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COMPLAINT OF CERTAIN MEMBERS § BEFORE THE STATE OFFICE  
OF RIO ANCHO HOMEOWNERS § OF  
ASSOCIATION AGAINST AQUA §  
TEXAS, INC. § ADMINISTRATIVE HEARINGS

**SOAH ORDER NO. 6  
RULING ON AQUA TEXAS, INC.'S OBJECTIONS AND MOTION TO STRIKE  
PORTIONS OF COMPLAINANTS' PREFILED TESTIMONY AND EXHIBITS**

On April 30, 2021, Aqua Texas, Inc. (Aqua) filed its objections and motion to strike portions of Complainants' prefiled direct testimony and exhibits. On May 14, 2021, Complainants filed their response. **Except as stated below, Aqua's objections are OVERRULED and its motion to strike is DENIED.** Aqua may cross-examine and present evidence regarding such testimony and present argument as to the weight to give the testimony. Complainants **SHALL** redact any portion stricken in this order from the record copy, and any copy delivered to the State Office of Administrative Hearings, of prefiled testimony they offer into evidence and on request **SHALL** provide to the other two parties before the hearing a copy of the redacted hearing exhibits.

**Donald G. Rauscher, P.E.**

Testimony and Exhibits	Specific Passage	Ruling
Page 7, Line 24 through Page 8, Line 4	"Q. Mr. Rauscher . . . A. I define . . . standards."	The testimony is admissible as the witness's expert opinion, as a Texas professional engineer whose work requires him to apply the rules, about what these terms mean to him. It is not expert legal opinion; the witness was not shown to be qualified as a legal expert.
Page 8, Line 26 through Page 9, Line 4	"Texas Water Code . . . in advance of need."	Same ruling as above.
Page 17, Lines 1 through 12	"Yes. An Aqua Texas operator . . . indicated . . . during high water demand periods . . . Yes."	The objection is overruled.

<b>Testimony and Exhibits</b>	<b>Specific Passage</b>	<b>Ruling</b>
Page 18, Lines 10 through 17	“Q. Did the Aqua Texas Operator give you . . . four (4) hours per day.”	The objection is overruled.
Page 19, Lines 10-11; Page 19, Line 23 through Page 20, Line 3; Exhibit DGR-7	Exhibit DGR-7 and discussion of same.	Exhibit DGR-7 is admissible as a business record logging customer complaints to the then-Community Manager of the Rio Ancho Homeowners Association (HOA) and the type of information on which an expert would normally rely in analyzing continuity of utility service. Exhibit DGR-7 is not admissible for the truth of the matters stated by the customers who made the complaints. The testimony is admissible to show the bases of expert opinion by the witness.
Exhibit DGR-5, Paragraph 2.d.	“Aqua operator . . .high water demands.”	The objection is overruled.

**David Meyers**

<b>Testimony and Exhibits</b>	<b>Specific Passage</b>	<b>Ruling</b>
Page 5, Line 13 through Page 6, Line 3	“Q. Did the homeowners keep track . . . excessive lawn watering within the subdivision.”	Exhibit DGR-7 is admissible as a business record logging customer complaints to the then-Community Manager of the Rio Ancho HOA. Exhibit DGR-7 is not admissible for the truth of the matters stated by the customers who made the complaints. The hearsay and lack of personal knowledge objections to Page 5 Line 23 through Page 6 Line 3 are sustained and that testimony is stricken.
Page 9, Lines 8 through 15	“Q. Let me hand. . . Exhibit DGR-7 . . .please. A. Complainants’ Exhibit DGR-7. . . residents of the subdivision.”	Exhibit DGR-7 is admissible as a business record logging customer complaints to the then-Community Manager of the Rio Ancho HOA. Exhibit DGR-7 is not admissible for the truth of the matters stated by the customers who made the complaints. Page 9 Lines 12-15 (The sentence beginning “As can be seen”) is stricken.
Page 9, Line 16 through Page 10, Line 4	“Q. Have these conditions affected home values and development in the Rio Ancho Subdivision? A. . . . loss of service issues.”	The relevance objection to Page 9 Line 16 through the word “Yes,” on Line 18 and the hearsay and lack of personal knowledge objections to Line 25 through Page 10 Line 4 are sustained and that testimony is stricken.

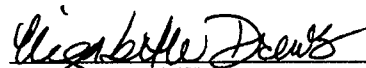
**Kevin Hay**

<b>Testimony and Exhibits</b>	<b>Specific Passage</b>	<b>Ruling</b>
Page 6, Lines 17 through 22	“Q. Do these water issues affect the value of your home? A. These water issues . . . negatively.”	The relevance, hearsay, and lack of personal knowledge objections are sustained and the testimony is stricken.

**Denise Johnson**

<b>Testimony and Exhibits</b>	<b>Specific Passage</b>	<b>Ruling</b>
Page 4, Line 19 through Page 5, Line 6	“Q. Let me hand . . . Exhibit DGR-7 . . . contains.” A. Exhibit DGR-7 . . . August 10, 2020.”	Exhibit DGR-7 is admissible as a business record logging customer complaints to the witness, the then-Community Manager of the Rio Ancho HOA. Exhibit DGR-7 is not admissible for the truth of the matters stated by the customers who made the complaints. The testimony about the exhibit is within the witness’s personal knowledge and admissible.
Page 6, Line 24 through Page 7, Line 10	“Q. Does your employment . . . Rio Ancho Subdivision.”	The objection is overruled.

SIGNED May 20, 2021.

  
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ELIZABETH DREWS  
ADMINISTRATIVE LAW JUDGE  
STATE OFFICE OF ADMINISTRATIVE HEARINGS