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PUC DOCKET NO. 49924

PETITION OF MAPLE HEIGHTS	§	PUBLIC UTILITY COMMISSION
DEVELOPMENT LLC TO AMEND	§	
PORTER MUNICIPAL UTILITY	§	OF TEXAS
DISTRICT'S SEWER CERTIFICATE	§	
OF CONVENIENCE AND NECESSITY	§	
IN MONTGOMERY COUNTY BY	§	
EXPEDITED RELEASE	§	

**MAPLE HEIGHTS DEVELOPMENT LLC'S RESPONSE TO PORTER MUNICIPAL
UTILITY DISTRICT'S MOTION TO INTERVENE AND INITIAL BRIEF**

TO THE PUBLIC UTILITY COMMISSION OF TEXAS:

COMES NOW, Maple Heights Development LLC, (Maple Heights) and files this Response to Porter Municipal Utility District's (Porter MUD) Motion to Intervene and Initial Brief, and would respectfully show the following:

I. RESPONSE TO MOTION TO INTERVENE

Maple Heights does not oppose Porter MUD's request to intervene as a party in the above-captioned proceeding.

II. RESPONSE TO INITIAL BRIEFING

Porter MUD's arguments alleging that Maple Height's petition for expedited release is insufficient must fail. The MUD's arguments largely mirror the issues raised by Public Utility Commission (PUC) staff in its September 30, 2019 Recommendation on Administrative Completeness and Proposed Notice. On October 24, 2019, Maple Heights filed a response fully addressing the PUC's concerns, rendering moot the issues raised by Porter MUD in this initial briefing. Though the October 24, 2019 response addresses all of Porter MUD's arguments, we will again address them in turn:

First, Porter MUD argues that the subject property was not properly described and the mapping is insufficient due to an acreage discrepancy. However, the map of the property was

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accurate. The difference in acreage in the mapping provided and that listed by the county appraisal district is due to the fact that a small portion of the recorded property is outside the Porter MUD CCN. Accordingly, Maple Heights need not secure an expedited release for that portion of property.

Secondly, Porter MUD argues that Maple Heights has not proven it owns the property in question. However, this argument holds no weight – the deeds attached as Exhibit C to Maple Height’s application clearly indicate that Maple Heights Development LLC is the landowner.

Next, Porter MUD alleges that the affiant who filed the affidavit supporting Maple Height’s application was not authorized to do so. 3 Points Realty Partners is the manager of Maple Heights GP, LLC, which is the managing member of the owner of the Petitioner. Itiel Kaplan is the Chief Executive Officer of New Development for 3 Points Realty. He was authorized by Maple Heights to execute an affidavit on its behalf. Neither the Texas Water Code nor the Texas Administrative Code require the affiant to be the owner of the property; the law requires the landowner to verify the information through a notarized affidavit of a person with the requisite knowledge to do so. *See* 16 T.A.C. § 24.245(l)(4)(A). The affiant, Itiel Kaplan, has sworn to have the requisite knowledge to execute the affidavit. His affidavit is sufficient.

Lastly, Porter MUD’s regionalization argument is a non-issue. As demonstrated in its Petition for Expedited Release, Texas Water Code Section 13.254(a-5)¹ entitles Maple Heights to an expedited release of the subject property.

III. CONCLUSION AND PRAYER

WHEREFORE, as Porter MUD has failed to raise an issue that would warrant a denial, Maple Heights respectfully requests the Commission grant its Petition for Expedited Release.

¹ Maple Heights recognizes that Texas Water Code Section 13.254(a-5) has been redesignated as Texas Water Code Section 13.2541; however, as the subject Petition was filed prior to the effective date of the legislative change, Maple Heights continues to cite section 13.254(a-5).

Respectfully submitted,

Emily W. Rogers
State Bar No. 24002863
erogers@bickerstaff.com

Bickerstaff Heath Delgado Acosta LLP
3711 S. MoPac Expressway
Building One, Suite 300
Austin, TX 78746
Telephone: (512) 472-8021
Facsimile: (512) 320-5638

BY: *Emily W. Rogers*
Emily W. Rogers

CERTIFICATE OF SERVICE

I hereby certify by my signature below that on the 15th day of November, 2019, a true and correct copy of the above and foregoing document was forwarded via hand delivery, facsimile, U.S. mail or electronic mail to Ty H. Embrey, Lloyd Gosselink Rochelle & Townsend, P.C., 816 Congress Avenue, Suite 1900, Austin, TX 78701.

Emily W. Rogers
Emily W. Rogers