales offices, water wells, sewage treatment plants and related plumbing, storage, operation and maintenance facilities, and the like, and, in the event of any such usage numbered paragraphs 2, 3, 4, 5, 8, and 9 shall not apply.

10. No outside toilet or privy shall be erected or maintained on any lot hereunder. Any method of sewage storage utilized on any lot in Whispering Hills Section II must comply with applicable law. Not more than one property may be served by a single water connection, meeting the aforesaid requirements. **NO WATER WELL SHALL BE PERMITTED ON ANY LOT HEREUNDER WITHOUT THE PERMISSION OF THE ARCHITECTURAL CONTROL COMMITTEE.**
11. Subject to the provisions of the last sentence of this paragraph, the owner of each lot described in paragraph 1(a) shall be asked for a donation of (i) \$144.00 per year per lot if the owner of which owns only one lot in Whispering Hills Section II, and (ii) a pro rata amount per month per lot in said Subdivision in respect to lots of which two or more are owned by the same person but not to exceed \$200.00 per year as to the total of all lots owned by one owner in said Subdivision: the word (owner) as used in this sentence, shall include also the purchaser under a sales contract with the undersigned of a camping lot in Whispering Hills Estates Section II. Such donations may be used for the enforcement of these subdivision restrictions and for the construction, reconstruction, improvement and maintenance of roads and streets, swimming pools, and parks in Whispering Hills Section II and for security guards at Whispering Hills Section II and for other uses approved by the Architectural Control Committee and/or Property Owners Association, it being understood that said swimming pools, parks, and recreational areas are for the sole use and benefit of the members of said association, their families and authorized guests.
12. Upon purchase of property, new owner agrees to keep said property free of litter, grass, weeds or any plants cultivated to grow to a height greater than twelve (12) inches on an average, or to grow in rank profusion upon such property.

All trash shall be neatly stored in standard commercial garbage cans (plastic or metal) with locking lids sufficient to contain trash in the event they are overturned. Each owner shall prevent the encroachment of underbrush. No lot or any portion of any lot shall be used as a dumping ground for rubbish or trash, nor for storage of items or materials, and all lots shall be kept clean and free of any boxes, rubbish, trash, inoperative cars, tall grass or weeds or other debris, and refrigerators and other large appliances shall not be placed outdoors. The undersigned shall have the right to enter

the property where a violation exists under this paragraph and remove such items or correct such violations at the expense of the offending party.

13. No lot or any part of a lot shall be used for a street, access road or public thoroughfare without the prior written consent of the undersigned, his heirs and assigns. The undersigned plans to create an entry point (Entrance) into Section II at the North East corner of Section II which will connect to the street named Dogwood in Section I, and another entry point at the South East corner of Section II which will connect to Camp County road which runs along the South edge of Section II.
14. No hunting or discharging of firearms shall be permitted on any lot or in any part of the subdivision.
  - 14(a). Off-road recreational vehicles such as dirt bikes, ATV 3 and 4 wheelers, go carts, etc. shall not be operated on the subdivision premises.
15. If any person or entity, as defined hereinafter, whether or not lawfully in possession of any real property hereunder, shall either (i) violate or attempt to violate any restriction or provision herein, or (ii) permit to be violated any restriction or provision herein, it shall be lawful for the undersigned, his heirs and assigns, and or any person or entity, as is defined hereinafter, to prosecute any proceedings at law or in equity against any such person or entity violating, attempting to violate and/or permitting to be violated any restriction or provision herein to (i) prevent such violation, (ii) recover damages or other dues for such violation, and (iii) recover court cost and reasonable attorney's fees incurred in such proceedings. "Person or entity", as is used in the preceding sentence hereof shall include, but shall not be limited to, all owners and purchasers of any real property described in paragraph 1(a).
16. Invalidation of any one or more of these covenants and restrictions by judgement of any court shall in no wise affect any of the other covenants, restrictions, and provisions herein contained, which shall remain in full force and effect.
17. The use of the Park Area designated on the plat of Subdivision is strictly limited to owners of lots in Section I and Section II and their guests.
18. Rental Units in the Park Area may be reserved by owners of lots in the Subdivision for their guests. Reservations of the Rental Units shall be made at least two (2) weeks in advance. Rental Units at the Park may be reserved for a maximum of one (1) week (7 days). Such reservations may be extended by a member of the Architectural Control Committee or its designee provided, however, any such extended reservations shall be in writing. It may be determined that a daily usage fee is necessary to defray the cost of utility usage. At such time as hook-up fees become applicable, said fees will be posted in the Park. Said fees will be collected (in advance of hookup) by a future designated representative.

