



Control Number: 45870



Item Number: 81

Addendum StartPage: 0

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

RECEIVED

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**FORMAL COMPLAINT OF KER-SEVA
LTD. AGAINST CITY OF FRISCO,
TEXAS**

§
§
§

**BEFORE THE
STATE OFFICE OF
ADMINISTRATIVE HEARINGS**

**ADC WEST RIDGE, L.P. AND CENTER FOR HOUSING RESOURCES, INC.'S
OPPOSITION TO CITY OF FRISCO'S REQUESTS FOR SUBPOENA FOR
DEPOSITIONS ON WRITTEN QUESTIONS**

TO THE HONORABLE ADMINISTRATIVE LAW JUDGES:

ADC West Ridge, L.P. and Center for Housing Resources, Inc. ("Complainants") file this, their Opposition to the City of Frisco's ("Frisco") Requests for Subpoena for Depositions on Written Questions.

I. INTRODUCTION

Complainants are in the process of constructing an affordable housing apartment complex on a 4.9-acre tract of land located within the City of Frisco's ("Frisco") extraterritorial jurisdiction and water and sewer CCNs (the "Project"). Complainants have sought to obtain utility services, both water and sewer, from Frisco. Frisco has yet to provide water and sewer utility services to the Project, and refuses to do so. This case relates to the provision of utility services to the Project, which is located in Frisco's water and sewer CCN.

To date, Frisco has sent over 250 Requests for Information and Requests for Admission to Complainants. On November 21, 2016, Frisco filed Requests for Subpoena for Depositions on Written Questions to four entities: Sanchez Advisory Group, LLC; Cross Engineering Consultants, Inc.; KWA Construction, LP; and Weir Bros. Partners, LLC. Each of these entities was or is a contractor or subcontractor of Complainants, involved in some capacity in the design, development and/or construction of the Project. Sanchez Advisory Group, LLC is Complainants' civil engineer related to the Project. Cross Engineering Consultants, Inc. was Complainants' original civil engineer for the Project. KWA Construction, LP is Complainants' general contractor constructing the Project. Weir Bros. Partners, LLC is a subcontractor of KWA Construction, LP who has been performing dirt work and other activities on the Project.

Frisco seeks the subpoenas to require these entities to produce documents and then to answer written deposition questions regarding the authenticity of those documents. Frisco claims that it needs the requested documents “to determine the scope of the development on the property from a capacity standpoint” and because of “assertions that one or all have attempted to connect to water and/or sewer connections.” A review of the documents that are requested reveals, however, that Frisco’s requests are wholly unrelated to “capacity” or “assertions that one or all have attempted to connect to water and/or sewer connections,” whatever that may mean. This is a muscle flexing exercise by Frisco intended only to further harass Complainants. Indeed, Frisco is using this PUC proceeding to obtain documents in relation to complaints lodged against it pursuant to the Fair Housing Act.

II. OPPOSITION TO SUBPOENA

1. Frisco Has Not Made Proper Showing for Issuance of Subpoena Under APA

Public Utility Commission of Texas’s (“PUC”) procedural rules permit the issuance of a subpoena pursuant to the Texas Administrative Procedures Act (“APA”).¹ The APA states that a subpoena to require the attendance of a witness or the production of documents “that may be necessary and proper for the purposes of the proceeding” shall be issued if “good cause is shown.”² Frisco has failed to show that the information requested is “necessary and proper for the purposes of the proceeding” or to show “good cause” for the issuance of the subpoenas to third parties.

Frisco seeks a third party subpoena for the production of the following:

1. All documents, including but not limited to, any and all reports, notes, contracts, agreements, memorandum, communications, electronic mail, texts, or other correspondence pertaining to Ker-Seva Ltd., ADC West Ridge, LP and/or Center for Housing Resources, Inc., collectively or individually.
2. All documents, including but not limited to, any and all reports, notes, contracts, agreements, memorandum, communications, electronic mail, texts, or other correspondence pertaining to Lot 2.
3. All documents reflecting communications between you and Ker-Seva Ltd., concerning Lot 2 or any adjacent property.
4. All documents reflecting communications between you and ADC West Ridge, LP, concerning Lot 2 or any adjacent property.

¹ 16 Tex. Admin. Code § 22.145 (“TAC”).

² Tex. Gov’t Code § 2001.089.

5. All documents reflecting communications between you and Center for Housing Resources, Inc., concerning Lot 2 or any adjacent property.
6. All documents reflecting communications between you and any other person or entity, including the cities of McKinney and Frisco and the county of Collin, concerning Lot 2 or any adjacent property.³

The first two requests seek the production from the third parties of all documents pertaining to Complainants and the Project. Requests 3-5 seek the production from third parties of all communications between third parties and Complainants related to the Project and any property adjacent to the Project. The last request seeks the production of all communications between the third parties and any other person related to the Project and any adjacent property.

Frisco claims that the production of the requested documents is necessary because it will allow it to “determine the scope of the development on the property from a capacity standpoint.” It then inserts a vague statement that there have been “assertions that one or all have attempted to connect to water and/or sewer connections when Complainants have not established themselves as qualified applicants.” The above documents are presumably being requested to get to the bottom of such assertions.

A review of the document requests reveals that they are not tailored to the purpose that Frisco ascribes to the requests. A request to a third party to produce all documents and communications related to the Project (and any property adjacent to the Project) is in no way tailored so that Frisco can “determine the scope of the development on the property from a capacity standpoint.” Nor is it tailored for Frisco to determine whether certain connections have been made by Complainants. The requested documents are overly broad and seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Indeed, Frisco makes no attempt whatsoever to provide an explanation as to why each production request, as drafted, may be necessary for the purpose of the proceeding.

Even if the requests were narrowly tailored to seek the production of documents related to the “scope of the development” or whether certain connections have been made, which they are not, Frisco fails to provide any explanation as to how such information is necessary and proper for the purpose of this proceeding. Even assuming that a representative of Complainants did “attempt to connect to water and/or sewer connections,” the City must explain how the documents may be necessary and proper for the purpose of the proceeding. Frisco failed to do as much. The problem

³ City of Frisco’s Requests for Subpoena for Depositions on Written Questions, Exhibits A-D (Nov. 21, 2016).

with respect to the necessity prong, therefore, is twofold: first, Frisco's drafted production requests go well beyond what Frisco claims is the purpose of the request, and significantly, it fails to explain how each request, as drafted, may be necessary and proper for the purpose of the proceeding. Second, even if the request was narrowly tailored to fit within the purpose for which it is seeking the document, Frisco fails to explain how the information is necessary and proper for the purpose of the proceeding.

Frisco must also show that good cause exists for the issuance of a subpoena to third parties to obtain the requested documents. It has failed to do so. If Frisco wants to know the scope of the development in order to determine the capacity that the development requires, it can make a request to Complainants seeking information as to the number of units that are proposed to be built, or any other information related to making a determination as to Living Unit Equivalents (LUE). Surely, Frisco can draft an information request designed to obtain such information from Complainants, thus avoiding the need to issue a subpoena to a third party. The fact is that Complainants have provided Frisco with information related to the scope of the Project, and Frisco is in possession of all civil engineering drawings associated with the Project.⁴ The "scope of the development on the property from a capacity standpoint" is in no way a mystery to Frisco.

Similarly, if Frisco wants information related to attempts by Complainants to connect to water and/or sewer connections, then it can request such information from Complainants. Significantly, attempts made by Complainants to connect to water and/or sewer are well known to Frisco. Complainants are not hiding this information from Frisco. To the contrary, Frisco's refusal to provide service after such attempts were made are one basis of the Complaint.⁵ In June 2016, Frisco employees provided, on multiple occasions, temporary water meters to employees of KWA Construction, LP and Weir Bros. Partners, LLC for construction at the Project.⁶ However, on each occasion representatives of Frisco or of the City of McKinney promptly confiscated those meters.⁷ Complainants have produced, in response to other requests from Frisco, documents related to these incidents, including e-mails received from employees of KWA Construction, LP and Weir Bros. Partners, LLC describing the incidents.⁸ Thus, there is no need to harass these entities with

⁴ Numerous documents produced by Complainants in this proceeding show that the Project is a 132-unit apartment complex with a central clubhouse. The size of the units is further detailed in the various documents. See Attachment 1, Affidavit of Terri Anderson.

⁵ Complainants' Second Amended Formal Complaint Against City of Frisco at 5-6 (July 1, 2016).

⁶ See *id.*

⁷ *Id.*

⁸ See Attachment 1, Affidavit of Terri Anderson.

subpoenas for the same documents – and for documents that have no relation whatsoever to these incidents. Frisco fails to demonstrate good cause for the issuance of a third party subpoena to seek the production of documents related to its stated purpose.

In an attempt to demonstrate that good cause exists for issuing a subpoena to a third party, Frisco contends that these documents are not available through Complainants because Complainants objected to Frisco's RFI Nos. 239 and 240:

RFI No. 239: Please provide all contracts, agreements, emails, letters or memorandum of understandings, communications, and other commitments between you and any other party for construction, development, permitting, designing, or any other activity on Lot 2.

RFI No. 240: Please list all contractors, experts, or other individual or entity with whom you have communicated regarding the construction, development, permitting, designing, or any other activity on Lot 2.

Objection: These Requests are overly broad and unduly burdensome and seek information that is not relevant or reasonably calculated to lead to the discovery of admissible evidence. Further, RFI No. 239's request for "all . . . communications . . . between [Complainants] and any other party for . . . any other activity on Lot 2" lacks the specificity required by Texas Rule of Civil Procedure 196.⁹

Frisco's RFI Nos. 239 and 240 are not limited to "the scope of the development on the property from a capacity standpoint" or related to any assertions regarding attempts to connect to Frisco's water and sewer systems, as Frisco now claims. The above requests are overly broad, unduly burdensome, and not relevant or reasonably calculated to lead to the discovery of admissible evidence, and so, Complainants objected on those grounds. Rather than address the objection, Frisco now wants to circumvent the process by having the ALJs issue subpoenas to third parties. They fail, however, to demonstrate good cause for the issuance of the subpoenas and their complaints that they cannot obtain these documents from Complainants based on valid objection to poorly drafted discovery requests falls flat.

To be sure, Frisco's request for subpoena for written depositions of third parties, as well as their RFI Nos. 239 and 240, have nothing to do with "scope of the development on the property from a capacity standpoint" or attempts by Complainants to connect to water/sewer connections. They clearly seek information beyond the capacity requirements of the Project or assertions regarding connections to Frisco's water or sewer systems. This is an attempt by Frisco to use this PUC proceeding to obtain documents related to the Fair Housing Act claims that have been lodged

⁹ Complainants' Objections to Frisco's Fourth Set of RFIs and RFAs (Nov. 18, 2016).

against it. This is an improper use of the PUC and ALJs' subpoena power under the PUC rules and the APA. Because it is making irrelevant, overly broad, and unduly burdensome requests to these third parties in an attempt to obtain information which is not "necessary" or "proper" for the purposes of this proceeding, the request should be denied.

