



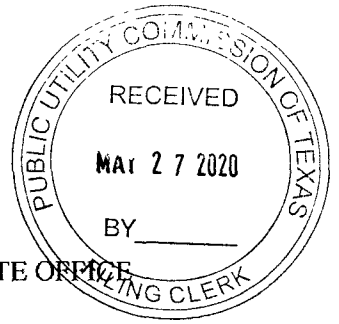
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SOAH DOCKET NO. 473-20-3100.WS
PUC DOCKET No. 50200



APPLICATION OF UNDINE TEXAS, LLC) BEFORE THE STATE OFFICE
AND UNDINE TEXAS ENVIRONMENTAL,) OF
LLC FOR AUTHORITY TO CHANGE RATES) ADMINISTRATIVE HEARINGS

**BEECHWOOD HOA AND BRITNEY MAY'S SUPPLEMENTAL DOCUMENTATION AND
RESPONSE TO UNDINE'S SUPPLEMENTAL OBJECTION TO MS. MAY'S CONTINUED
HOA REPRESENTATION AND BRIEF IN SUPPORT**

COMES NOW, Beechwood HOA and Mrs. Britney May, file this supplemental documentation confirming Mrs. May's authority to represent the Beechwood Community Homeowner's Association and subsequent response to Undine's Supplemental Objection to Beechwood's Motion to Intervene in the above-captioned matter. In compliance with the SOAH Order No. 2, filed May 12, 2020, Beechwood and Mrs. May present the following:

1. On or about April 21, 2020, Mrs. May submitted a Motion to Intervene in the above-captioned matter to be filed electronically by the Public Utility Division (*See* Doc. No. 50200_1938_1062194).
2. After repeated inquiries regarding clarification of the filing procedure, on or about April 23, 2020, Mrs. May received additional guidance clarifying the procedure regarding filing her Motion to Intervene on behalf of the Beechwood Community Home Owner's Association.
3. On or about April 26, 2020, Mrs. May was authorized by the HOA President, Samantha Stanley, to serve as the primary contact and Beechwood's official representative in the above-captioned case.
4. On or about April 27, 2020, Mrs. May, together with HOA President, Samantha Stanley, filed a modified Motion to Intervene on behalf of the Beechwood HOA, listing Mrs. May as the selected representative for the Community. (*See* Doc. No. 50200_1938_1063023).
5. Due to the social distancing restrictions stemming from the COVID-19 pandemic, Mrs. May's appointment as representative for the Beechwood Community was approved via text message by the Beechwood Board of Directors.

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6. On or about April 30, 2020, unbeknownst to the rest of the Beechwood HOA Board of Directors, Mr. Peterson, unrepresented by counsel, engaged in email correspondence with Rick Melcher, Manager of Public Relations for Undine, stating that “Ms. May [did] not have HOA Board authorization to act on behalf of the homeowners residing in Beechwood.”

7. On or about May 6, 2020, Mr. Peterson executed a letter in which he states that at the time of his conversation with Mr. Melcher, he was “not fully aware of the actions taken by [Ms. Stanley], in the course of fulfilling her duties as HOA president to ensure the Beechwood HOA was represented.” (See Exhibit 1, May 6, 2020 Letter).

8. At a special meeting, on or about May 18, 2020, the Beechwood Community Home Owner’s Association Board of Directors, including Mr. Peterson, ratified Mrs. May’s selection as their representative in the above-captioned case. (See Exhibit 2, May 18, 2020 HOA Meeting Minutes).

ARGUMENT AND AUTHORITIES

I. Mrs. May has valid authority to represent the Beechwood HOA.

On or about April 21, 2020, Mrs. May filed a Motion to Intervene in the above-captioned matter. However, the initial filing was not clear on the fact that Mrs. May filed her Motion to Intervene on behalf of the Beechwood Community Home Owner’s Association. Therefore, on or about April 27, 2020, Mrs. May, together with HOA President Samantha Stanley, subsequently filed a letter clarifying Mrs. May’s involvement, specifically stating that Mrs. May was to be the “single representative to act for the Intervening Parties.” (See Doc. No. 50200_1938_1063023). Due to the social distancing limitations of the ongoing COVID-19 pandemic, this action was subsequently approved by the Board via a virtual vote. In further compliance of the Order of this Court, on May 18, 2020, the Beechwood Community Home Owner’s Association held a special meeting to once again confirm (and officially ratify) Mrs. May as the Beechwood Community Home Owner’s Association representative. (See Exhibit 1, May 18, 2020 HOA Meeting Minutes).

The fact that Mrs. May’s appointment was ratified by the Board after filing her Motion to Intervene is wholly irrelevant. Courts have long held that ratifications after the fact were valid with

respect to homeowners associations under various circumstances, including members' ratification of insufficient proxies for a vote on an amendment to bylaws, *Hillsboro Light Towers, Inc. v. Sherrill*, 474 So.2d 1219, 1220-21 (Fla. App. 1985); ratification of a condominium board's initiation of a lawsuit, *Skytrack Condo. Bd. of Managers v. Windberk Partners*, 167 A.D.2d 381, 561 N.Y.S.2d 608, 608 (App. Div. 1990); ratification by conduct of association's authority to impose assessments, *Swan Creek Vill. Homeowners Ass'n v. Warne*, 134 P.3d 1122, 1128, ¶¶ 31-32, 2006 UT 22 (Utah 2006); and ratification of all actions taken by a condominium board between the invalidation of a declaration and the approval of the subsequent declaration, *McLendon v. Snowblaze Recreational Club Owners Ass'n*, 84 Wn. App. 629, 929 P.2d 1140, 1140-41 (Wash. App. 1997). Further, as Mrs. May's authority to represent the HOA was not called into question until after the request by Undine for "authorization," the Board was well within their authority to call a special meeting to re-confirm and officially ratify Mrs. May's ability to represent the HOA.

II. Undine's repeated attempts to have Mrs. May removed from this case is nothing more than a personal vendetta.

In its Supplementary Objection to Beechwood HOA's Motion to Intervene, Undine (once again) attempts to discredit Mrs. May and prevent her continued involvement in this case. As "evidence" of her disqualification, Undine presents an Affidavit from a Beechwood HOA Board Member who claims to have no knowledge of Mrs. May or her authority to intervene on behalf of the community. Undine obtained said affidavit after they contacted members of the Beechwood HOA, via email, requesting a meeting to discuss Mrs. May's involvement in this case and to inquire as to whether Mrs. May was requesting to intervene with their "knowledge and approval." (See Exhibit 3, Email to Beechwood Board Members).

Subsequently, Undine scheduled a meeting with the Beechwood HOA Board, held on May 19, 2020, under the premise of intending to settle and address Beechwood HOA's concerns. However, the pretext of the meeting was to attempt (once again) to manipulate the Beechwood HOA into removing Mrs. May as their representative. Now one must ask one's self: Did Undine extend the same "courtesy" to

all HOA's who filed a Motion to Intervene in this matter? Did they have similar meetings with other HOA's who are currently unrepresented by counsel to attempt to manipulate them into changing their HOA representatives? Why is it so vitally important to Undine that Mrs. May be removed from this case and what further lengths are the willing to go to get that mission accomplished?

Based on a comprehensive review of their pleadings and the context of meetings held between Undine and the Beechwood HOA, Undine issue with Beechwood Community Homeowner's Association is not its involvement (or objection) in this matter. Undine specifically objects to Mrs. May's continued involvement. It is outside (WAY outside) the limits of Undine's authority in a rate change proceeding to dictate who can and cannot represent a Homeowner's Association. Only this Court has the authority to request additional "evidence" that Mrs. May has procedurally been approved as the HOA's representative, a request that Mrs. May has officially complied with as of this filing. Mrs. May is not required to further justify her appointment as the HOA representative to Undine or any of its agents, no matter how many manipulative emails or hidden agenda "settlement" meetings Undine conducts.

This is not a matter of who has the "legal authority" to represent Beechwood Community in this issue. Nor is that any of Undine's concern. This is a personal vendetta against Mrs. May stemming from her pre-existing lawsuit against Undine. And it is a waste of this court's time and resources, as well as a direct violation of the notion of judicial economy, to repeatedly subject Mrs. May, the Beechwood Community HOA, the other community members who have an interest in this matter, and this Court, to continued arguments about her inability to represent Beechwood.

III. Response to Undine's Supplemental Objection to Beechwood HOA's Motion to Intervene

In its Supplemental Objection to Beechwood HOA's Motion to Intervene, Undine argues that an Affidavit from Mr. Peterson, the Treasurer of Beechwood HOA, is sufficient to prove that Ms. May does not have the authority to represent Beechwood HOA in this matter. However, in a May 6, 2020 letter signed by Mr. Peterson himself, he states that "[a]t the time of the conversation between Rick Melcher and James Paterson . . . [he] was not fully aware of all the actions taken by Samantha [Stanley], in the

course of fulfilling her duties as HOA president to ensure the Beechwood HOA was represented.” (See Exhibit – May 6, 2020 Letter, ¶ 3). Furthermore, an affidavit from a single Board Member certainly does not disqualify Mrs. May from formally representing the Beechwood Home Owner’s Association. Mr. Peterson was present during the special meeting called to re-confirm Mrs. May’s appointment as Beechwood’s representative. Undine’s supplemental filing was nothing more than another manipulative attempt to unlawfully remove Mrs. May from this case. To the extent they are necessary, Beechwood Community HOA and Mrs. May formally re-urge their counter arguments to Undine’s Objection to Beechwood HOA’s Motion to Intervene.

WHEREFORE, Beechwood Community Home Owner’s Association and Mrs. May respectfully request this Court deny Undine’s Supplemental Motion to Object in its entirety, and accept the HOA Meeting Minutes from May 18, 2020 as sufficient evidence of Mrs. May’s approval to continue to represent the HOA in this matter, or, in the alternative, permit Beechwood Community Homeowner’s Association to appoint another representative to continue to represent the HOA’s interests, together with any and all relief this Court deems just and equitable.

Respectfully submitted,

Britney May
BEECHWOOD HOMEOWNER
7107 Beechwood Drive
Angleton, Texas 77515
Telephone: (717) 825-3752
britneyparmer@gmail.com

May 6, 2020

To whom it may concern,

This letter is indicative that Samantha Stanley, in the course of her duties as Beechwood HOA president and while seeking to file a motion to intervene on behalf of the Beechwood HOA in regard to Docket No. 50200 and the Undine rate protest, did verbally contract with Britney May for assistance in filing the motion. Samantha subsequently authorized Britney May to serve as primary contact and her proxy in representing Beechwood HOA in motion to intervene, with Samantha serving as secondary contact, on the evening of Sunday, April 26th, 2020.

The board has approved HOA President Samantha Stanley's decision to designate homeowner Britney May as the Beechwood HOA representative in the Undine rate increase case.

At the time of the conversation between Rick Melcher and James Peterson, James Peterson was not fully aware of all the actions taken by Samantha, in the course of fulfilling her duties as HOA president to ensure the Beechwood HOA was represented.



James Peterson
Beechwood HOA Treasurer



Samantha Stanley
Beechwood HOA President



Beechwood Homeowners Meeting Minutes
May 18, 2020

REGISTRATION OF ATTENDANCE- 13

Officers: President, Samantha Stanley. Vice President, Patrick Krsak.
Treasurer, James Peterson. Secretary, Carolyn Swafford.

HOA Board Memebers, Committee Members and Homeowners: Debbie Peterson, Bill Schales, Britney May, Gretchen Welsh, Marty McShan, Dolan Harris, Joe Johnson, Ryan May, Leigh Ann Fowler.

MEETING CALLED TO ORDER BY- President Samantha Stanley.

Special meeting called to identify the designated person to represent the Homeowners of Beechwood Subdivision for the Undine Water Ratepayer Protest PUCT Docket No. 50200. Britney May is one of the HOA board members. The decisions to make Britney May our representative was previously decided in a text message sent out to all officers and board members. The officers and board members voted on and approved Britney May to act on behalf of the homeowners. Another vote was taken tonight to confirm Britney May as the designated representative. She was again approved.

Motion was made to adjourn and seconded.

Submitted by,
Carolyn Swafford- Secretary Beechwood HOA





Fwd: Undine

Tue, May 26, 2020 at 12:05 PM

Begin forwarded message:

From: Samantha Stanley <sstanley@brazosportisd.net>
Date: May 5, 2020 at 6:31:05 PM CDT
To: britneypamer@gmail.com
Subject: Fwd: Undine

Sent from my iPhone

Begin forwarded message:

From: kara ware <kara_ware@yahoo.com>
Date: April 29, 2020 at 5:43:13 PM CDT
To: Samantha Stanley <sstanley@brazosportisd.net>
Subject: Fw: Undine

Sent from Yahoo Mail for iPhone

Begin forwarded message:

On Wednesday, April 29, 2020, 5:03 PM, Rick Melcher <RMelcher@UndineLLC.com> wrote:

Dear Ms. Ware and Mr. Peterson,

I'd like to request a conference call with you, myself and our Carey Thomas to visit about your Intervenor status in our upcoming rase case.

Britney May has stated that her request to intervene be tied to the Beechwood HOA as well. Without statements from anyone on the HOA Board, we want to be sure this request is being done with your knowledge and approval.

Thanks very much. Please let me know if we can have a call and we'll provide a call-in conference number.

Respectfully,

Rick



Rick Melcher

Manager of Public Relations

UndineLLC

979-319-0966



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Students/Parents: FFH (EXHIBIT)

District Contact for Title IX

District Contact for Americans with Disabilities Act (ADA) & Section 504

Employment/Employees/Public: DIA (EXHIBIT)

District Contact for Title IX, Americans with Disabilities Act (ADA) / Section 504.

Call: 979.730.7000 or Write: P.O. Drawer Z, Freeport, TX 77542



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Estudiantes / Padres: FFH (EXHIBIT)

Contacto del Distrito para el Título IX

Contacto del Distrito para la Ley de Estadounidenses con Discapacidades (ADA) y la Sección 504

Employment/Employees/Public: DIA (EXHIBIT)

Contacto del Distrito para el Título IX, Ley de Estadounidenses con Discapacidades (ADA) / Sección 504..

Llame al: 979.730.7000 o escriba a: P.O. Drawer Z, Freeport, TX 77542



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