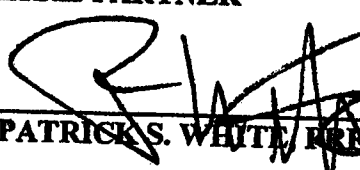
19. The Pavilion or community service building, bath house, or any future facility situated within the Subdivision is solely for the use of owners of lots in Section I and Section II and their guests. Such usage shall be subject to such additional rules as may be posted on the site. The usage shall be free of charge, provided, however, a clean-up deposit may be required. The Pavilion or community service center must be reserved at least thirty (30) days in advance.
20. It is specifically provided that the use of the fishing pier is restricted solely to owners of lots in Section I and Section II and their guests.
21. Temporary boat tie-ups within the Subdivision are provided for the benefit of owners and their guests. Such boat tie-ups shall be used for no more than two (2) consecutive nights. Such usage shall be at the user's risk. The owners of Whispering Hills Estates Section I and Section II, their agents and employees assume no liability whatsoever for such usage.
22. A Whispering Hills Section II Property Owners Association shall be established after Fifty-One percent (51%) of Section II has been conveyed to purchasers. EquiChase, Ltd. shall then appoint a 5-member board representative of the owners of property in Section II. Articles and Bylaws of said Property Owners Association shall be written and implemented at the time it is formed. The Property Owners Association of Whispering Hills Section II shall be recorded by written record into the Camp County Records Office. Property owners shall henceforth be voting members of said association, create their own rules, and be bound by the decisions of said association. EquiChase, Ltd. shall maintain and regulate all common areas, such as parks and boat ramps, until fifty one percent (51%) of all lots are owned by private property owners. EquiChase, Ltd. shall then convey common area known as Section II Park to the Whispering Hills Estates Section II Property Owners Association, and said Association shall accept such conveyance. Upon such conveyance, the said association shall have the sole responsibility and sole liability for maintenance, upkeep, and costs (including insurance and taxes) for such common areas. Whispering Hills Estates Section II property owners will continue to have access to Section I Park as will Section I property owners continue to have access to Section II Park.
23. These Protective and Restrictive Covenants shall be considered as an amendment to the existing covenants affecting the Subdivision and, insofar as the lots and area to which they apply (as herein designated), they shall be considered to replace any covenants previously filed of record.
24. EquiChase, Ltd. reserves the right to re-survey and/or re-plat any unsold lots to such size and shape as the company in its sole discretion shall determine to be necessary for the effective development of Whispering Hills Estates Section II. EquiChase, Ltd. reserves the right to add additional lots to Whispering Hills Estates Section II as certain properties becomes available and EquiChase, Ltd. determines in its sole

judgement to include said additional lots under these Protective and Restrictive Covenants.

25. The undersigned party executes these Protective and Restrictive Covenants and certifies that on the date of such execution it is the owner of more that seventy-five percent (75%) of the property within the Subdivision known as Whispering Hills Estates Section II.
26. The owners of properties located in Whispering Hills Estates Section II, whose property does not fall under these Protective and Restrictive Covenants have the option of electing, by recordable written instrument, to be included in said Protective and Restrictive Covenants.
27. These Protective and Restrictive Covenants may be amended in whole or in part by a written instrument placed of record and executed by the owner or owners of at least seventy-five percent (75%) of the property within Whispering Hills Estates Section II.

EXECUTED this 7th day of JUNE 2001.

EQUICHASE, LTD.  
R & R WHITE MANAGEMENT CO., INC.  
GENERAL PARTNER

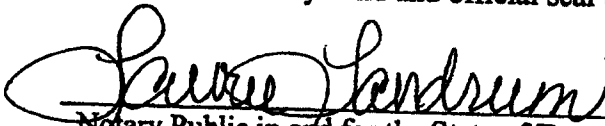
  
BY: PATRICK S. WHITE, PRESIDENT

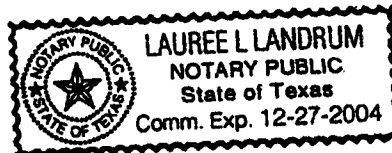
STATE OF TEXAS

COUNTY OF CAMP

BE IT REMEMBERED, that on this day came before me, the undersigned, a Notary Public within and for the State aforesaid, duly commissioned and acting, PATRICK S. WHITE, to me personally well known, who stated that he is the President of R & R White Management Co. Inc., the General Partner of EQUICHASE, LTD., a Texas Limited Partnership, and is duly authorized in his respective capacity to execute the foregoing instrument for and in the name and behalf of said partnership, and further stated and acknowledged that he has so signed, executed and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this 7th day of JUNE 2001.

  
Notary Public in and for the State of Texas



NOTICE OF APPLICATION FOR CERTIFICATE OF CONVENIENCE AND NECESSITY (CCN) TO PROVIDE WATER UTILITY SERVICE IN CAMP COUNTY

Dear Customer: John & Martha Foster

Date: August 20, 2010

Hidden Village Public Water System has filed an application for a CCN and to decertify a portion of Bi County Water Supply Corporation with the Texas Commission on Environmental Quality to provide water utility service in Camp County.

The proposed utility service area is located approximately 12 miles northwest of downtown Pittsburg, TX.

A copy of the proposed service area map is available at 78 PR 52602 Pittsburg, Texas 75686 or by calling 903/855-1408.

The proposed CCN affects customers and/or areas located in the following zip code: 75686.

The current utility rates which were first effective on January 1<sup>st</sup>, 2007.

Flat Rate of **Primary Lot - \$250.00 annual fee**  
**Improved Lot - \$150.00 annual fee**  
**Unimproved Lot - \$50.00 annual fee**

-OR-

Monthly Base Rate including NA gallons per connection for:

5/8" meter \$ NA  
 1" meter \$ NA  
 1 1/2" meter \$ NA  
 2" meter \$ NA  
 Other: \$ NA

Gallage charge of NA Per 1,000 gallons above the Minimum (same for all meter sizes)

Miscellaneous Fees:

Regulatory Assessment	1%
Tap Fee (Average Actual Cost)	\$ 200.00
Reconnection fee:	
-Non Payment (\$25.00 max)	\$ 25.00
-Transfer	\$ 25.00
-Customer's request	\$ 25.00
Late fee	\$ 5.00
Returned Check charge	\$ 25.00
Customer Deposit (\$50.00 max)	\$ 50.00
Meter test fee (Actual Cost not Exceed \$25.00)	\$ 25.00
Other Fees (If service is not reconnected within 45 days for non payment)	\$ 200.00

**Your utility service rates and fees cannot be changed by this application. If you are currently paying rates, those rates must remain in effect unchanged. Rates may only be increased if the utility files and gives notice of a separate rate change application.**

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 WATER SUPPLY DIV.  
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A request for a public hearing must be in writing. You must state (1) your name, mailing address, and daytime telephone number; (2) the applicant's name, application number or another recognizable reference to this application; (3) the statement, "I/we request a public hearing"; (4) a brief description of how you or the persons you represent, would be adversely affected by the granting of the application for a CCN; and (5) your proposed adjustment to the application or CCN which would satisfy your concerns and cause you to withdraw your request for a hearing. Persons who wish to intervene or comment should write the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

within thirty (30) days from the date of this publication or notice. A public hearing will be held only if a legally sufficient hearing request is received or if the Commission on its own motion requests a hearing. Only those individuals who submit a written hearing request or a written request to be notified if a hearing is set will receive notice if a hearing is scheduled.

If a public hearing is requested, the Executive Director will not issue the CCN and will forward the application to the State Office of Administrative Hearings (SOAH) for a hearing. If no settlement is reached and an evidentiary hearing is held, the SOAH will submit a recommendation to the Commission for final decision. If an evidentiary hearing is held, it will be a legal proceeding similar to a civil trial in state district court.

**IF A HEARING IS HELD**, it is important that you or your representative attend to present your concerns. Your request serves only to cause a hearing to be held and is not used during the hearing.

If you are a landowner with a tract of land at least 25 acres or more, and is partially or wholly located within the proposed area, you may request to be excluded from the proposed area (or Aopt out@) by providing written notice to the Commission within (30) days from the date that notice was provided by the applicant. All requests to opt out of the requested service area must include a scaled, general location map and a metes and bounds description of the tract of land.

Persons who meet the requirements to opt out, and wish to request this option should file the required documents with the:

Texas Commission on Environmental Quality  
Water Supply Division  
Utilities and Districts Section, MC-153  
P. O. Box 13087  
Austin, TX 78711-3087

A copy of the request to opt out of the proposed area must also be sent to the applicant. Staff may request additional information regarding your request.

Si desea informacion en Espanol, puede llamar al 1-512-239-0200.