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SOAH DOCKET NO. 473-16-4619.WS  
PUC DOCKET NO. 45870

RECEIVED

FORMAL COMPLAINT OF  
ADC WEST RIDGE L.P. AND  
CENTER FOR HOUSING RESOURCES,  
INC. AGAINST THE CITY OF FRISCO

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§  
§

BEFORE THE STATE OFFICE OF  
PUBLIC UTILITY COMMISSION  
FILING CLERK  
ADMINISTRATIVE HEARINGS

**CITY OF FRISCO'S RESPONSE TO COMPLAINANTS' MOTION FOR CONTINUANCE**

COMES NOW, the City of Frisco ("City" or "Frisco") and files this Response to the Motion for Continuance ("Motion") by ADC West Ridge, LP and Center for Housing Resources, Inc. In support thereof, the City shows the following:

**I. BACKGROUND**

On December 20, 2016, ADC West Ridge, LP and Center for Housing Resources, Inc. ("Complainants") requested a 45-day continuance in the proceedings. Complainants' only justification for the continuance is to allow it "sufficient time to review additional discovery produced by the City of Frisco and to determine whether additional depositions of Frisco's experts are appropriate before completing Complainants' prefiled testimony."<sup>1</sup> The PUC Staff is unopposed to the Motion. The City of Frisco opposes the Motion.

**II. OPPOSITION TO MOTION**

The Complainants cite to SOAH rules in seeking the continuance. However, Complainants completely ignore the PUC rules on seeking a continuance. PUC R. §22.79 provides in relevant part:

"Unless otherwise ordered by the presiding officer, motions for continuance of the hearing on the merits shall be in writing and shall be filed not less than five days prior to the hearing. Motions for continuance shall set forth the specific grounds for which the moving party seeks continuance and shall make reference to all other motions for continuance filed by the moving party in the proceeding. The moving party shall attempt to contact all other parties and shall state in the motion each party that was contacted and whether that party objects to the relief requested. The moving party shall have the burden of proof with respect to the need for the continuance at issue. **Continuances will not be granted based on the need for discovery if the party seeking the continuance previously had the**

<sup>1</sup> Complainants' Motion at 1.  
FRISCO'S RESPONSE TO MOTION FOR CONTINUANCE

**opportunity to obtain discovery from the person from whom discovery is sought, except when necessary due to surprise or discovery of facts or evidence which could not have been discovered previously through reasonably diligent effort by the moving party.** The presiding officer shall grant continuances agreed to by all parties provided that any applicable statutory deadlines are extended as may be necessary. Motions for continuances agreed to by all parties may be filed within five days of the hearing on the merits, and shall state suggested dates for rescheduling of the hearing (emphasis added).”<sup>2</sup>

The procedural schedule in this case was suggested by the Complainants and agreed to by the other parties. Discovery in this case has been plentiful and protracted. Complainants have served no less than 90 requests for information and 49 requests for admission on the City. Additionally, they have deposed three Frisco employees over the last two weeks. Complainants have requested the continuance to review discovery responses and determine if additional discovery is needed.

In short, Complainants have made no demonstration how there is good cause for the continuance. In fact, PUC rules indicate that a continuance is not appropriate to provide additional time for discovery, unless there is a demonstration of “surprise or discovery of facts which could not have been discovered previously through reasonably diligent effort by the moving party.”<sup>3</sup> Complainants have wholly failed to make this required demonstration. As such, Complainants motion should be in all things denied.

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<sup>2</sup> 16 Tex. Admin. Code § 22.79.

<sup>3</sup> Id.

### **III. CONCLUSION AND PRAYER**

The City respectfully requests an order:

- (1) Denying the Complainants' Motion to for Continuance.
- (2) Granting the City all other and further relief to which it is justly entitled.

Respectfully submitted,

**Russell & Rodriguez, L.L.P.**  
1633 Williams Drive, Building 2, Suite 200  
Georgetown, Texas 78628  
(512) 930-1317  
(866) 929-1641 (Fax)

**Abernathy Roeder Boyd & Hullett, P.C.**  
Richard Abernathy  
State Bar No. 00809500  
1700 Redbud Blvd., Suite 300  
McKinney, Texas 75069  
(214) 544-4000  
(214) 544-4040 (Fax)

/s/ Arturo D. Rodriguez, Jr.  
ARTURO D. RODRIGUEZ, JR.  
State Bar No. 00791551

**ATTORNEYS FOR THE CITY OF FRISCO**

## CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2016, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

State Office of Administrative Hearings  
300 West 15<sup>th</sup> Street, Suite 502  
Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061 Fax

William G. Newchurch  
Administrative Law Judge  
State Office of Administrative Hearings 300  
West 15th St., Suite 502  
Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061- *Via Facsimile*

Mr. Sam Chang  
Public Utility Commission of Texas  
1701 N. Congress Avenue  
Austin, Texas  
(512) 936-7261  
*Via Electronic Mail*

Meitra Farhadi  
Administrative Law Judge  
State Office of Administrative Hearings 300  
West 15th St., Suite 502  
Austin, Texas 78701  
(512) 475-4993  
(512) 322-2061- *Via Facsimile*

Mr. Leonard Dougal  
Mr. Ali Abazari  
Ms. Mallory Beck  
Jackson Walker, LLP  
100 Congress Avenue, Suite 1100  
Austin, Texas 78701  
(512) 236-2000  
*Via Electronic Mail*

/s/ Arturo D. Rodriguez, Jr.  
ARTURO D. RODRIGUEZ, JR.