



Control Number: 45870



Item Number: 19

Addendum StartPage: 0

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COMPLAINT OF KER-SEVA LTD.
AGAINST THE CITY OF FRISCO

§
§

BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS

PUBLIC UTILITY COMMISSION
FILING CLERK

**OBJECTIONS OF THE CITY OF FRISCO TO KER-SEVA, LTD., ADC WEST RIDGE
VILLAS, L.P., AND CENTER FOR HOUSING RESOURCES, INC. FIRST SET OF
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

COMES NOW, the City of Frisco ("City" or "Frisco") and files these Objections to the First Set of Requests for Information ("RFI") and Requests for Admission ("RFA") of Ker-Seva Ltd., ADC West Ridge Villas, LP and Center for Housing Resources, Inc.. In support thereof, the City shows the following:

I. BACKGROUND

On April 19, 2016, Ker-Seva Ltd. ("Complainant") filed a complaint ("Complaint") against the City pursuant to PUC Proc. R. 22.242.¹ The City believes the Public Utility Commission of Texas ("PUC") lacks jurisdiction over the complaint. On June 14, 2016, an order was entered setting a deadline of July 1, 2016, for filing a list of issues. The Order of Referral clearly and unambiguously listed only Ker-Seva Ltd. as the subject of the Complaint. On June 17, 2016, two additional entities, ADC West Ridge Villas, LP and Center for Housing Resources, Inc., sought to presumably join in the complaint. ADC West Ridge Villas, LP and Center for Housing Resources, Inc. have not filed motions to intervene and have not been granted party status in this proceeding.

On June 30, 2016, Ker-Seva Ltd., ADC West Ridge Villas, LP and Center for Housing Resources, Inc. jointly served RFIs and RFAs on the City.² A copy of the RFIs and RFAs are contained

¹ The City incorporates the filings in this proceeding by reference to their corresponding PUC Filing Control and/or Item Numbers (e.g., "Item No. 1"). See Tex. R. Civ. P. 58. Unless otherwise noted, all docket references herein are to PUC Docket No. 45870, In Re Complaint of Ker Seva, Ltd. against the City of Frisco.

² See Item No. 12.

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in Exhibit A, and hereinafter referred to as “Complainant’s RFIs and RFAs.” Pursuant to PUC Proc. R. 22.144(d) and 22.4, these objections are timely filed.

However, before considering the objections, contemporaneously with filing these objections, the City has filed a Motion for Protective Order. A copy of the Motion for Protective Order is attached hereto as Exhibit B. The arguments contained therein are incorporated herein by reference. Briefly, the entirety of the Complainant’s RFIs and RFAs are irrelevant and not likely to lead to the discovery of admissible evidence. The PUC has not determined if it even has jurisdiction over the subject matter of the Complaint. Further, the PUC has not defined the scope of its investigatory powers and the issues it believes it can address. As such, until the PUC’s jurisdiction and the scope of the hearing are determined, the Complainant’s RFIs and RFAs are irrelevant.

Further, the PUC has not granted interventions for ADC West Ridge Villas, LP or Center for Housing Resources, Inc. To the extent the Complainant’s RFIs and RFAs are being propounded by either of those non-parties, the City objects to such discovery as discovery may only be propounded by parties pursuant to PUC Proc. R. 22.141. ADC West Ridge Villas, LP or Center for Housing Resources, Inc. are simply not parties to this proceeding.

The City and counsel for Complainant³ worked to resolve the City’s objections to the Complainant’s RFIs and RFAs. Many of the objections were resolved. However, pursuant to PUC Proc. R. 22.141(a)(1), the City will detail all unresolved objections below.

II. OBJECTIONS

As previously stated, the City seeks a protective order as the PUC’s jurisdiction and the issues in this case are undetermined. As such the City makes two objections common to every request for information and request for admission. Additional objections to each request are listed below. The

³ Counsel for Complainant likewise represents ADC West Ridge Villas, LP and Center for Housing Resources, Inc.

OBJECTION TO THE FIRST SET OF REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION OF KER-SEVA LTD. 2

Relevancy objection and Beyond the Scope of Discovery objections are explained below and common to all of the Complainant's RFIs and RFAs.

Relevancy⁴ – The City objects to the discovery requests as they are irrelevant and not likely to lead to the discovery of admissible evidence. The PUC staff and the City question the jurisdiction of the PUC over this proceeding. The PUC has not determined its jurisdiction. Further, if the PUC has jurisdiction, the PUC has not determined the scope of its jurisdiction and the matters relevant to this proceeding. Thus, any request is irrelevant until the PUC establishes the scope of the proceeding.

Beyond the Scope of Discovery⁵ - The PUC has not granted any interventions for ADC West Ridge Villas, LP and Center for Housing Resources, Inc. To the extent the RFIs and RFAs are being propounded by either of those non-parties, the City objects to such discovery as discovery may only be propounded by parties pursuant to PUC Proc. R. 22.141. Thus, any requests by ADC West Ridge Villas, LP and Center for Housing Resources, Inc. are beyond the scope of acceptable discovery.

Regarding Complainant's RFIs and RFAs, each request will be considered separately below, pursuant to PUC Proc. R. 22.141(d).

A. INSTRUCTIONS AND DEFINITION OF COMPLAINANT'S RFIs AND RFAs

Instructions and Definitions.

OBJECTION: The City objects to the Instructions and Definitions of Complainant's RFIs and RFAs on the grounds of Relevancy, as described above, and they are Beyond the Scope of Discovery, as described above.⁶

B. REQUESTS FOR INFORMATION

Request for Information No. 1: Please produce all documents evidencing any communication between Frisco and the City of McKinney, Texas, or any other third party, relating to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. Further, the City asserts the attorney-client and attorney work product privilege. It is agreed that the City will not produce any privileged documents and any privilege log is limited to the time period of January 1, 2015, to the present. The City objects to the production of a privilege log as there is doubt as to whether the PUC has

⁴ Hereafter, unless otherwise stated, when the City makes a "relevancy" objection, it incorporates by reference the argument made herein.

⁵ Hereafter, unless otherwise stated, when the City makes a "beyond the scope of discovery" objection, it incorporates by reference the argument made herein.

⁶ To the extent that the City's objections are overruled, the City and Complainant have resolved an objection to the definition of "Property."

jurisdiction over this proceeding. As such, there is good cause to prevent a privilege log from being produced until it is determined the relevant issues in this matter, if any.

Request for Information No. 2: Please produce all documents evidencing internal communications within Frisco, including, but not limited to, between and among any employees, officers, directors, or councilpersons of Frisco, relating to the Property, including Lot I or Lot 2, between January 1, 2009, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. Further, the City asserts the attorney-client and attorney work product privilege. It is agreed that the City will not produce any privileged documents and any privilege log is limited to the time period of January 1, 2015, to the present. The City objects to the production of a privilege log as there is doubt as to whether the PUC has jurisdiction over this proceeding. As such, there is good cause to prevent a privilege log from being produced until it is determined the relevant issues in this matter, if any.

Request for Information No. 3: Please produce all documents evidencing any communication between Frisco and any consultants of Frisco, including but not limited to Freese and Nichols and Kimley-Horn, relating to the Property, including Lot I or Lot 2, between January 1, 2009, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. Further, the City asserts the attorney-client and attorney work product privilege. It is agreed that the City will not produce any privileged documents and any privilege log is limited to the time period of January 1, 2015, to the present. The City objects to the production of a privilege log as there is doubt as to whether the PUC has jurisdiction over this proceeding. As such, there is good cause to prevent a privilege log from being produced until it is determined the relevant issues in this matter, if any.

Request for Information No. 4: Please produce all documents relating to any agreement between Frisco and the City of McKinney, Texas, relating to the provision of water or sewer service to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Information No. 5: Please produce all documents relating to any agreement between Frisco and the City of McKinney, Texas, relating to the provision of water or sewer service by the City of McKinney, Texas, within Frisco's water CCN or sewer CCN, between January 1, 2009, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Information No. 6: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision or supply of sewer treatment capacity to Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 7: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision or supply of raw water, treated water, or water treatment capacity to Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 8: Please produce a current map identifying Frisco's existing water and sewer service lines within Frisco's water CCN and sewer CCN.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. If the City is compelled to produce any responsive documents, the City will produce pursuant to a Protective Order which will be discussed further by the parties.

Request for Information No. 9: Please produce a current map identifying private easements within Frisco's water CCN and sewer CCN which are dedicated to Frisco for the provision of water or sewer service.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. If the City is compelled to produce any responsive documents, the City will produce pursuant to a Protective Order which will be discussed further by the parties. The scope of the RFI has been modified by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 10: Please produce all documents relating to the capacity of Frisco's sewer facilities to support the service of the proposed West Ridge Villas on Lot 2.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 11: Please produce all documents relating to the capacity of Frisco's water facilities to support the service of the proposed West Ridge Villas on Lot 2.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 12: Please produce all documents relating to the capacity of the City of McKinney to provide water or sewer service to the proposed West Ridge Villas on Lot 2.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 13: Please produce all documents relating to the preliminary plat approved by Frisco and associated with Lot 2, including, but not limited to, any communications relating to the location of the utility lines identified on the preliminary plat.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 14: Please produce all documents relating to the estimated costs of construction and/or appropriation of private easements for the utility lines as depicted on the preliminary plat.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 15: Please produce all documents between January 1, 2015, and the present relating to the requirement to plat Derick Barch's property located south of the Property and on which a RV-Boat storage facility was planned.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 16: Please produce all documents between January 1, 2015, and the present relating to the provision of water or sewer service to Derick Barch's property located south of the Property and on which a RV-Boat storage facility was planned.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 17: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to Lot 1.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The scope of the RFI has been modified by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 18: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to any property located on the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The scope of the RFI has been modified by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 19: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to the residential homes along Plum Lane located south of the Property and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The scope of the RFI has been modified by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

Request for Information No. 20: Please produce all documents, including but not limited to documents evidencing communications, related to all requests for construction water service for Lot 2 between January 1, 2016, and the present.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. Further, the City asserts the attorney-client and attorney work product privilege. It is agreed that the City will not produce any privileged documents.

Request for Information No. 21: Please produce all documents, including but not limited to council resolutions or letter agreements evidencing approval or agreement by Frisco, related to the acquisition by the City of McKinney, Texas, of the facilities, including water lines, associated with the former Danville Water Supply Corporation that are located within Frisco's water CCN.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The scope of the RFI has been modified by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

C. REQUESTS FOR ADMISSION

Request for Admission No. 1: Admit that the City of McKinney, Texas, provides water and sewer service to Lot 1 .

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 2: Admit that the City of McKinney, Texas, provides water service to all properties located along the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 3: Admit that the City of McKinney, Texas, provides sewer service to properties, other than Lot 1 , along the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 4: Admit that the City of McKinney, Texas, provides water service to the residential homes along Plum Lane located south of the Property and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 5: Admit that the City of McKinney, Texas, began providing water service to the storage facility located directly east of Lot 2 after the transfer of the area in which the storage facility is located from the water CCN of the City of McKinney, Texas, to Frisco's water CCN.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 6: Admit that the City of McKinney, Texas, currently provides water service to the storage facility located directly east of Lot 2 and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above.

Request for Admission No. 7: Admit that the Property has complied with the requirement in Frisco's subdivision ordinance to be subject to an annexation agreement as evidenced by the Annexation Agreement recorded in the Collin County real property records.

OBJECTION: The City objects to the RFI on the grounds of Relevancy, as described above, and it is Beyond the Scope of Discovery, as described above. The RFI has been re-worded by agreement which resolves additional objections from the City. The re-worded RFI will be presented if the City is compelled to respond.

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III. CONCLUSION AND PRAYER

The City respectfully requests:

- (1) An order sustaining the City objections.
- (2) In the alternative, if the City is compelled to respond to discovery that an order be issued that does not require the response to discovery any sooner than 20 days after the entry of an order compelling responses.
- (3) Grant the City all other and further relief to which it is justly entitled.

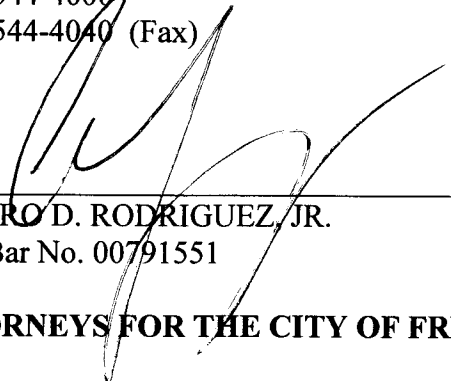
Respectfully submitted,

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)



ARTURO D. RODRIGUEZ, JR.
State Bar No. 00791551

ATTORNEYS FOR THE CITY OF FRISCO

CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 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 15th Street, Suite 502
Austin, Texas 78701
(512) 475-4993
(512) 322-2061 Fax

Mr. Sam Chang
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas
(512) 936-7261
(512) 936-7268 Fax

Mr. Leonard Dougal
Jackson Walker, LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(512) 236-2000
(512) 236-2002 Fax



ARTURO D. RODRIGUEZ, JR.

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

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2016 JUN 30 AM 10:39

**FORMAL COMPLAINT OF KER-SEVA
LTD., ADC WEST RIDGE VILLAS, L.P.,
AND CENTER FOR HOUSING
RESOURCES, INC. AGAINST THE
CITY OF FRISCO, TEXAS**

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BEFORE THE
PUBLIC UTILITY COMMISSION
FILING CLERK
PUBLIC UTILITY COMMISSION
OF TEXAS

COMPLAINANTS' FIRST SET OF REQUESTS FOR INFORMATION AND
REQUESTS FOR ADMISSION

COMES NOW, Complainants Ker-Seva Ltd., ADC West Ridge Villas, L.P., and Center for Housing Resources, Inc. (collectively, "Complainants"), and file this their First Set of Requests for Information ("RFIs") and Requests for Admission to the City of Frisco, Texas ("Frisco"), pursuant to 16 Tex. Admin. Code § 22.144(c) and (j) in this docket. Responses to the RFIs and Requests for Admission set forth in herein should be served on the undersigned counsel for Complainants at the address indicated within twenty (20) days of service hereof.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: /s/Mallory Beck

Leonard Dougal - State Bar No. 06031400

Mallory Beck - State Bar No. 24073899

100 Congress, Suite 1100

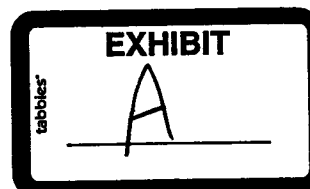
Austin, Texas 78701

E: ldougal@jw.com

T: (512) 236 2233

F: (512) 391-2112

ATTORNEYS FOR COMPLAINANTS
KER-SEVA, LTD., ADC WEST RIDGE
VILLAS L.P., AND CENTER FOR HOUSING
RESOURCES, INC.



CERTIFICATE OF SERVICE

I hereby certify that the above and foregoing document was served as shown below on
this 30th day of June 2016:

Diane Callander Wetherbee
Abernathy Roeder Boyd & Hullett P.C.
1700 Redbud Blvd., Suite 300
P.O. Box 1210
McKinney, Texas 75069-1210
dwetherbee@abernathy-law.com
Attorneys for City of Frisco

Via email and U.S. First Class Mail

Sam Chang
Attorney – Legal Division
Public Utility Commission of Texas
1701 N. Congress Avenue
P. O. Box 13326
Austin, Texas 78711-3326
sam.change@puc.texas.gov
Attorneys for Public Utility Commission of Texas

Via email and U.S. First Class Mail

/s/ Mallory Beck

Mallory Beck

COMPLAINANTS' FIRST SET OF REQUESTS FOR INFORMATION

DEFINITIONS

1. "Frisco," "You," and "Your" refer to the City of Frisco, Texas, and its council persons, officers, employees, consultants, agents, attorneys, and affiliates to the extent such persons are acting for or on behalf of Frisco.
2. "Property" refers to the approximately 8.5 acres of land in Collin County, Texas, located south of Westridge Boulevard and east of Memory Lane within the extraterritorial jurisdiction and water and sewer certificates of convenience and necessity of the City of Frisco.
3. "Lot 1" refers to the portion of the Property with the address of 9421 Westridge Boulevard, identified as Lot 1, Block A.
4. "Lot 2" refers to the portion of the Property with the address of 9331 Westridge Boulevard, identified as Lot 2, Block A, and on which development of the West Ridge Villas is planned.
5. "Document" and/or "Documents" refers to all written, reported, or graphic matter within the scope of Rules 22.141 and 22.144 of the Public Utility Commission of Texas, however produced or reproduced. Without limiting the foregoing, the terms include: papers, books, accounts, drawings, graphs, charts, photographs, electronic or videotape recordings, and any other data compilations from which information can be obtained and translated, if necessary, by the person from whom information is sought, into reasonably usable form, agreements, contracts, communications, correspondence, letters, faxes, e-mail, instant message records, memoranda, records, reports, summaries, records of telephone conversations, diary entries, calendars, appointment books, drafts, notes, telephone bills or records, bills, statements, records of obligations and expenditures, invoices, lists, journals, receipts, checks, canceled checks, letters of credit, envelopes, folders, voice recordings, video recordings, electronic data, electronic media, and any other data or information that exists in written, electronic, or magnetic form.
6. "Communication" shall mean the transmittal of information (in the form of facts, ideas, inquiries, or otherwise) by any method or manner between two or more persons.
7. "Describe" means to provide a detailed narrative concerning the information which is the subject of the RFI.
8. "Relate to," "related to," or "relating to" means concerning, referring to, having a relationship with or to, pertaining to, identifying, pertinent to, describing, explaining, summarizing, or to be otherwise factually, legally, or logically connected to the subject matter of the particular request.

9. The words "and" and "or" shall be construed either conjunctively or disjunctively as required by the context to bring within the scope of these requests any document that might be deemed outside its scope by another construction.
10. "Person" shall mean any natural person, corporation, proprietorship, partnership, professional corporation, joint venture, association, group, governmental agency, or agent, whether foreign or domestic or any other entity.

INSTRUCTIONS

1. These Requests for Information and Requests for Admission are governed by the definitions and instructions contained in the Public Utility Commission of Texas' rules and the Texas Rules of Civil Procedure, which are supplemented as permitted by the specific instructions and definitions herein.
2. Written responses to these Requests for Information and Requests for Admission should be served twenty (20) days after service of these Requests upon you.
3. Your responses should conform to the rules of the Texas Public Utility Commission and the Texas Rules of Civil Procedure.
4. In accordance with 16 Tex. Admin. Code § 22.144, each RFI shall be answered separately, shall identify the preparer and the sponsoring witness, shall be preceded by the RFI, and all responses shall be filed under oath.
5. Each document that is made available for review in response to these RFIs shall be produced as it is kept in the usual course of business (i.e., in the file folder or binder in which the documents were located when the request was served) or the documents shall be organized or labeled to correspond to the category of documents requested.
6. If the documents requested herein include electronic data and magnetic data, they shall be produced in their native format with all metadata intact.
7. When answering these RFIs, you are requested to furnish all information available to you, including information in the possession of your attorneys, investigators, consultants, employees, agents, representatives, or any other person acting on your behalf, and not merely such information as is held or known by you personally.
8. In the event any document or other thing referred to in these RFIs is not in your possession, custody, or control, specify what disposition was made of it and identify the person or entity who now has possession, custody, or control of the document or thing.
9. If you object to any RFI or Request for Admission, you must comply with 16 Tex. Admin. Code § 22.144(d), and you must contact the undersigned so that the parties may negotiate diligently and in good faith prior to the filing of an objection. Objections must be filed within ten (10) calendar days of receipt of these Requests.

10. Any agreement to extend the time to respond to these Requests for Information and Requests for Admission must be in writing. No extensions of time to object to any of the individual document requests should be presumed or assumed unless the agreement between counsel to extend the response date is specifically set forth in writing.
11. PLEASE TAKE FURTHER NOTICE that these RFIs are continuing in nature. Your answers and responses must include all documents that are currently in your possession, custody, and control and that come into your possession, custody, or control in the future.

REQUESTS FOR INFORMATION

Request for Information No. 1: Please produce all documents evidencing any communication between Frisco and the City of McKinney, Texas, or any other third party, relating to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

Response:

Request for Information No. 2: Please produce all documents evidencing internal communications within Frisco, including, but not limited to, between and among any employees, officers, directors, or councilpersons of Frisco, relating to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

Response:

Request for Information No. 3: Please produce all documents evidencing any communication between Frisco and any consultants of Frisco, including but not limited to Freese and Nichols and Kimley-Horn, relating to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

Response:

Request for Information No. 4: Please produce all documents relating to any agreement between Frisco and the City of McKinney, Texas, relating to the provision of water or sewer service to the Property, including Lot 1 or Lot 2, between January 1, 2009, and the present.

Response:

Request for Information No. 5: Please produce all documents relating to any agreement between Frisco and the City of McKinney, Texas, relating to the provision of water or sewer service by the City of McKinney, Texas, within Frisco's water CCN or sewer CCN, between January 1, 2009, and the present.

Response:

Request for Information No. 6: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision or supply of sewer treatment capacity to Frisco.

Response:

Request for Information No. 7: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision or supply of raw water, treated water, or water treatment capacity to Frisco.

Response:

Request for Information No. 8: Please produce a current map identifying Frisco's existing water and sewer service lines within Frisco's water CCN and sewer CCN.

Response:

Request for Information No. 9: Please produce a current map identifying private easements within Frisco's water CCN and sewer CCN which are dedicated to Frisco for the provision of water or sewer service.

Response:

Request for Information No. 10: Please produce all documents relating to the capacity of Frisco's sewer facilities to support the service of the proposed West Ridge Villas on Lot 2.

Response:

Request for Information No. 11: Please produce all documents relating to the capacity of Frisco's water facilities to support the service of the proposed West Ridge Villas on Lot 2.

Response:

Request for Information No. 12: Please produce all documents relating to the capacity of the City of McKinney to provide water or sewer service to the proposed West Ridge Villas on Lot 2.

Response:

Request for Information No. 13: Please produce all documents relating to the preliminary plat approved by Frisco and associated with Lot 2, including, but not limited to, any communications relating to the location of the utility lines identified on the preliminary plat.

Response:

Request for Information No. 14: Please produce all documents relating to the estimated costs of construction and/or appropriation of private easements for the utility lines as depicted on the preliminary plat.

Response:

Request for Information No. 15: Please produce all documents between January 1, 2015, and the present relating to the requirement to plat Derick Barch's property located south of the Property and on which a RV-Boat storage facility was planned.

Response:

Request for Information No. 16: Please produce all documents between January 1, 2015, and the present relating to the provision of water or sewer service to Derick Barch's property located south of the Property and on which a RV-Boat storage facility was planned.

Response:

Request for Information No. 17: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to Lot 1.

Response:

Request for Information No. 18: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to any property located on the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Information No. 19: Please produce all documents between January 1, 2009, and the present relating to the provision of water or sewer service to the residential homes along Plum Lane located south of the Property and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Information No. 20: Please produce all documents, including but not limited to documents evidencing communications, related to all requests for construction water service for Lot 2 between January 1, 2016, and the present.

Response:

Request for Information No. 21: Please produce all documents, including but not limited to council resolutions or letter agreements evidencing approval or agreement by Frisco, related to the acquisition by the City of McKinney, Texas, of the facilities, including water lines, associated with the former Danville Water Supply Corporation that are located within Frisco's water CCN.

Response:

REQUESTS FOR ADMISSION

Request for Admission No. 1: Admit that the City of McKinney, Texas, provides water and sewer service to Lot 1.

Response:

Request for Admission No. 2: Admit that the City of McKinney, Texas, provides water service to all properties located along the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Admission No. 3: Admit that the City of McKinney, Texas, provides sewer service to properties, other than Lot 1, along the south side of Westridge Boulevard east of Memory Lane and west of Custer Road in the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Admission No. 4: Admit that the City of McKinney, Texas, provides water service to the residential homes along Plum Lane located south of the Property and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Admission No. 5: Admit that the City of McKinney, Texas, began providing water service to the storage facility located directly east of Lot 2 after the transfer of the area in which the storage facility is located from the water CCN of the City of McKinney, Texas, to Frisco's water CCN.

Response:

Request for Admission No. 6: Admit that the City of McKinney, Texas, currently provides water service to the storage facility located directly east of Lot 2 and within the extraterritorial jurisdiction and water and sewer CCNs of Frisco.

Response:

Request for Admission No. 7: Admit that the Property has complied with the requirement in Frisco's subdivision ordinance to be subject to an annexation agreement as evidenced by the Annexation Agreement recorded in the Collin County real property records.

Response:

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

**COMPLAINT OF KER-SEVA LTD.
AGAINST THE CITY OF FRISCO**

**§
§**

**BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

CITY OF FRISCO'S MOTION FOR A PROTECTIVE ORDER

COMES NOW the City of Frisco ("City") and files this Motion for Protective Order pursuant to P.U.C. Proc. R. 22.142(a). In support thereof, the City shows the following:

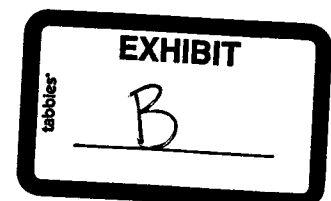
I. BACKGROUND

On April 19, 2016, Ker-Seva Ltd. ("Complainant") filed a complaint ("Complaint") against the City pursuant to PUC Proc. R. 22.242.¹ The City believes the Public Utility Commission of Texas ("PUC") lacks jurisdiction over the complaint. On June 14, 2016, an order was entered setting a deadline of July 1, 2016, for filing a list of issues. The Order of Referral clearly and unambiguously listed only Ker-Seva Ltd. as the subject of the Complaint. On June 17, 2016, two additional parties, ADC West Ridge Villas, LP and Center for Housing Resources, Inc., sought to presumably join in the complaint.

On June 30, 2016, Ker-Seva Ltd., ADC West Ridge Villas, LP and Center for Housing Resources, Inc. jointly served Requests for Information and Requests for Admissions on the City.² On July 1, 2016, the City, the Commission Staff ("Staff") of the PUC and Ker-Seva Ltd., ADC

¹ The City incorporates the filings in this proceeding by reference to their corresponding PUC Filing Control and/or Item Numbers (e.g., "Item No. 1"). *See* Tex. R. Civ. P. 58. Unless otherwise noted, all docket references herein are to PUC Docket No. 45870, In Re Complaint of Ker Seva, Ltd. against the City of Frisco.

² See Item No. 12.



West Ridge Villas, LP and Center for Housing Resources, Inc.³ (“Ker-Seva”) all filed their list of issues relating to the germane issues in this proceeding.⁴

II. ORDER OF PROTECTION REQUIRED

The City and the Staff both filed lists of issues relating to the PUC’s jurisdiction over the Complaint. Both parties question the ability of PUC to hear the Complaint. Commission Staff asks that if the PUC does have jurisdiction whether its jurisdiction is original or appellate in nature.⁵ The City asserts that the PUC does not have jurisdiction as the Complaint was filed pursuant to PUC Proc. R. 22.24 which is inapplicable to Complainant, Complainant is not an affected person, and Complainant is not a “consumer” or “qualified applicant” for service from the City.

In the Order of Referral, the PUC does not declare it has jurisdiction over the Complaint. The PUC states that “the Commission will issue and provide to SOAH a preliminary order which includes a list of issues and areas that must be addressed in this proceeding.”⁶ Thus, at this point, the PUC has not indicated if it believes it has jurisdiction over the Complaint. Further, even if it decides it has jurisdiction, the PUC has not determined what issues are relevant to this proceeding.

Because the PUC’s jurisdiction is not established and a Preliminary Order of issues to be considered by the State Office of Administrative Hearings has not been issued, the submission of discovery and the obligation to respond places an undue burden on the City. The affidavit of the City’s Deputy City Manager, Henry J. Hill, clearly states that the production of discovery will

³ The City continues to assert that ADC West Ridge Villas, LP and Center for Housing Resources, Inc. are not parties to this proceeding. Frisco has not been informed of same by the PUC and the Order of Referral does not list them as complainants. See Item No. 10.

⁴ Item Nos. 13, 15, and 16.

⁵ Item No. 13.

⁶ Item No. 10.

place an undue burden on the City.⁷ The necessity to use public resources on the Complaint when the scope of the PUC's inquiry, if any, is still undefined is wasteful, unduly burdensome, and patently prejudicial to the City. As such, the City requests that discovery not be allowed or abated in this matter until a Preliminary Order and a procedural schedule has been issued in this case.

Further, the PUC has not granted any interventions for either ADC West Ridge Villas, LP or Center for Housing Resources, Inc. Pursuant to PUC Proc. R. 22.141(a), only "parties" may obtain discovery. As neither ADC West Ridge Villas, LP nor Center for Housing Resources, Inc. are parties to this proceeding, the City should be protected from a discovery requests propounded by ADC West Ridge Villas, LP and/or Center for Housing Resources, Inc.

III. Conclusion and Prayer

The City respectfully requests:

- (1) An order of protection protecting the City from the obligation to respond to any discovery responses until a Preliminary Order and a procedural schedule has been issued in this case.
- (2) An order of protection protecting the City from responding to any discovery request of ADC West Ridge Villas, LP.
- (3) An order of protection protecting the City from responding to any discovery request of Center for Housing Resources, Inc.
- (4) Grant 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)

⁷ Exhibit A, attached hereto and incorporated herein for all purposes.

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)



ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791561

ATTORNEYS FOR THE CITY OF FRISCO

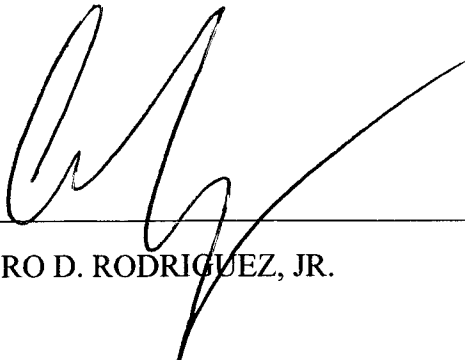
CERTIFICATE OF SERVICE

I hereby certify that on this 11th day of July, 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 15th Street, Suite 502
Austin, Texas 78701
(512) 475-4993
(512) 322-2061 Fax

Mr. Sam Chang
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas
(512) 936-7261
(512) 936-7268 Fax

Mr. Leonard Dougal
Jackson Walker, LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
(512) 236-2000
(512) 236-2002 Fax



ARTURO D. RODRIGUEZ, JR.

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

COMPLAINT OF KER-SEVA LTD.	§	BEFORE THE STATE OFFICE OF
AGAINST THE CITY OF FRISCO	§	ADMINISTRATIVE HEARINGS

AFFIDAVIT OF HENRY J. HILL

STATE OF TEXAS	§	
	§	
COUNTY OF COLLIN	§	

BEFORE ME, the undersigned authority, personally appeared Henry J. Hill, known to me to be the person who subscribed her name below, who, being by me first duly sworn did depose on her oath as follows:

1. I am over 18 years of age, have not been convicted of a crime, and I am of sound mind.
2. The City of Frisco, Texas ("City") employs me as Deputy City Manager. I am capable of making this Affidavit, and personally acquainted with the facts herein stated.
3. The City received the complaint of Ker-Seva Ltd. The City asserts that the Public Utility Commission of Texas ("PUC") does not have jurisdiction over the Complaint as explained by the City's legal counsel.
4. The City has received discovery requests from Ker-Seva Ltd., ADC West Ridge Villas, LP and Center for Housing Resources, Inc.
5. The PUC has not listed any issues governing this case or issued a Preliminary Order.
6. Responding to any discovery requests filed by any party when the issues relevant to the proceeding are not established places an undue burden on City staff. City staff will need to be pulled from their daily duties in order to devote time to pulling documents and responding to discovery requests.
7. Further, many of Ker-Seva Ltd., ADC West Ridge Villas, LP and Center for Housing Resources, Inc. discovery requests are not limited in time or scope.
8. We have just received the document request and are evaluating the number of staff time hours it may require. However, it appears it will take a substantial amount of hours to complete. Further, the City will need to expend public funds for legal counsel to review and produce the documents and respond to discovery.

EXHIBIT A

9. The need to produce discovery and expend public funds while the relevant issues in this case are not established places an undue burden on the City, its staff, and the unnecessarily expends public resources.

10. Further affiant sayeth not.

11th

Subscribed to and sworn to before me, the undersigned authority on this the 11th day of July 2016.

Heather Jewell
Notary Public in and for
the State of Texas