2. Frisco has Not Complied with the Requirement to Deposit Fees

PUC's rule relating to the issuance of subpoenas provides that a subpoena shall be issued "only after sums have been deposited to ensure payment of expense fees" set forth in the APA Section 103.¹⁰ Similarly, the APA states that a subpoena shall be issued if good cause is shown and if the fees required by APA Section 103 are paid.¹¹ Section 103 of the APA requires payment to a deponent in a contested case who is not a party and who is subpoenaed to give a deposition or to produce documents of (1) \$0.10 per mile for going or returning to the place of the deposition if that place is more than 25 miles from the person's residence if the person uses a personal vehicle or reimbursement of transportation expenses if the person does not use a personal vehicle; (2) reimbursement of meal and lodging expenses if the place where the deposition is to take place is more than 25 miles from the person's residence; and (3) \$10 for each day or part of a day the person must be present.¹²

Frisco has not made any attempt to show how far the witnesses will be required to travel in order to appear and provide the documents and the written responses to the written deposition questions as required by the proposed subpoena. Frisco states that "only depositions on written questions are being requested" in its response to the estimated travel mileage from the witness' residence to the deposition location, but it also states that the witnesses will be needed "long enough to prepare the deposition on written questions and deliver them to the requested location."¹³ And, in the proposed subpoenas, Frisco requests language that summons the deponents "to appear before Abernathy, Roeder, Boyd & Hullet, P.C. at 1700 Redbud Blvd., Suite 300, McKinney, Texas 75069 at 10:00 a.m. on December 23, 2016, in order to give deposition on written questions in the above-styled administrative proceeding, to attend from day to day until lawfully discharged."¹⁴ While Frisco states that it "will tender the appropriate witness fee to the deponents," the governing law

¹⁰ 16 TAC § 22.145(c) (emphasis added).

¹¹ Tex. Gov't Code § 2001.089.

¹² *Id.* § 2001.103(a).

¹³ Frisco's Requests for Subpoenas for Depositions on Written Questions (Nov. 21, 2016).

¹⁴ *Id.*, Exhibits A-D.

requires Frisco to deposit that amount prior to the issuance of the subpoena. Thus, Frisco's request does not comply with the requirements of the PUC's rules or the APA and should not be issued.

IV. PRAYER

Complainants respectfully request the Honorable Administrative Law Judges deny Frisco's Requests for Subpoena for Depositions on Written Questions and refuse to issue the subpoenas because the request fails to establish good cause and fails to ensure proper payment of required fees.

Respectfully submitted,

JACKSON WALKER L.L.P.

By: 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 2000

F: (512) 391-2112

ATTORNEYS FOR COMPLAINANTS
ADC WEST RIDGE 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
28th day of November 2016:
29

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

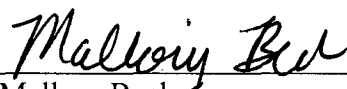
Via email and U.S. First Class Mail

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
Attorney for Public Utility Commission of Texas

Via email and U.S. First Class Mail

State Office of Administrative Hearings
300 West 15th St., Suite 502
Austin, Texas 78701
(512) 475-4993
(512) 322-2061- Fax

Via U.S. First Class Mail


Mallory Beck

ATTACHMENT 1

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

FORMAL COMPLAINT OF KER-SEVA LTD. AGAINST THE CITY OF FRISCO RFI, TEXAS	§ § §	BEFORE THE PUBLIC UTILITY COMMISSION OF TEXAS
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AFFIDAVIT OF TERRI ANDERSON

STATE OF TEXAS §

COUNTY OF Dallas §

I, Terri Anderson, make this affidavit and hereby on oath state the following:

1. My name is Terri Anderson. I am the chairperson of Center for Housing Resources, Inc. ADC West Ridge, L.P.'s general partner, CHR West Ridge, LLC, is the wholly owned subsidiary of Center for Housing Resources, Inc. I am the authorized representative of Center for Housing Resources, Inc. and ADC West Ridge, L.P. The facts stated within this affidavit are within my personal knowledge and are true and correct.

2. ADC West Ridge, L.P. owns an approximately 4.9-acre tract of land located within the extraterritorial jurisdiction of the City of Frisco and within Frisco's water and sewer CCNs. This property is sometimes referred to as "Lot 2" because it was previously part of a larger approximately 8.5-acre tract of land which was divided into two lots. Lot 1 of that larger property was developed by Ker-Seva, Ltd. into a daycare. Stubbed out onto Lot 2 are water and sewer lines which I understand are owned by the City of Frisco. Attached hereto as Exhibit "A" is a letter from Frisco showing those lines.

3. ADC West Ridge, L.P. purchased Lot 2 from Ker-Seva, Ltd. with the intention of constructing an affordable housing complex on the site. ADC West Ridge, L.P. notified the City of Frisco, and other local governmental entities, of this intention as part of an attempt to obtain a housing tax credit. After the City of Frisco refused to provide support for the project, and in an attempt to move forward with the development of the project, ADC West Ridge, L.P., on behalf of Ker-Seva, Ltd., filed an application for a preliminary plat. After several months of revisions required by Frisco, Frisco's Planning and Zoning Committee approved the preliminary plat. Attached hereto as Exhibit "B" is the preliminary plat approved by Frisco.

4. In addition, Sanchez Advisory Group, LLC, performed a sanitary sewer study on behalf of ADC West Ridge, L.P. for the project. This study was produced to Frisco in this lawsuit.

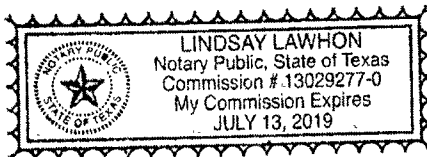
5. After closing on the purchase of Lot 2, ADC West Ridge, L.P. submitted an application for water and sewer service to Frisco. Attached hereto as Exhibit "C" is the application for water and sewer service. The application indicates that the project will consist of a 132 unit apartment complex and a leasing office.
6. In addition to the water and sewer service application and the preliminary plat, which were submitted to Frisco and also produced in discovery in this matter, I obtained an e-mail through a public information act request from Collin County which indicates that Collin County provided copies of the civil engineering construction plans for the project to Frisco. Attached hereto as Exhibit "D" is the e-mail, which has also been produced in discovery to Frisco. These plans show extensive details about the project.
7. As part of the construction of the project, representatives of each the general contractor, KWA Construction, L.P. and a sub-contractor, Weir Bros. Partners, LLC, applied for and obtained temporary construction water meters. On each such occasion, either representatives of the City of Frisco or of the City of McKinney confiscated these meters. Numerous documents related to these incidences have been produced in discovery, including, but not limited to, the e-mail and letters attached as Exhibit "E."


FURTHER AFFIANT SAYETH NAUGHT.


Signature of Affiant, Terri Anderson

Before me, the undersigned notary, personally appeared Terri Anderson and by oath stated that the facts stated herein are true and correct.

Sworn to and subscribed before me on this 28th day of November 2016.




Notary Public in and for the State of Texas

My commission expires: 7/13/2019

EXHIBIT A



CITY OF FRISCO

GEORGE A. PUREFOY MUNICIPAL CENTER
6101 FRISCO SQUARE BLVD · 3RD FLOOR
FRISCO, TEXAS 75034
TEL 972.292.5400 · FAX 972.292.5016
WWW.FRISCOTEXAS.GOV

March 1, 2015

Bill Robinson
Cross Engineering
131 S. Tennessee Street
McKinney, Texas 75069
(972) 562-4409
brobinson@crossengineering.biz

**Re: Westridge Apartments
Frisco, Texas**

To Whom It May Concern:

As requested, I am sending you a letter verifying that the City of Frisco will serve water, sewer, and storm utilities to the area as shown on the attached map, when developed. The map indicates the current water lines (blue), sanitary sewer lines (green) on or near the subject property. The extension of utility lines to the subject property, which is subject to all ordinances, rules, and requirements of the City, as they exist or may be amended, is the sole responsibility of the owner/developer. In addition, the owner/developer is solely responsible for obtaining any required offsite easements. The City can provide current easement templates, which are subject to the final review and approval of the City prior to execution by any Grantor.

The developer is responsible for sizing any offsite lines to accommodate all future flows based on the more conservative value from either the Future Land Use Plan or the existing Zoning. Permanent service connections will be reviewed by the Engineering Department as part of the engineering plan review process, which begins with submittal of the final site plan. City requirements for water and sanitary sewer design and construction are available on the City's website.

If you have any additional questions, please contact the City of Frisco Engineering Services Department at 972-292-5472.

Sincerely,

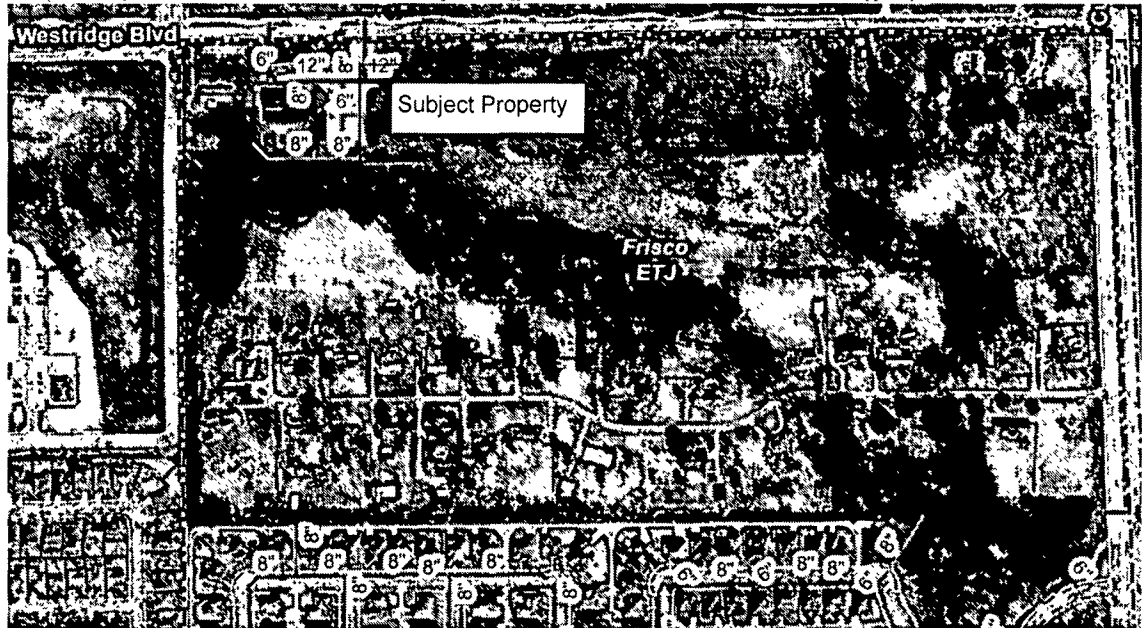
Stephanie Miller
Construction Technician
6101 Frisco Square Blvd
Frisco, TX 75034
972-292-5472



ENGINEERING SERVICES
DEPARTMENT

CITY OF FRISCO

GEORGE A. PUREFOY MUNICIPAL CENTER
6101 FRISCO SQUARE BLVD · 3RD FLOOR
FRISCO, TEXAS 75034
TEL 972.292.5400 · FAX 972.292.5016
WWW.FRISCOTEXAS.GOV



DISCLAIMER: The City of Frisco has prepared this map or information for internal use only. It is made available under the Public Information Act. Any reliance on this map or information is AT YOUR OWN RISK. Frisco assumes no liability for any errors, omissions, or inaccuracies in the map or information regardless of the cause of such or for any decision made, action taken, or action not taken in reliance upon any maps or information provided herein. Frisco makes no warranty, representation, or guarantee of any kind regarding any maps or information provided herein or the sources of such maps or information and DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESSED AND IMPLIED, including the implied warranties of merchantability and fitness for a particular purpose.

EXHIBIT B

June 9, 2015

Preliminary Plat: Westridge Addition, Block A, Lot 2
Owner(s): Terri L. Anderson

DESCRIPTION:

One lot on 4.9± acres on the south side of Westridge Boulevard, 505± feet east of Memory Lane, located within the City's ETJ. Neighborhood #6. AM

Access: Access is provided from Westridge Boulevard.

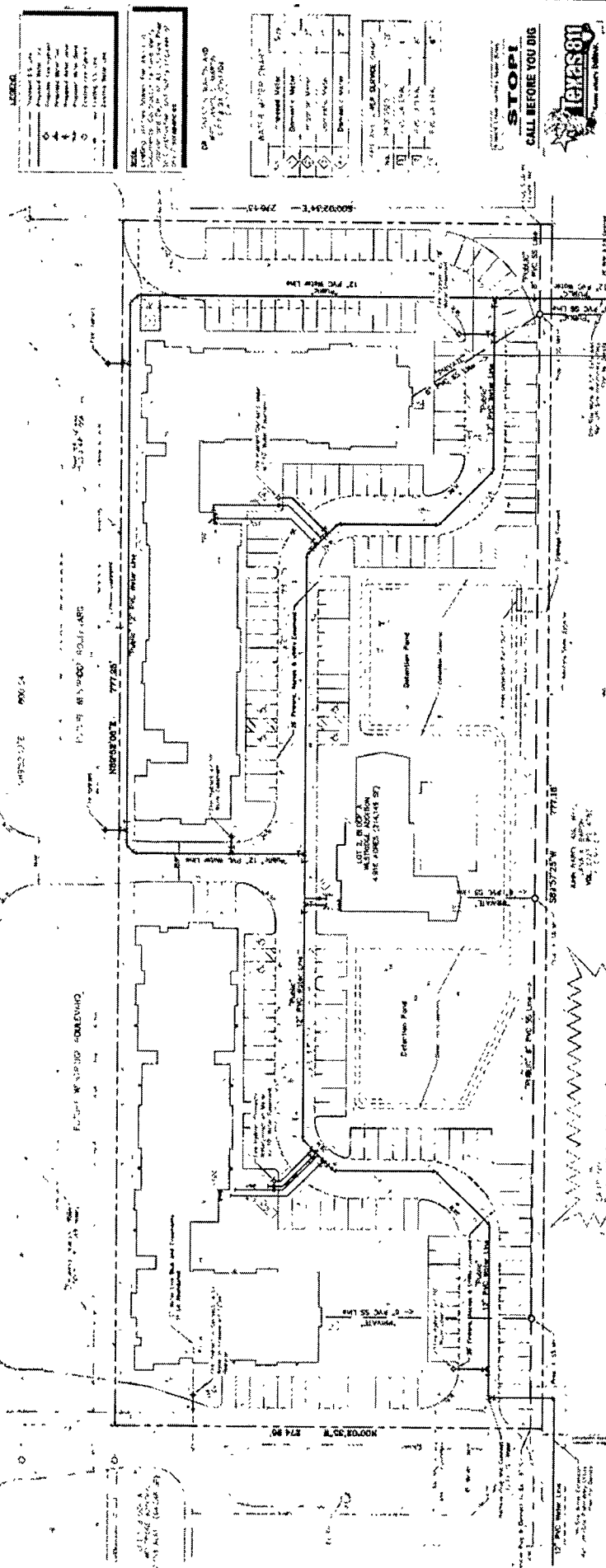
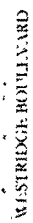
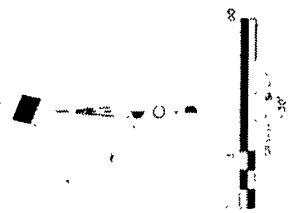
Purpose: The Preliminary Plat dedicates right-of-way for a portion of Westridge Boulevard and easements for future development on Lots 2.

Additional Information: The property is located within Frisco's Extraterritorial Jurisdiction (ETJ).

RECOMMENDATION:

Recommended for approval subject to additions and/or alterations resulting from Engineering Services' review of construction plans.



[illegible]

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
CROSS ENGINEERING CONSULTANTS										Preliminary Utility Plan										PU																																																																															
WESTRIDGE APARTMENTS										ANDERSON DEVELOPMENT, LLC										CITY OF PRINCETON, TEXAS																																																																															

1. 100% of the time in June - Contributes
 2. any information, opinion, and analysis if
 3. it is a new contribution
 4. Contribution will inform progress of any issue for
 5. year to contribution

EXHIBIT C



FOR OFFICE USE ONLY			
Account# _____	Deposit _____	Admin Fee _____	E-Billing <input type="checkbox"/>

Commercial Water Application

Business Name: ADC West Ridge, LP / West Ridge Villas

Phone: 972 567 4630
Office Office Accounts Payable

E-mail: TERRI - L - ANDERSON @msn.com

Requested By: _____ Phone: 972 567 4630

☐ PLEASE SIGN ME UP FOR E-BILLING. I UNDERSTAND THAT I WILL NOT RECEIVE A PAPER STATEMENT.

TYPE OF REQUEST: **New Service** X sewer & water 132 unit apt. complex
(Please check one) (Complete Section A below & include copy of Driver's License)

Disconnect Service _____ (Complete Section B below)

New Service

Service Address: 9331 Westridge Blvd. McKinney, TX 75070
Street City/State Zip Code

Billing Address: PO Box 1850 Coppell, TX 75019
Street City/State Zip Code

Tax ID: 36-4820457

Date to Connect (Normal Business Day): June 14, 2016

The City of Frisco will bill you a \$1,100.00 deposit on each account which will be refunded after 24 months of good service history or upon disconnection of service.. *The City of Frisco will bill you a \$20.00 non-refundable Administrative fee on each account. A 24-hour notice is required for all new service accounts.

Disconnect Service

Service Address: _____
Street City/State Zip Code

Forwarding Address: _____
Street City/State Zip Code

Date to Disconnect (Normal Business Day): _____

- Each account is billed for water and sewer charges. For rate information, visit the [Utility Billing website](#).
- If you are continuing services at a commercial location, your property may already have waste services. For information about your property's waste services or to amend the existing waste services, please contact Environmental Services at (972)-292-5900.
- Waste equipment will be removed when water services is disconnected.

CHR West Ridge Villas, LLC

By: Center for Housing Resources, Inc.

By: April D. Whallon, Chairperson

SIGNATURE OF CUSTOMER

June 10, 2016
DATE

****All Delinquent Accounts will be sent to a Collection Agency****

Phone: 972-292-5575

Fax: (972) 292- 5585

E-mail: utilitybilling@friscotexas.gov

Texas DRIVER LICENSE

USA TX

4d DL [REDACTED] 9 Class C

4a Iss 12/04/2012 4b Exp 11/24/2018

3 DOB [REDACTED]

1 ANDERSON

2 TERRI L

12 Restrictions A 13 End NONE

16 Hgt 5-09 15 Sex F 18 Eyes HAZ

6 DD 16619281025044795477

Terril Anderson

COLLIN COUNTY DEVELOPMENT SERVICES
825 N. McDonald St., Ste. 170

McKinney, Texas 75069
(972)548-5585

Application Number 15-00002157 Date 3/23/16
Property Address 9331 (MCKINNEY) WESTRIDGE BLVD
TAX ID NUMBER
Old Address
Application type description COMMERCIAL OTHER
Subdivision Name
Application valuation 0

Owner
ADC WEST RIDGE, LP
PO BOX 1850
COPPELL TX 75019
(972) 567-4630
Contractor
KMA CONSTRUCTION, LP
16800 WESTGROVE DRIVE
SUITE 300
ADDISON TX 75001
(214) 978-0177

--- Structure Information 000 000 APARTMENT Cplx - LEASE OFFICE/132 UNITS ---
Construction Type **NEEDS TO BE ENTERED**
Occupancy Type RESIDENTIAL - MULTIPLE FA
Flood Zone FLOOD ZONE A
Other struct info
DEED FILED Y
RECORDED ABST.PAT FILED Y
SURVEY FILED Y
PLOT LOCATION FILED Y
BLDG PLANS FILED Y
ERROR NA
OSSF SITE EVAL.FILED NC
OSSF DESIGN FILED NO
OSSF AFFID FILED NO
OSSF SVC. CONTR. NO
FIREPLACE (Y,N) NA
LOG LIGHTER (Y,N) NA
HEATING (ELEC/LP) LP
HOT WATER (EL/LP) LP
*ELECTRICAL COMPANY TBD
*CITY NO
*ETJ FRISCO
*FIRE DISTRICT TBD

Permit COMMERCIAL BUILDING
Additional desc APARTMENTS-LEASE OF./132 UNITS
Permit Fee 35264.00
Issue Date 2/22/16 Valuation 0
Expiration Date 8/20/16

Qty	Unit Charge	Per	BASE FEE	Extension
175070.00	.2000	COMMERCIAL	250.00	35014.00

Special Notes and Comments

Lease Office - 3,941 sq ft
132 Apartment Units - 171,129 sq ft
total

Collin County accepts the January 22nd, 2016 certification of no adverse impact, prepared by Jill Trevino, PE, CPM, engineer for the developer; that relates to flood plain development and off-site drainage, and the findings contained therein. To the extent there is any adverse impact to offsite owners from stormwater originating at the site, Collin County is not responsible therefor.

Applicable Codes:

THE MOST CURRENT VERSIONS OF THE FOLLOWING CODES WILL HAVE TO BE FOLLOWED IN THE CONSTRUCTION AND OPERATION OF YOUR PROJECT:

INTERNATIONAL FIRE CODE INTERNATIONAL BUILDING CODE
INTERNATIONAL PLUMBING CODE INTERNATIONAL MECHANICAL CODE
INTERNATIONAL FIRE CODE (NFPA) NATIONAL ELECTRIC CODE

**It is illegal to run 2+ water services off of 1 water

MUST have Permit Location Card posted along with 911 Rural Address posted VISIBLE from roadway or inspection WILL NOT be performed.

COLLIN COUNTY DEVELOPMENT SERVICES
825 N. McDonald St., Ste. 170

McKinney, Texas 75069
(972)548-5585

Application Number 15-00002157

Page 2
Date 3/23/16

Special Notes and Comments

meter. You must verify that the water connection you have made/will make to a water purveyor's meter is a legal and approved connection. If there is evidence of an illegal water meter connection at the time of final inspection, the inspection will be failed and will not pass until approval is issued from the water purveyor (in writing) and a copy submitted to Development Services. **

Absolutely NO plumbing or electrical work shall be covered before being inspected and approved by a Collin County Inspector for Code compliance - NO EXCEPTIONS**

YOU WERE GIVEN A LETTER FROM THE COLLIN COUNTY FIRE MARSHALL DATED 12/02/2015. THIS LETTER DETAILS ADDITIONAL COMPLIANCE ISSUES FOR YOUR SPECIFIC OCCUPANCY TYPE. IF YOU DID NOT RECEIVE THE LETTER OR IF YOU HAVE ANY QUESTIONS, PLEASE CALL OUR OFFICE AT 972-548-5585.

Every commercial building permit issued shall become invalid unless the work on the site authorized by such is commenced within 180 days after its issuance, or if the work authorized on the site by such permit is suspended or abandoned for a period of 180 days after the time of work is commenced. Collin County is authorized to grant, in writing, one or more extensions of time, for periods not more than 180 days each. The extension shall be requested in writing and justifiable cause demonstrated.

See Development Services' Plan Review and Fire Marshall's office Plan Review for further needs and/or requirements regarding construction of the building.

***Notice. This permit is applicable only to the inspection of the electrical components of ANY signs associated with this permit. Approval of this permit in no way suggests that the sign location has been approved or that erection of any sign is permitted at this location.

Signage:
Property owner and/or sign owner has the responsibility to verify that any sign erected under this commercial permit is either not within any city's Extra-Territorial jurisdiction (ETJ) or, if in a city's ETJ, that the sign is in compliance with all of the applicable municipality and/or TxDOT regulations (TxDOT regulations may be in effect whether in ETJ or not in ETJ) Property owner and/or building owner has the responsibility to verify that any new construction (including non-electrical signage) is either not within any city's ETJ or, if in a city's ETJ, that any construction is in compliance with all of the applicable municipal ordinances and any other regulations which may be in effect in the ETJ of that municipality. If a sign is constructed and/or placed in violation of any regulations - the sign must be promptly removed at sign owner's expense in addition to any fines that might be levied.

Use of Groundwater:
IF THIS PERMIT INVOLVES A WATER WELL, THE APPLICANT MUST CONTACT THE NORTH TEXAS GROUNDWATER CONSERVATION DISTRICT AT 855-426-4433 TO REGISTER AND/OR PERMIT THE WELL.

OFF-SITE SEWAGE UTILITY SERVICE:
THIS STRUCTURE DOES NOT UTILIZE AN OSSF (ON-SITE SEWAGE FACILITY) FOR WASTEWATER DISPOSAL. Applicant intends to connect to municipal water and wastewater lines. No final plumbing fixture inspection or Certificate of Occupancy will be issued until final connection is made to an approved, municipal wastewater system.

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Page 3
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Special Notes and Comments

MISCELLANEOUS:

*****You MUST have this permit number available when*****

*****scheduling inspections - NO INSPECTION WILL

*****SCHEDULED WITHOUT PERMIT NUMBER.*****

*****NOTE: IF YOU ARE LOCATED WITHIN THE ETJ (EXTRA
TERRITORIAL JURISDICTION) OF ANY CITY, IT IS YOUR
RESPONSIBILITY TO CHECK WITH THAT CITY TO FIND OUT IF THERE
ARE ANY ADDITIONAL REQUIREMENTS BY THAT CITY PERTAINING TO
YOUR PROJECT.

*****NOTE: During any inspection, the Inspector will ONLY
note the first five (5) failing code items. Once an
Inspector has identified five (5) failing items, the
inspection will cease at that time and no further items
will be inspected. Those failing items and any other
situations contrary to adopted codes must be corrected for
any re-inspection. A failed re-inspection will result in a
penalty fee. IF THIS IS YOUR FIRST PROJECT IN COLLIN
COUNTY, PLEASE SCHEDULE A MEETING WITH AN INSPECTOR PRIOR
TO BEGINNING YOUR PROJECT TO AVOID ANY PROJECT DELAYS
AND/OR FEES.***

OWNER CERTIFICATION:

I certify that I am the property owner or the property
owner's agent and that I have received, read and understand
all "Special Notes and Comments"/permit requirements and I
understand that this printed permit must be presented to
the property owner),

Signature _____

Date Received _____

Printed Name _____

T/S: 02/29/2016 03:25 PM BROWN MISTY

T/S: 02/29/2016 03:30 PM BROWN MISTY

T/S: 02/29/2016 03:34 PM BROWN MISTY

Fee summary	Charged	Paid	Credited	Due
Permit Fee Total	35264.00	.00	.00	35264.00
Grand Total	35264.00	.00	.00	35264.00

Lonella J. Anderson
Lonella J. Anderson
23 March 2016

MUST have Permit Location Card posted along with 911 Rural
Address posted VISIBLE from roadway or inspection WILL NOT
be performed.

COLLIN COUNTY DEVELOPMENT SERVICES
 825 N. McDonald St., Ste. 170
 McKinney, Texas 75069
 (972)548-5585

Application Number 15-00002157 Page 4
 Property Address 9331 (MCKINNEY) WESTRIDGE BLVD Date 3/23/16
 TAX ID NUMBER " " " " "
 Old Address
 Application description COMMERCIAL OTHER
 Subdivision Name

Permit COMMERCIAL BUILDING

Additional desc APARTMENTS-LEASE OF./132 UNITS

Required Inspections

Seq	Insp Code	Description	Initials	Date
10	STOR	STORM WATER INSPECTION		
20-5	FMPR	FIRE MARSHAL PLAN REVIEW		
30	DSPR	DEVELOPMENT SVCS PLAN REVIEW		
40-10	NC01	INSPECTION 1 (T-POLE)		
40-10	NC02	INSPECTION 2 (RGH-PLBG)		
40	NC03	INSPECTION 3 (ELEC ROUGH)		
40	NC05	INSPECTION 6 (FINAL)		
40	SP4	OSSF FINAL INSPECTION		
40	SP3	OSSF INITIAL INSPECTION		
40	NC13	INSPECTION 4 (PLBG TOP-OUT)		
40	NC23	INSPECTION 5 (PLBG FIXTURES)		
999	NC08	INSPECTION 7 MISCELLANEOUS		
1000	NC07	INSPECTION FOR C/O		

EXHIBIT D

Tracy Homfeld

Subject:

FW:

-----Original Message-----

From: Toyin Fawehinmi [mailto:TFawehinmi@friscotexas.gov]

Sent: Monday, January 18, 2016 2:48 PM

To: Tracy Homfeld

Subject:

Tracy;

By the way, I briefly reviewed the civil plans for Westridge Apts and interestingly enough they are connecting to McKinney's water and not really sure of how the sewer is being addressed. I am waiting for the hardcopies from Terri's Engineer

Toyin Fawehinmi, P.E.

Senior Engineer

City of Frisco - Engineering Services Department

6101 Frisco Square Blvd., 3rd Floor

Frisco, Texas 75034

Office (972) 292 5439

Fax (972) 292 5016

EXHIBIT E

terri_l_anderson@msn.com

From: "Stan Fulks" <sfulks@kwaconstruction.com>
Date: Thursday, June 23, 2016 11:52 AM
To: <ghill@mckinneytexas.org>; <ajenkins@friscotexas.gov>
Cc: "TERRI ANDERSON" <terri_l_anderson@msn.com>; "Keller Webster" <kwebster@kwaconstruction.com>; "Brian Webster" <bwebster@kwaconstruction.com>; "Richie Keene" <rkeene@kwaconstruction.com>
Subject: RE: Frisco Will Serve Letter and Map for West Ridge Villas
 Mr. Hill,

Per our phone conversation a few moments ago in which your only comment was that this issue needed to go through the City of Frisco or Collin County and that you had no further say;

Here is what I have confirmed with Mr. Alex Jenkins with the City of Frisco's Public Utility Department. Per the City's maps, the hydrants on the south side of Westridge Blvd. in the area of the Montessori school belong to the City of Frisco. This only confirms what their engineering depart had said and as previously documented in the letter and map I sent you. If you wish to confirm this you may contact Mr. Jenkins as he is included in this email.

I would also like to add that you said this area was not in McKinney's CCN so I am not certain of the keep this issue amicable.

We will be utilizing the hydrant in front of the school this afternoon. Thank you so much for your help in this matter.

Stan Fulks, Senior Project Manager
 KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001
 Off. 214-978-0177 Mbl. 214-385-9936
 sfulks@kwaconstruction.com

From: Stan Fulks
Sent: Thursday, June 23, 2016 10:12 AM
To: 'chill@mckinneytexas.org' <chill@mckinneytexas.org>
Cc: 'TERRI ANDERSON' <terri_l_anderson@msn.com>; Keller Webster <kwebster@kwaconstruction.com>; Brian Webster <bwebster@kwaconstruction.com>; Richie Keene <rkeene@kwaconstruction.com>
Subject: Frisco Will Serve Letter and Map for West Ridge Villas

Mr. Hill,

Please find attached the will serve letter from the City of Frisco and the accompanying map showing the locations of service. When I had met with Toyin Fawehinmi, Stephanie Miller and Lori Chapin with the City of Frisco, two weeks ago, they confirmed the map and the location of services. With that knowledge, we in good faith proceeded to utilize the water service for our use using a Frisco approved meter.

Again today I went to the Frisco utility department, showed them a map and requested a new temporary water meter. They gave me a meter without issue. Based upon the City of Frisco's knowledge and cooperation, we plan to continue our work utilizing the meter supplied by the City of Frisco. Should there be issue with this, please contact me.

Thank you,

Stan Fulks, Senior Project Manager
KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001
Off. 214-978-0177 Mbl. 214-385-9936
sfulks@kwaconstruction.com

From: kwascanner@gmail.com [mailto:kwascanner@gmail.com]
Sent: Thursday, June 23, 2016 9:55 AM
To: Stan Fulks <sfulks@kwaconstruction.com>
Subject: Message from KM_C454e

terri_l_anderson@msn.com

From: "Keller Webster" <kwebster@kwaconstruction.com>
Date: Tuesday, June 28, 2016 4:10 PM
To: "TERRI ANDERSON" <terri_l_anderson@msn.com>
Cc: "Brian Webster" <bwebster@kwaconstruction.com>; "Richie Keene" <rkeene@kwaconstruction.com>; "Stan Fulks" <sfulks@kwaconstruction.com>; "Frank Pollacia" <pollacia@architettura-inc.com>
Attach: image2016-06-28-181724.pdf
Subject: FW: West Ridge Apts. Water Issue

Terri,

Attached you will find a letter from our earthwork subcontractor outlining the obstacles they have encountered by the City of Frisco and the City of McKinney concerning their attempts in obtaining the water necessary to moisture condition the foundation pads. I do not know what "legal matters" Mr. Goulette with the City of Frisco is speaking. KWA Construction has not received any legal notices from any one regarding this project.

Not having access to water to moisture condition the pads will effectively shut the job down.

Please let me know ASAP as to how you would like to proceed.

Thanks,

Keller

From: Stan Fulks
Sent: Tuesday, June 28, 2016 3:38 PM
To: Keller Webster <kwebster@kwaconstruction.com>
Cc: Brian Webster <bwebster@kwaconstruction.com>; Richie Keene <rkeene@kwaconstruction.com>
Subject: FW: West Ridge Apts. Water Issue

Keller,

Per our conversation, I just received this from Craig at Weir Bros.

Thanks,

Stan Fulks, Senior Project Manager
 KWA Construction, 16800 Westgrove Dr., Addison, Tx 75001
 Off. 214-978-0177 Mbl. 214-385-9936
sfulks@kwaconstruction.com

From: Craig Williams [<mailto:cwilliams@weirbros.com>]
Sent: Tuesday, June 28, 2016 3:34 PM
To: Stan Fulks <sfulks@kwaconstruction.com>
Subject: West Ridge Apts: Water Issue

Stan,

Here is what chain of events have accrued over the last several days.

Thanks,

Craig Williams

Weir Brothers Contracting, LLC.

From: MinoltaCopier@weirbros.com [mailto:MinoltaCopier@weirbros.com]

Sent: Tuesday, June 28, 2016 3:26 PM

To: cwilliams@weirbros.com

Subject: