



Control Number: 50788



Item Number: 41

Addendum StartPage: 0



**SOAH DOCKET NO. 473-20-4071.WS
PUC DOCKET NO. 50788**

**RATEPAYERS APPEAL OF THE § BEFORE THE STATE OFFICE
DECISION BY WINDERMERE OAKS §
WATER SUPPLY CORPORATION TO § OF
CHANGE WATER AND SEWER §
RATES § ADMINISTRATIVE HEARINGS**

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S
MOTION TO ABATE PROCEEDING**

COMES NOW, Windermere Oaks Water Supply Corporation (WOWSC) and files this Motion to Abate this Proceeding.

On April 27, 2020, the Ratepayers of WOWSC (Ratepayers) filed a Petition to Appeal the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates (Ratepayers' Appeal).¹ The Public Utility Commission (PUC or Commission) referred this matter to the State Office of Administrative Hearings (SOAH) on June 23, 2020.² The SOAH Administrative Law Judge (ALJ) set the initial procedural schedule in SOAH Order No. 2.³ The parties initially scheduled mediation for October 1, 2020. However, upon the Ratepayers' request, the mediation was indefinitely postponed until an ongoing discovery dispute is resolved.

A ruling on the pending discovery dispute by the ALJ in this proceeding could irreparably harm WOWSC in pending ongoing litigation. Therefore, abating this proceeding is absolutely necessary until these concurrent matters are resolved in order to protect WOWSC's privilege.

WOWSC respectfully requests that the Honorable ALJ issue an order granting this Motion and abating this proceeding and the procedural schedule set forth in SOAH Order No. 2 until all pending related litigation is final and no longer appealable.

¹ See Ratepayers Appeal of the Decision by Windermere Oaks Water Supply Corporation to Change Water and Sewer Rates (April 27, 2020) (Petition).

² See Order of Referral (June 23, 2020).

³ See SOAH Order No. 2 – Adopting Agreed Procedural Schedule, Setting Hearing on the Merits and Prehearing Conference, Discussing Mediation (August 17, 2020).

I. EXECUTIVE SUMMARY

Ratepayers' Appeal is their third attempt in its fourth separate case against WOWSC to review privileged information relating to the same ongoing dispute. The four lawsuits, later described in more detail, consist of: (1) TOMA Integrity Inc. Lawsuit, (First Lawsuit), (2) Double F Hanger Operations, LLC Lawsuit (Second Lawsuit), (3) WOWSC's Original Petition for Declaratory Relief with the Attorney General of Texas, and Danny Flunker's subsequent Appeal (AG Lawsuit), and (4) Ratepayers' Appeal in this proceeding. Two legal proceedings other than Ratepayers' Appeal are still active (and pre-date this Appeal), with pending decisions and agreements concerning the same documents for which WOWSC claims privilege in this docket: (1) the AG Lawsuit, with the sole issue before the court consisting of a decision on the privileged documents, and (2) the Second Lawsuit.⁴

Further complicating matters, Ratepayers' Representative in this case, Patti Flunker, was a named plaintiff in the original petition for the Second Lawsuit, and is related by marriage to and/or is a member of the same household as Danny Flunker. Danny Flunker is the Intervenor in WOWSC's AG Lawsuit, and is a registered Director of TOMA Integrity Inc., whose other Directors are plaintiffs in the Second Lawsuit. The discovery dispute is directly related to the same privileged information at issue in the AG Lawsuit and the subject matter sought is core privileged information relating to the Second Lawsuit. The AG Lawsuit has a pending decision on this exact issue.

In Ratepayers' Appeal, Ratepayers' Representatives are attempting to make an end-run around (and to gain an unfair advantage in) the ongoing cases in district courts by requesting the very same documents that have been redacted due to attorney-client and work product privilege in those cases. The discovery dispute revolves around the same information for which the AG Lawsuit was initiated to withhold based on privilege. In that case, WOWSC petitioned the Attorney General of Texas (AG) to find certain information on legal invoices to be privileged

⁴ See WOWSC's Objections to Ratepayers' First Request for Information, Exhibits A-C at 18-88 (Sept. 9, 2020) (WOWSC's Objections).

under attorney-client and work product privileges. The AG agreed with WOWSC, and Danny Flunker appealed the AG's decision. Currently there is a pending settlement agreement before the court in that appeal. Additionally, these same documents are at issue and directly reflect privileged information in and about the Second Lawsuit. While Ratepayers' Request for Information (RFI) covers a broader range of privileged documents than the pending AG Lawsuit and Second Lawsuit, Ratepayers' RFI encompasses the entirety of the privileged documents at issue in those cases.

Simply put, allowing discovery of this information in Ratepayers' Appeal would have the same effect as ruling against WOWSC on the merits of the sole issue before the judge in the AG Lawsuit and will put WOWSC at a material disadvantage in the Second Lawsuit, even if such discovery in this case was provided under a protective order. Not only would allowing discovery of the requested unredacted documents in this proceeding irreparably harm WOWSC in the ongoing lawsuits, Ratepayers' attempt to review these documents is especially inappropriate because Ratepayer Representative Patti Flunker was a named plaintiff in the Second Lawsuit, and is related by marriage and/or resides with Danny Flunker, the plaintiff in the AG Lawsuit and a former plaintiff and current corporate affiliate of the plaintiffs in the suit about which he is seeking discovery of privileged information.

The combination of these lawsuits has been a collateral effort to pierce WOWSC's attorney-client and work product privileges through contested litigation. WOWSC's hands have been tied. For years, WOWSC has received and responded to several Public Information Act (PIA) requests and legal challenges from a small group of its members, which has caused WOWSC to incur substantial attorneys' fees. Without recovering these attorneys' fees in rates, WOWSC's ability to provide continuous and adequate water and wastewater service to its customers will be jeopardized. Now, the Ratepayer Representatives—who are closely related to and include the litigants of other active cases causing WOWSC's financial predicament—have appealed WOWSC's rate increase and are attempting to use the discovery process to gain access to privileged information.

Protective order or not, there is no way to un-ring the bell of Ratepayer Representatives being permitted to review WOWSC's privileged information regarding the same subject matter of the very suits currently before the district courts. Further, if WOWSC is forced to provide privileged documents to Ratepayers, or even Commission Staff, in this proceeding WOWSC will arguably have lost the protection of its privilege in all proceedings.

For the foregoing and following reasons, the ALJ should abstain from ruling on the pending discovery disputes and instead grant WOWSC's Motion to Abate this proceeding until all pending related litigation is final and no longer appealable.

II. FACTUAL BACKGROUND

A. First Lawsuit, TOMA Integrity Inc. (Final)

In December of 2017 TOMA Integrity Inc. (TOMA)—whose board of directors consisted of Danny Flunker, John Richard Dial, Stuart Bruce Sorgen, and Lawrence Ffrench—sued WOWSC for alleged violations of the Texas Open Meeting Act involving the sale of real estate by WOWSC (First Lawsuit). The plaintiffs lost this suit and were denied review by the Texas Supreme Court.

B. Second Lawsuit, Double F Hanger Operations, LLC (ACTIVE)

A second lawsuit involving the same sale of real estate by the WOWSC was filed July 9, 2018 by Double F Hanger Operations, LLC, Lawrence Ffrench, Patricia (Patti) Flunker, and Mark McDonald (Second Lawsuit).⁵ WOWSC was added as a defendant to the Second Lawsuit on or before May 14, 2019, and John Richard Dial, Stuart Bruce Sorgen and Lawrence Ffrench (Intervenor Plaintiffs) filed an Original Petition in Intervention in the Second Lawsuit seeking similar relief regarding the same transaction from the WOWSC. Later, the original plaintiffs filed a motion to remove themselves from the suit⁶ and the Intervenor Plaintiffs have effectively

⁵ See Exhibit A, Plaintiff's Original Verified Petition for Injunction and Declaratory Relief.

⁶ Including Patti Flunker.

taken over as the plaintiff in this proceeding. On August 24, 2020, the Intervenor Plaintiffs filed their Third Amended Original Petition.⁷

Danny Flunker, as well as Mr. Dial, Mr. Sorgen, and Mr. Ffrench are all registered Directors of TOMA, connecting them to the First Lawsuit.⁸

Ratepayers' Representatives' connection to this case is clear: Patti Flunker was originally a named plaintiff; Danny Flunker, who is related to Patti Flunker, is a registered Director of TOMA; and the Intervenor Plaintiffs are registered Directors of TOMA; and Mr. Dial, Mr. Sorgen and Mr. Ffrench signed the ratepayer's petition to bring this appeal.

C. Third Lawsuit, WOWSC Petition for Declaratory Relief with the Attorney General and PIA Appeal (ACTIVE)

On May 28, 2019, pursuant to the Public Information Act, Danny Flunker sent a PIA request to WOWSC for “copies of all legal invoices from 3/7/18 to today’s date.”⁹

On June 12, 2019 WOWSC filed its Original Petition for Declaratory Relief with the Attorney General of Texas (AG Lawsuit) to prevent the disclosure of the information – *privileged* information – that Danny Flunker sought in the PIA request.¹⁰ The AG agreed that WOWSC was entitled to most all of the relief sought in WOWSC’s Petition for Declaratory Relief, and agreed that a majority of the time entries on the legal invoices was protected due to attorney-client and work product privilege.¹¹ Danny Flunker intervened to oppose the AG’s proposed settlement. There is currently a settlement agreement pending which would resolve this PIA appeal, but it has not been approved and the documents are still at issue because of Mr. Flunker’s opposition.

⁷ See WOWSC’s Objections, Exhibit C.

⁸ See Exhibit B, TOMA Integrity Inc. Certificate of Formation.

⁹ See WOWSC’s Objections, Exhibit D.

¹⁰ See *Id*

¹¹ See WOWSC’s Objections, Exhibits A and B.

D. Fourth Lawsuit, Ratepayers' Appeal of WOWSC Rates

Ratepayers (whose Representatives include Patti Flunker, and signatories include each of the Intervening Plaintiffs from the Second Lawsuit) are now seeking production of WOWSC's privileged information through their First RFI and Motion to Compel. Ratepayers' First RFI requests a broad range of privileged documents that covers the same documents at issue. Ratepayers' RFI No. 1-9 requests "all unredacted attorney invoices for the years 2018 and 2019," whereas, in the AG Lawsuit, Danny Flunker was seeking attorney invoices from March 7, 2018 through May 28, 2019. If the ALJ in Ratepayers' Appeal determines that WOWSC must produce the privileged invoices from Ratepayers' RFI No. 1-9, WOWSC will be denied the protection of its privilege for all documents relevant in the AG Lawsuit and the Second Lawsuit, both of which are still in active litigation.

III. ARGUMENT AND AUTHORITIES

WOWSC filed its Petition for Declaratory Relief with the AG to prevent disclosure of the same information Ratepayers are now seeking through discovery in a proceeding in front of the Commission. Ratepayers are using a different forum to force production of privileged documents – which the AG agrees are privileged – before the district court judge has an opportunity to rule on that very issue. Should Ratepayers be permitted to discover privileged information, the sole issue before the court in the AG Lawsuit is rendered moot. The finalization of the pending related litigation would promote judicial efficiency and uniformity regarding the discovery of the privileged invoices, or, at the very least, would prevent WOWSC from involuntarily waiving privilege to documents that are at the heart of other cases.

Additionally, requiring WOWSC to provide the privileged documents would create troubling legal precedent and policy. Ratepayers locked in active law suits with regulated water companies could simply wait until the company is forced to recover its legal fees to abuse the Commission's appellate process to gain access to privileged documents, exposing the company's litigation strategy involuntarily and putting the company at an undeniable legal disadvantage.

A. Permitting discovery of privileged information is irreversible, would remove WOWSC's privilege protection in the other lawsuits, and would rule on the sole contested issue in the Attorney General Lawsuit.

Privilege is waived if privileged communications are disclosed to a third party.¹² The Texas Supreme Court has made clear that disclosure of attorney client privileged information is an irreversible act.¹³ “Once [privileged] information has been disclosed, loss of confidentiality is irreversible . . . [t]he bell cannot be unrung, and neither dissemination nor use can be effectively restrained.”¹⁴ Further, once the attorney-client privilege has been waived, the privilege is generally lost for all purposes and in all forums.¹⁵ Having had the opportunity to assert and address the privilege claim in a judicial proceeding, the privilege holder is thereafter barred, under the doctrine of res judicata and collateral estoppel, from relitigating the resolved claim.¹⁶ Moreover, the attorney-client privilege holds a special place among privileges: it is “the oldest and most venerated of the common law privileges of confidential communications.”¹⁷ As the most sacred of all legally recognized privileges, its preservation is essential to the just and orderly operation of our legal system.¹⁸ The attorney-client privilege exists—and has been a cornerstone of our legal system for nearly 500 years—because the interests protected and secured by the promise of confidentiality are not merely significant; they are quintessentially imperative.¹⁹

By exposing the documents to Ratepayers or Commission Staff, WOWSC will have functionally lost its privilege as to the same documents at issue in all of the pending legal

¹² See Tex.R. Civ. Evid. 511(a)(1); See also *In re XL Specialty Ins Co*, 373 S.W.3d 46, 50 (Tex. 2012).

¹³ See *Paxton v City of Dallas*, 509 S.W.3d 247, 261 (Tex. 2017).

¹⁴ *Id.*

¹⁵ *Genentech, Inc v U.S. Intern Trade Comm'n*, 122 F.3d 1409, 1416 (Fed. Cir. 1997).

¹⁶ *Id.* at 1416-1417.

¹⁷ *Paxton*, 509 S.W.3d at 259 (quoting *US v. Edwards*, 303 F.3d 606, 618 (5th Cir. 2002)).

¹⁸ *Paxton*, 509 S.W.3d at 259 (internal quotations omitted).

¹⁹ *Id.* at 261.

matters. For this reason, a protective order is improper and not sufficient to protect attorney-client or work product privileged information.²⁰

Ratepayers cannot be permitted to use discovery provisions under the Commission's rules in this Appeal to circumvent the discovery process in other pending cases, expose privileged information, and jeopardize WOWSC's position in the other lawsuits.

Once Ratepayers have viewed privileged information pertaining to a separate case *in which the Representatives are related to and/or are living with a plaintiff in one of the ongoing cases*, there is no way for them to "un-see" privileged information or ensure such information does not spill to WOWSC's opposing parties in the ongoing lawsuits. The court should not allow discovery of attorney-client and work product information in any way, including via protective order, as such action is entirely insufficient when weighed against the high bar of protection provided to attorney-client and work product privileged information and the irreversible harm of allowing closely-related opposing litigants to review such information. The documents requested by Ratepayers are broader than the documents in the other lawsuits, but encompass the entirety of the documents in the other lawsuits. This means that if the ALJ orders that the documents are not privileged in this proceeding, WOWSC's privilege for all documents in the other lawsuits will be functionally lost forever.

Should Ratepayers be permitted to discover the information the WOWSC is seeking to withhold, such disclosure would be the same as ruling on the merits of the AG Lawsuit and moot the entire appeal. It would also give the litigants opposing WOWSC in the Second Lawsuit an incredible and unprecedented advantage of having at their disposal WOWSC's legal thoughts and strategies to use to their advantage, and WOWSC's disadvantage.

²⁰ Disclosure of other types of confidential information such as patient-doctor or trade secret information may sometimes be adequately protected via a protective order; however, there is no such authority that a protective order is sufficient to protect disclosure of attorney-client or work product privileged information. *See e.g. In re Collins*, 286 S.W.3d 911 (Tex. 2009); *In re Cont'l Gen Tire, Inc.*, 979 S.W.2d 609 (Tex. 1998).

Therefore, in order to avoid irreparably harming WOWSC in the pending litigation, by forcing WOWSC to lose its privileges, the ALJ should grant WOWSC's Motion to Abate until the pending lawsuits can be fully and finally resolved.

B. The Administrative Law Judge should abate this proceeding until the pending related litigation is final and no longer appealable.

Under 16 Texas Administrative Code (TAC) § 22.202(c), "the presiding officer has broad discretion in conducting the course, conduct, and scope of the hearing." Further, "[t]he presiding officer's authority includes, but is not limited to...abate a proceeding."

WOWSC acknowledges that, even after the other lawsuits are finalized, the documents may still be considered privileged in this case. However, alternatively, without abating this case, the decisions made by the ALJ regarding the discovery dispute over WOWSC's privileged documents could irreparably harm WOWSC.

Because the ALJ has broad discretion, including the authority to abate the proceeding, WOWSC respectfully requests that the ALJ grant WOWSC's Motion to Abate, for fairness, judicial efficiency, and to protect the integrity of the attorney-client and work product privileges from the abuse of Ratepayers' latest discovery demands for the same documents.

IV. PRAYER

For the foregoing reasons, WOWSC requests the Honorable Administrative Law Judge grant WOWSC's Motion, abating this proceeding and the procedural schedule set forth in SOAH Order No. 2 until all pending related litigation is final and no longer appealable.

Respectfully submitted,

LLOYD GOSSELINK
ROCHELLE & TOWNSEND, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701
(512) 322-5800
(512) 472-0532 (Fax)



JAMIE L. MAULDIN
State Bar No. 24065694
jmauldin@lglawfirm.com

W. PATRICK DINNIN
State Bar No. 24097603
pdinnin@lglawfirm.com

**ATTORNEYS FOR WINDERMERE OAKS
WATER SUPPLY CORPORATION**

CERTIFICATE OF SERVICE

I certify that, unless otherwise ordered by the presiding officer, notice of the filing of this document was provided to all parties of record via electronic mail on September 28, 2020, in accordance with the Order Suspending Rules, issued in Project No. 50664.



JAMIE L. MAULDIN

Filed: 7/9/2018 4:51 PM
Casie Walker, District Clerk
Burnet County, Texas
By: Teresa Holland, Deputy

48292
CAUSE NO. _____

DOUBLE F HANGER OPERATIONS, LLC,	§	IN THE DISTRICT COURT
LAWRENCE R. FFRENCH, Jr.,	§	
PATRICIA FLUNKER, and	§	Burnet County - 33rd District Court
MARK A. McDONALD	§	
<i>Plaintiffs</i>	§	
	§	
v.	§	BURNET COUNTY
	§	
FRIENDSHIP HOMES & HANGARS, LLC,	§	
And BURNET COUNTY	§	
COMMISSIONERS COURT	§	
<i>Defendants</i>	§	_____ DISTRICT COURT

**PLAINTIFF’S ORIGINAL VERIFIED PETITION FOR INJUNCTION
AND DECLARATORY JUDGMENT**

TO THE HONORABLE JUDGE OF THIS COURT:

Plaintiffs, together “Double F Hanger” file this Original Verified Petition against Defendants Friendship Homes & Hangars, LLC (“Friendship Homes”) and the Burnet County Commissioners Court (“County”) seeking to challenge ownership by Friendship Homes of certain property and to enjoin the subdivision of said property.

NATURE OF THE CASE AND DISCOVERY CONTROL PLAN

1. a. Discovery will be conducted under TRCP 190.3, Level 2.
- b. Plaintiffs are all member of the Windermere Oaks Water Supply Corporation (WOWSC) seeking to protect their equitable interest in the WOWSC from unlawful transfer of WOWSC property to Defendant Friendship and its proposed subdivision, a plat for which is set before the County for approval. On December 19, 2015 and on February 22, 2016, the WOWSC Board (at the time) blatantly violated the Texas Open Meetings Act by approving sale of the property (Tract 1) to Friendship, a company owned by then-WOWSC Board member Dana Martin, without public notice or competition for sales of the land. In addition, a Right-of-First Refusal

was given to Friendship for additional WOWSC property (Tract 2), although there is no record that the WOWSC Board ever approved that Right-of-First-Refusal. At the time that the former WOWSC Board approved the property sale to Friendship Homes and Hangars, that entity did not even exist, and was not incorporated until March 1, 2016, just a few days before the property closing occurred. Suit is currently pending in *TOMA Integrity v. WOWSC*, Cause No. 47531, in the 33rd District Court, Burnet County, Texas seeking to reverse and declare void the WOWSC's Board action to approve sale of the property to Friendship.

c. Friendship is now trying to subdivide Tract 1 and create a new Lancair Lane without access to that Lane by Tract 2. The result would be to greatly diminish the value of Tract 2, giving Friendship a chance to purchase that property and then increase its value by granting an easement to Lancair Lane. This is a fraud on the interests of members of the WOWSC in Tract 2, as was the unlawful sale of Tract 1 to Friendship in the first place.

CLAIM FOR RELIEF

2. Plaintiff seeks monetary relief of \$100,000 or less and nonmonetary mandamus and injunctive relief. TRCP 47(c)(2).

PARTIES

3. a. Plaintiff Double F Hanger Operations, LLC is a member of the WOWSC and is a Texas limited liability company who can be served by its counsel of record in this case.

b. Plaintiff Lawrence R. Ffrench is a member of the WOWSC and resident of Burnet County, Texas who can be served by his counsel of record in this case. The last 3 digits of his Driver's License is 768 and the last 3 digits of his Social Security Number is 866.

c. Plaintiff Patricia Flunker is a member of the WOWSC and resident of Burnet County, Texas who can be served by her counsel of record in this case. The last 3 digits of her

Driver's License is 993 and the last 3 digits of her Social Security Number is 016.

d. Plaintiff Mark A. McDonald is a member of the WOWSC and resident of Burnet County, Texas who can be served by his counsel of record in this case. The last 3 digits of his Driver's License is 239 and the last 3 digits of his Social Security Number is 956.

e. Defendant Friendship Homes & Hangars, LLC is a Texas limited liability company who can be served through its Registered Agent, Dana Martin, at 205 Coventry Road, Spicewood, Texas 78669.

f. Defendant Burnet County Commissioners Court (The Honorable James Oakley, Burnet County Judge; The Honorable Jim Luther, Jr., Commissioner Precinct One; The Honorable Russell Graeter, Commissioner Precinct Two; The Honorable Billy Wall, Commissioner Precinct Three; The Honorable Joe Don Dockery, Commissioner Precinct Four) can be served through The Honorable Eddie Arredondo, Burnet County Attorney, at Burnet County Courthouse, 220 S. Pierce, Burnet, Texas 78611.

JURISDICTION & VENUE

4. The Court has jurisdiction over this case for the equitable relief requested and venue is mandatory in this Court.

FACTS

5. a. The facts stated in Paragraph 1 above are incorporated herein.

b. The Exhibits attached hereto also demonstrate facts related to this cause of action. The proposed plat is attached as Exhibit P-1. The Commissioners Court Meeting Notice (Item 18) is attached as Exhibit P-2. The disputed real estate transaction closing documents for sale of Tract 1 and Right-of-First-Refusal for Tract 2 are described therein and are attached as Exhibit P-3. The

Certificate of Membership in the WOWSC by Plaintiff Double F Hanger Operations, LLC is attached as Exhibit P-4. The latest petition in the pending litigation over the Open Meetings Act violation is attached as Exhibit P-5.

COUNT 1 – SUIT FOR MANDAMUS/INJUNCTIVE RELIEF

6. The facts stated above are incorporated here as the basis for this cause of action for mandamus and injunctive relief.

a. Plaintiffs' application for temporary and permanent injunction is authorized by Tex. Civ. Prac. & Rem. Code section 65.011(1)-(4).

b. Plaintiffs asks the Court to (a) enjoin the Commissioners Court from approving the plat (Item 18, Commissioners Court agenda, July 10, 2018); and (b) enjoin Friendship from taking any action to change, subdivide, trade, dispose of, or sell (to anyone other than WOWSC) any portion of the property described in Exhibit P-3 until a court determines validity of Friendship's purchase of that property.

c. It is probable that Plaintiffs will recover from Defendants after a trial on the merits because the plat is proposed to the Commissioners Court by a party who is not true and lawful owner of the property; the proposed plat would land-lock the WOWSC property (Tract 2) diminishing its value and subjecting it to a future sale, through Friendship's Right-of-First Refusal, at a below-market price, causing damage to WOWSC members.

d. If Plaintiffs' application is not granted, harm is imminent because the Commissioners Court is poised to approve the plat submitted.

e. The harm that will result if the injunctive relief is not granted is irreparable because Friendship may further sell the property to others, making retrieval of the unlawful sale of Tract 1 and invalidation of the Right-of-First-Refusal on Tract 2 impossible.

f. Plaintiffs have no adequate remedy at law because the only way to protect WOWSC and its members, such as Plaintiffs, from the unlawful loss if WOWSC property is to stop further transactions until the property is returned to the WOWSC.

g. Plaintiffs are willing to post bond.

7. Plaintiffs ask the Court to declare that the WOWSC property at issue is not owned by Defendant Friendship because no valid authorization for the sale of that property, and such authorization was necessary in order for the sale to occur.

CONDITIONS PRECEDENT

8. All conditions precedent to Plaintiffs' claim for relief have been performed or have occurred.

PRAYER

For these reasons, Plaintiffs ask the Court to set this matter for hearing on injunction and mandamus to declare that the sale of property to Friendship is void, that WOWSC is still the lawful owner of Tract 1, and to enjoin Defendant Friendship from subdividing or selling or otherwise disposing of Tract 1 or Tract 2 and to grant Plaintiffs all other relief to which they may be entitled.

Respectfully submitted,



Bill Aleshire
Bar No. 24031810
AleshireLAW, P.C.
700 Lavaca, Suite 1400
Austin, Texas 78701
Telephone: (512) 320-9155
Cell: (512) 750-5854
Facsimile: (512) 320-9156
Bill@AleshireLaw.com