



Control Number: 45870



Item Number: 44

Addendum StartPage: 0

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

RECEIVED

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

§
§

BEFORE THE PUBLIC UTILITY COMMISSION
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. THIRD SET OF
REQUESTS FOR INFORMATION AND REQUESTS FOR ADMISSION**

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

I. BACKGROUND

On August 26, 2016, Ker-Seva Ltd., ADC West Ridge, LP and Center for Housing Resources, Inc. ("Complainants") jointly served RFIs and RFAs on the City. A copy of the RFIs and RFAs are contained 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.

The City contacted counsel for Complainants and negotiated diligently and in good faith on the objections stated below. While the parties were able to work out other objections, the objections stated below remain unresolved.

II. OBJECTIONS

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

A. REQUESTS FOR INFORMATION

Request for Information No. 59: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 which Frisco contends apply to extensions of retail water and/or sewer service within Frisco's extraterritorial jurisdiction.

Request for Information No. 60: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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.

Request for Information No. 61: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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.

Request for Information No. 62: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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.

OBJECTION: The City objects to RFI Nos. 59-62 on the same grounds. Each request asks Frisco to identify the specific paragraphs in documents to be produced by Frisco that relate to them being a qualified service applicant for water and/or sewer service. Frisco objects to the request as it is overly broad, burdensome, vague and requires the City to speculate as the amount and level of service required by the entity listed. For example only, and not an exhaustive list, the City does not know certain information needed in order to provide a hypothetical response, such as living unit equivalents needed, extraordinary service demands, etc. Further, the documents to be produced by the City speak for themselves. The requests improperly seek to force Frisco to marshal its evidence.

III. CONCLUSION AND PRAYER

The City respectfully requests an order:

- (1) Sustaining the City's objections.
- (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)



ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

ATTORNEYS FOR THE CITY OF FRISCO

CERTIFICATE OF SERVICE

I hereby certify that on this 6th day of September, 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
Via Electronic Mail

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

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*

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*



ARTURO D. RODRIGUEZ, JR.

**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' THIRD 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 Third 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 26th 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.change@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. 59: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 which Frisco contends apply to extensions of retail water and/or sewer service within Frisco's extraterritorial jurisdiction.

Response:

Request for Information No. 60: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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. 61: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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. 62: Please identify the specific provisions, paragraphs, or subsections of each document produced in response to Request for Information No. 23 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. 63: Please produce all documents relating to a written explanation of the construction required to provide retail water service to Lot 2 provided by Frisco to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

Request for Information No. 64: Please produce all documents relating to a written explanation of the construction required to provide sewer service to Lot 2 provided by Frisco to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

Request for Information No. 65: Please produce all documents relating to the date of service by Frisco to provide retail water service to Lot 2 to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

Request for Information No. 66: Please produce all documents relating to the date of service by Frisco to provide retail sewer service to Lot 2 to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

REQUESTS FOR ADMISSION

Request for Admission No. 32: Admit that Frisco has not provided a written explanation of the construction required to provide retail water service to Lot 2 to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

Request for Admission No. 33: Admit that Frisco has not provided a written explanation of the construction required to provide retail sewer service to Lot 2 to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives.

Response:

Request for Admission No. 34: Admit that Frisco has not provided to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives an expected date of retail water service to Lot 2.

Response:

Request for Admission No. 35: Admit that Frisco has not provided to Ker-Seva, Ltd., ADC West Ridge, L.P., and/or Center for Housing Resources, Inc. or their representatives an expected date of retail sewer service to Lot 2.

Response: