



Control Number 45870



Item Number 38

Addendum StartPage 0

RECEIVED

2016 AUG 18 PM 12:49

PUBLIC UTILITY COMMISSION
FILING CLERK

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

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

§
§
§
§
§

BEFORE THE
PUBLIC UTILITY COMMISSION
OF TEXAS

**COMPLAINANTS' SECOND 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 Second 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

Ali Abazari – State Bar No. 00796094

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 18th day of August 2016:

Art Rodriguez
Russell & Rodriguez, L.L.P.
1633 Williams Dr. Bldg. 2, Suite 200
Georgetown, Texas 78268
arodriguez@txadminlaw.com
Attorney for City of Frisco RFI

Via email

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

Via email

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 Fax

Via Facsimile (512) 322-2061

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 Fax

Via Facsimile (512) 322-2061

/s/ Mallory Beck
Mallory Beck

COMPLAINANTS' SECOND 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, identified as the 'Property' in that certain Annexation Agreement, contained in Exhibit C to the Second Amended Formal Complaint Against the City of Frisco, Texas, in this proceeding.
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.
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 Public Utility Commission of Texas 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. Unless otherwise noted in a specific request, the time period applicable to the requests is January 1, 2008, to the present.
12. 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. 22: Please produce a copy of a form of easement acceptable to Frisco which could be used by Complainants to obtain an easement for water and sewer utilities to serve Lot 2.

Response:

Request for Information No. 23: Please produce all ordinances, tariffs, schedules of rates, and/or service policies and regulations which Frisco contends apply to extensions of water and/or sewer service within Frisco's water CCN No. 11772 and sewer CCN No. 20591, outside of Frisco's corporate limits and within Frisco's extraterritorial jurisdiction.

Response:

Request for Information No. 24: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 1 which Frisco contends apply to extensions of water and/or sewer service within Frisco's extraterritorial jurisdiction.

Response:

Request for Information No. 25: Please provide in general the factual bases for Frisco's contention that Ker-Seva, Ltd. is not a qualified service applicant for water or sewer service for Lot 2.

Response:

Request for Information No. 26: Please provide in general the factual bases for Frisco's contention that ADC West Ridge, L.P. is not a qualified service applicant for water or sewer service for Lot 2.

Response:

Request for Information No. 27: Please provide in general the factual bases for Frisco's contention that Center for Housing Resources, Inc. is not a qualified service applicant for water or sewer service for Lot 2.

Response:

Request for Information No. 28: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 1 which Frisco contends must be satisfied by Ker-Seva, Ltd. in order for Ker-Seva, Ltd. to become a qualified service applicant for retail water and/or sewer service to Lot 2.

Response:

Request for Information No. 29: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 1 which Frisco contends must be satisfied by ADC West Ridge, L.P. in order for ADC West Ridge, L.P. to become a qualified service applicant for retail water and/or sewer service to Lot 2.

Response:

Request for Information No. 30: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 1 which Frisco contends must be satisfied by Center for Housing Resources, Inc. in order for Center for Housing Resources, Inc. to become a qualified service applicant for retail water and/or sewer service to Lot 2.

Response:

Request for Information No. 31: Please identify the rates or fees, if any, Frisco contends must be paid in order for Ker-Seva, Ltd. to become a qualified service applicant for retail water and/or sewer service.

Response:

Request for Information No. 32: Please identify the rates or fees, if any, Frisco contends must be paid in order for ADC West Ridge, L.P. to become a qualified service applicant for retail water and/or sewer service.

Response:

Request for Information No. 33: Please identify the rates or fees, if any, Frisco contends must be paid in order for Center for Housing Resources, Inc. to become a qualified service applicant for retail water and/or sewer service.

Response:

Request for Information No. 34: Please identify the facilities, if any, Frisco contends are required so that Lot 2 can receive water service from Frisco.

Response:

Request for Information No. 35: Please identify the facilities, if any, Frisco contends are required so that Lot 2 can receive sewer service from Frisco.

Response:

Request for Information No. 36: Please produce any ordinances, regulations, rules, or policies which Frisco contends prohibit Lot 2 from receiving water service from the pre-existing infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto.

Response:

Request for Information No. 37: Please produce any ordinances, regulations, rules, or policies which Frisco contends prohibit Lot 2 from receiving sewer service from the pre-existing infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto.

Response:

Request for Information No. 38: Please produce all documents supporting Frisco's contention that Lot 2 cannot receive water and/or sewer service from the pre-existing infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto.

Response:

Request for Information No. 39: Please explain the general factual bases for Frisco's contention that Lot 2 cannot receive water and/or sewer service from the pre-existing infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto.

Response:

Request for Information No. 40: Please produce all documents regarding the City of McKinney's willingness, or lack thereof, to provide water and/or sewer service to Lot 2.

Response:

Request for Information No. 41: Please produce all minutes of any meeting of the City Council of Frisco or any committee of Frisco regarding the Property, including Lot 1 and Lot 2.

Response:

Request for Information No. 42: Please produce all documents relating to any request for a water meter by ADC West Ridge, L.P. Center for Housing Resources, Inc. KWA Construction, or Weir Brothers Contracting, LLC, for construction on Lot 2 since June 1, 2016.

Response:

Request for Information No. 43: Please produce all documents relating to Frisco's confiscation of any water meters from ADC West Ridge, L.P. Center for Housing Resources, Inc. KWA Construction, or Weir Brothers Contracting, LLC, for construction on Lot 2 since June 1, 2016.

Response:

Request for Information No. 44: Please produce all communications between Frisco and the City of McKinney, Texas, regarding the provision of water service for construction on Lot 2 since June 1, 2016.

Response:

Request for Information No. 45: Please produce all documents regarding the provision of water service for construction outside of Frisco's corporate boundaries but within Frisco's water CCN No. 11772 since January 1, 2015.

Response:

Request for Information No. 46: Please produce all documents evidencing any communications between Frisco's employees, officers, agents, or representatives regarding the decision to confiscate any water meters from ADC West Ridge, L.P. Center for Housing Resources, Inc. KWA Construction, or Weir Brothers Contracting, LLC, for construction on Lot 2 since June 1, 2016.

Response:

Request for Information No. 47: Please produce all documents, including maps, identifying the nearest fire hydrant owned by Frisco from which water service for construction could be obtained for Lot 2.

Response:

Request for Information No. 48: Please produce all documents relating to any requests for water service for construction within 2 miles of Lot 2 and within Frisco's water CCN No. 20591 since January 1, 2015.

Response:

Request for Information No. 49: Please explain the general factual bases for Frisco's contention that Lot 1 is permitted to receive water and sewer service through the infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto but Lot 2 is not permitted to receive water and sewer service through the infrastructure adjacent to Lot 2 identified in Exhibit 'A' hereto.

Response:

Request for Information No. 50: Please produce all documents relating to any approval by the Public Utility Commission of Texas or its predecessor agencies relating to the provision of water and/or sewer service by the City of McKinney within Frisco's water CCN No. 11772 or sewer CCN No. 20591 within a 2 mile radius of Lot 2.

Response:

Request for Information No. 51: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision of water supply or water treatment by another person or entity to Frisco.

Response:

Request for Information No. 52: Please produce all documents relating to any agreement currently in effect between Frisco and any other person or entity which relates to the provision of sewer treatment capacity by another person or entity to Frisco.

Response:

Request for Information No. 53: 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 by that other person or entity to Frisco.

Response:

Request for Information No. 54: Please produce Frisco's current Capital Improvements Plan.

Response:

Request for Information No. 55: Please produce Frisco's current Comprehensive Plan.

Response:

Request for Information No. 56: Please produce all documents related to private easements dedicated to Frisco or public utility easements along the south side of Westridge Boulevard between Custer Road and Memory Lane.

Response:

Request for Information No. 57: Please produce all documents related to private easements dedicated to Frisco or public utility easements along the west side of Custer Road between Plum Lane and Westridge Boulevard.

Response:

Request for Information No. 58: Please produce all documents related to private easements dedicated to Frisco or public utility easements along the east side of Memory Lane between Harry Truman Street and Westridge Boulevard.

Response:

REQUESTS FOR ADMISSION

Request for Admission No. 8: Admit that Frisco is a 'retail public utility' as that term is defined in 16 Tex. Admin. Code Sec. 24.3(58).

Response:

Request for Admission No. 9: Admit that Frisco owns the water and sewer infrastructure directly adjacent to the Property as depicted in the letter attached hereto as Exhibit 'A.

Response:

Request for Admission No. 10: Admit that Lot 2 is not within the incorporated limits of Frisco.

Response:

Request for Admission No. 11: Admit that Lot 2 is within the extraterritorial jurisdiction of Frisco.

Response:

Request for Admission No. 12: Admit that Lot 2 is within water certificate of convenience and necessity No. 11772 issued to Frisco.

Response:

Request for Admission No. 13: Admit that Lot 2 is within sewer certificate of convenience and necessity No. 20591 issued to Frisco.

Response:

Request for Admission No. 14: Admit that Ker-Seva, Ltd. submitted an application for water service for Lot 2.

Response:

Request for Admission No. 15: Admit that Ker-Seva, Ltd. submitted an application for sewer service for Lot 2.

Response:

Request for Admission No. 16: Admit that ADC West Ridge, L.P. submitted an application for water service for Lot 2.

Response:

Request for Admission No. 17: Admit that ADC West Ridge, L.P. submitted an application for sewer service for Lot 2.

Response:

Request for Admission No. 18: Admit that Center for Housing Resources, Inc. submitted an application for water service for Lot 2.

Response:

Request for Admission No. 19: Admit that Center for Housing Resources, Inc. submitted an application for sewer service for Lot 2.

Response:

Request for Admission No. 20: Admit that Frisco denied Ker-Seva, Ltd. water service to Lot 2.

Response:

Request for Admission No. 21: Admit that Frisco denied Ker-Seva, Ltd. sewer service to Lot 2.

Response:

Request for Admission No. 22: Admit that Frisco denied ADC West Ridge, L.P. water service to Lot 2.

Response:

Request for Admission No. 23: Admit that Frisco denied ADC West Ridge, L.P. sewer service to Lot 2.

Response:

Request for Admission No. 24: Admit that Frisco denied Center for Housing Resources, Inc. water service to Lot 2.

Response:

Request for Admission No. 25: Admit that Frisco denied Center for Housing Resources, Inc. sewer service to Lot 2.

Response:

Request for Admission No. 26: Admit that Frisco allows the City of McKinney, Texas, to provide water service to Lot 1.

Response:

Request for Admission No. 27: Admit that Frisco allows the City of McKinney, Texas, to provide sewer service to Lot 1.

Response:

Request for Admission No. 28: Admit that Frisco entered into a Letter Agreement with the City of McKinney, Texas, to allow the City of McKinney, Texas, to provide water and sewer service to Lot 1.

Response:

Request for Admission No. 29: Admit that Frisco did not seek approval from the Public Utility Commission of Texas, or its predecessor agency, for McKinney to provide water and sewer service to Lot 1.

Response:

Request for Admission No. 30: Admit that Frisco did not seek approval from the Public Utility Commission of Texas, or its predecessor agency, for the City of McKinney, Texas, to provide water or sewer service to any other customer along the south side of Westridge Boulevard between Memory Lane and Custer Road.

Response:

Request for Admission No. 31: Admit that Frisco did not seek approval from the Public Utility Commission of Texas, or its predecessor agency, for the City of McKinney, Texas, to provide water service to customers along Plum Lane.

Response: