

Control Number: 45870



Item Number: 92

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

RECEIVED

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

§
§

BEFORE THE STATE OFFICE OF
ADMINISTRATIVE HEARINGS

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FILING CLERK

**SUR-REPLY OF THE CITY OF FRISCO TO ADC WEST RIDGE, LP AND CENTER
FOR HOUSING RESOURCES, INC.'S OPPOSITION TO CITY OF FRISCO'S
REQUESTS FOR SUBPOENA FOR DEPOSITIONS ON WRITTEN QUESTIONS**

COMES NOW, the City of Frisco ("City" or "Frisco") and files this Sur-reply to ADC West Ridge, LP and Center for Housing Resources, Inc.'s (collectively "Complainants") Opposition to City of Frisco's Requests for Subpoena for Depositions on Written Questions. In support thereof, the City shows the following:

On April 19, 2016, Ker Seva filed a formal complaint against the City alleging that the City had denied Ker Seva retail water and wastewater service. On November 21, 2016, the City requested subpoenas from four entities: Sanchez Advisory Group, LLC; Cross Engineering Consultants, Inc.; KWA Construction, LP; and Weir Bros. Partners, LLC. The City seeks the ability to verify documents that were requested. On November 29, 2016, Complainants filed its opposition to the request. The ALJ's called for a Pre-hearing Conference on the matter for December 6, 2016.

While the City will reserve oral arguments for the aforementioned Prehearing Conference, the City notes that it only sought documents from entities Complainants lists as having knowledge of relevant facts. See Exhibit A, *Complainants' Order No. 3 Response to Rule 194.2*.

Further, Complainants complained that fees for the subpoenas had not been filed with the court. Frisco hereby makes such deposit in the following amounts pursuant to Tex. Gov't. Code § 2001.105:

Sanchez Advisory Group, LLC - \$10 witness fee (witness is less than 25 miles from place of deposition)

Cross Engineering Consultants, Inc. - \$10 witness fee (witness is less than 25 miles from place of deposition)

KWA Construction, LP - \$10 witness fee (witness is less than 25 miles from place of deposition)

Weir Bros. Partners, LLC - \$32.80 witness fee for the witness, which includes a \$10 witness fee, \$7.80 mileage reimbursement (34 miles each way), and \$15.00 meal expense amount,

I. CONCLUSION AND PRAYER

The City respectfully requests:

- (1) Issuance of the requested subpoenas; and
- (2) Granting the City all other and further relief to which it is justly entitled.

Respectfully submitted,

Russell & Rodriguez, L.L.P.

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(866) 929-1641 (Fax)

Abernathy Roeder Boyd & Hullett, P.C.

Richard Abernathy

State Bar No. 00809500

1700 Redbud Blvd., Suite 300

McKinney, Texas 75069

(214) 544-4000

(214) 544-4040 (Fax)

/s/ Arturo D. Rodriguez, Jr.

ARTURO D. RODRIGUEZ, JR.

State Bar No. 00791551

ATTORNEYS FOR THE CITY OF FRISCO

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of December, 2016, a true and correct copy of the foregoing document has been sent via facsimile, first class mail, or hand-delivered to the following counsel of record:

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

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

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

Mr. Ali Abazari
Ms. Mallory Beck
Jackson Walker, LLP
100 Congress Avenue, Suite 1100
Austin, Texas 78701
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William G. Newchurch
Administrative Law Judge
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/s/ Arturo D. Rodriguez, Jr.
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
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COMPLAINANTS' ORDER NO. 3 RESPONSE TO RULE 194.2

TO: SERVICE LIST

COMES NOW, Complainants Ker-Seva Ltd., ADC West Ridge Villas, L.P., and Center for Housing Resources, Inc. (collectively, "Complainants"), and file this their Rule 194.2 Disclosures pursuant to Tex. R. Civ. P. 194.2, 16 Tex. Admin. Code § 22.144(c) and (j), and Order No. 3 in this docket. Discovery is ongoing, and Complainants reserve the right to supplement and amend the responses contained herein.

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 2000

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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 19th day of August 2016:

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Attorney for City of Frisco RFI

Via email

Sam Chang
Attorney – Legal Division
Public Utility Commission of Texas
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sam.change@puc.texas.gov
Attorney for Public Utility Commission of Texas

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Via Facsimile (512) 322-2061

/s/ Mallory Beck
Mallory Beck

REQUESTS FOR DISCLOSURE

Request 194.2(a): The correct names of the parties to this proceeding;

Response: Complainants believe that the parties have been identified properly as listed in Order No. 3.

Request 194.2(b): The name, address, and telephone number of any potential parties;

Response: Complainants believe that all potential parties have been named and admitted as parties.

Request 194.2(c): The legal theories and, in general, the factual bases of the responding party's claims or defenses (the responding party need not marshal all evidence that may be offered at trial);

Response: The City of Frisco, Texas, holds water certificate of convenience and necessity ("CCN") No. 11772 and sewer CCN No. 20591 which covers certain property owned by Complainants. As the holder of the CCNs, Frisco has a statutory duty to provide continuous and adequate service to its CCN areas. Pursuant to PUC rules, Frisco has a duty to provide continuous and adequate service to every qualified service applicant within its CCN areas. Complainants are qualified service applicants. Complainants have submitted completed applications for water and sewer service to Frisco. Frisco has denied such service by refusing to allow Complainants to use existing infrastructure belonging to Frisco which has the capacity to serve Complainants. Frisco has refused to provide service within the time required by PUC Rule 24.85. Alternatively, Frisco has denied service because Frisco has not identified the construction required and the expected date of service. The construction Frisco is currently stating is required constitutes an effective denial of service. Frisco has also denied service by refusing to allow Complainants to obtain any water for construction from Frisco. The factual bases will be pre-filed and submitted in this matter pursuant to Order No. 3 or any succeeding applicable order..

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Request 194.2(d): The amount and any method of calculating economic damages;

Response: Complainants are not seeking economic damages in this proceeding.

Request 194.2(e): The name, address, and telephone number of persons have knowledge of relevant facts, and a brief statement of each identified person's connection with the case;

Jastinder Jawanda
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Mr. Jawanda is the authorized representative of Ker-Seva, Ltd. On behalf of Ker-Seva, Ltd., Mr. Jawanda had conversations with representatives of the City of Frisco, Texas, and Collin County, Texas, regarding water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Randall Chrisman
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Mr. Chrisman is the agent of Mr. Jawanda. On behalf of Mr. Jawanda and Ker-Seva, Ltd., Mr. Chrisman had conversations with representatives of the City of Frisco, Texas, and Collin County, Texas, regarding water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Terri L. Anderson
Randall Chrisman
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Ms. Anderson is the authorized representative of ADC West Ridge, L.P. and Center for Housing Resources, Inc. Ms. Anderson has experience developing properties for affordable

housing and, on behalf of Complainants, communicated with the City of Frisco, Texas, the City of McKinney, Texas, Collin County, Texas, and other governmental entities to plan and develop Lot 2, including the acquisition of water and sewer service for Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Cross Engineers
Bill Robinson
Jonathan Hayke
John David Cross

Cross Engineers represented Complainants in filing the Preliminary Plat application with the City of Frisco, and employees of Cross Engineers have knowledge of the development of Lot 2, including the preparation of the Preliminary Plat and location of the water and sewer utilities required by Frisco, and had communications with the City of Frisco officials.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Sanchez & Associates
Levi Wild
Tyler Scott
Randall Chrisman
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Engineers with Sanchez & Associates currently represent Complainants in the development of Lot 2, and employees of Sanchez & Associates have knowledge of the development of Lot 2, including the provision of water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

KWA Construction
Randall Chrisman
Keller Webster
Stan Fulks
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

KWA Construction is the general contractor for Complainants on Lot 2. Employees of KWA Construction have had communications with the City of Frisco officials regarding water and sewer service, including water service for construction, at Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Weir Brothers Contracting, LLC
Randall Chrisman
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Weir Brothers Contract, LLC is a subcontractor for KWA Construction working on the development on Lot 2. Employees of Weir Brothers Contracting, LLC have had communications with the City of Frisco officials regarding the provision of water for construction at Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Frank Pollacia
c/o Ali Abazari
Jackson Walker L.L.P.
100 Congress Avenue, Suite 1100
Austin, Texas 78701
T: (512) 236-2000
F: (512) 391-2197
Email: aabazari@jw.com

Mr. Pollacia is an architect with Architettura, Inc.. Mr. Pollacia represents Complainants and may have had communications with the City of Frisco regarding the development of Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

City of Frisco
Amy Matthews
Nell Lange
John Lettellier
Toyin Fawehinmi
Russell & Rodriguez, L.L.P.
1633 Williams Dr., Bldg. 2, Suite 200
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F: (866) 929-1641
Email: arodriguez@txadminlaw.com

City of Frisco employees may have knowledge of the development of Lot 2 and the provision of water and sewer service to Lot 2.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Collin County
Tracy Homfield
Jim Adams
Misty Brown
Susan Fletcher

Employees of Collin County, Texas, may have knowledge of facts relevant to this proceeding, including the development, construction, and provision of water and sewer service to Lot 2 and other properties in the area.

Discovery is ongoing and Complainants reserve the right to amend and supplement these responses, including the factual bases and legal theories stated herein.

Complainants incorporate any other person identified by any other party as a person with knowledge of relevant facts in this proceeding.

Request 194.2(f): For any testifying expert: (1) the expert's name, address, and telephone number; (2) the subject matter on which the expert will testify; (3) the general substance of the expert's mental impressions and opinions and a brief summary of the basis for them, or if the expert is not retained by, employed by, or otherwise subject to the control of the responding party, documents reflecting such information; (4) if the expert is retained by, employed by, or otherwise subject to the control of the responding party: (A) all documents, tangible things, reports, models, or data compilations that have been provided to, reviewed by, or prepared by or for the expert in anticipation of the expert's testimony; and (B) the expert's current resume and bibliography.

Response: Complainants will supplement their responses and respond to this Request in accordance with Order No. 3.

Request 194.2(g): Any indemnity and insuring agreements described in Rule 192.3(f).

Response: None.

Request 194.2(h): Any settlement agreements described in Rule 192.3(g).

Response: None.

Request 194.2(i): Any witness statements described in Rule 192.3(h).

Response: None.

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PH. (512) 930-1317

VANTAGE BANK TEXAS
PO Box 790570
San Antonio, Texas 78279
(866) 580-7262
88-1258/1149

003269

12/5/16

PAY TO THE
ORDER OF

Sanchez Advisory Group, LLC

\$ **10.00

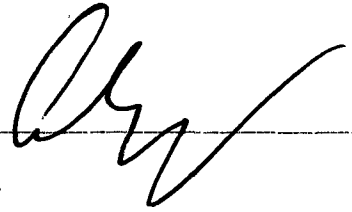
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DOLLARS

Sanchez Advisory Group, LLC

MEMO

Witness Fee



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Russell & Rodriguez, LLP/Attorneys At Law

Sanchez Advisory Group, LLC

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Russell & Rodriguez, LLP/Attorneys At Law

Sanchez Advisory Group, LLC

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PAY TO THE ORDER OF Cross Engineering Consultants, Inc.

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DOLLARS

Cross Engineering Consultants, Inc.

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Russell & Rodriguez, LLP/Attorneys At Law

Cross Engineering Consultants, Inc.

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Cross Engineering Consultants, Inc.

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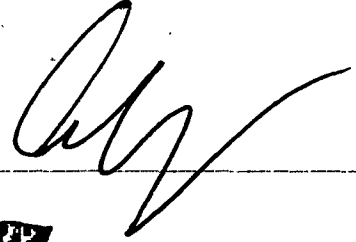
PAY TO THE ORDER OF KWA Construction, LP

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KWA Construction, LP

MEMO
Witness Fee



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Russell & Rodriguez, LLP/Attorneys At Law

KWA Construction, LP

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Russell & Rodriguez, LLP/Attorneys At Law

KWA Construction, LP

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1. The first part of the document is a list of names and addresses of the members of the committee.

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12/5/16

PAY TO THE ORDER OF Weir Bros. Partners, LLC

\$ **32.80.

Thirty-Two and 80/100***** DOLLARS

Weir Bros. Partners, LLC

MEMO Witness Fee

[Signature]

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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Russell & Rodriguez, LLP/Attorneys At Law

Weir Bros. Partners, LLC

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PAY TO THE ORDER OF Weir Bros. Partners, LLC

\$ **32.80

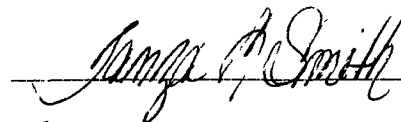
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DOLLARS

Weir Bros. Partners, LLC

MEMO

Witness Fee



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Weir Bros. Partners, LLC

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Weir Bros. Partners, LLC

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