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SOAH DOCKET NO. 473-22-2652

COMPLAINANT RESPONSE TO THE GALLERY APARTMENTS
AND ROSCOE PROPERTY MANAGEMENT'S REQUEST FOR A
HEARING ON THEIR MOTION TO DISMISS

10/12/22

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COMPLAINT OF JEFF CONNORS § PUBLIC UTILITY COMMISSION
AGAINST THE GALLERY §
APARTMENTS, ROSCOE PROPERTY § OF TEXAS
MANAGEMENT, AND CONSERVICE §

**COMPLAINANT RESPONSE TO THE GALLERY APARTMENTS AND ROSCOE
PROPERTY MANAGEMENT’S REQUEST FOR A HEARING ON THEIR MOTION
TO DISMISS**

I. Background

The Gallery Apartments and Roscoe Property Management filed a Motion to Dismiss on 9/28/22 (Item 69 in the Docket) stating that since they sent me a check for the remaining amount that I was overcharged that the proceeding is thereby moot and cited PUC Procedural Rules §22.181 (a) and (b) and §22.181 (d)(2) to support their arguments. They also stated that if I don’t accept the check then the proceeding should be dismissed for good cause and cited PUC Procedural Rule §22.181 (d)(11) to support that.

I filed a response to that motion on 10/5/22 (Item 72) and then on 10/10/22 The Gallery and Roscoe requested a hearing on their motion (Item 73).

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To clarify what I mean by “pdf pages”, a term I use in my footnotes, I mean the page number in the upper left-hand corner of the window when you pull up the document from the Docket; not the page numbers that are actually on the bottom of some of the documents.

II. Discussion

There's no justification for a hearing on The Gallery and Roscoe's Motion to Dismiss because the motion is based upon the false premise that the only relief sought by me is \$85 when I also clearly asked for copies of the total monthly amounts that Gallery II residents were billed for water and wastewater on our January 2020 to June 2020 monthly rental bills, information that by PUC Rule §24.277 (e)(8) The Gallery was supposed to provide within 15 days of a tenant's request for it but never has. The fallacy that I only asked for the money in my relief sought is core and central to their argument for their Motion to Dismiss. In it they stated that "*(b)ecause the Complainant has already been given all relief sought, he has no remaining cognizable interest in the outcome*"¹. The fact that I haven't been given all my relief sought makes their argument for the motion invalid.

As mentioned in my response to their motion, I requested those records in the relief sought in my complaint. To begin with, I requested it in my *Second Motion to Amend the Complaint*². At that point I had thought that the PUC also handled complaints about drainage and I asked for those records and \$241.99. When I found out that the PUC doesn't handle disputes about drainage, I decreased the amount sought to \$205.66. After I was credited about \$120 in my rental bills from June 2021 to September 2021, I filed a *Motion to Amend Requested Relief* and decreased the amount owed to \$85, but, just as in my *Second Motion to Amend the Complaint*, I also asked for the total amount that Gallery II residents were billed for water and wastewater on our January 2020 to June 2020 monthly bills³.

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By my estimations, I was overbilled about \$200 for water and wastewater during the first eight months that Roscoe and Conservice did The Gallery II's billing, which were our October 2019 to May 2020 rental bills. According to those rental bills, this period covered the City of Austin water bills to the complex from 8/14/19 to 3/13/20. I've been asking The Gallery and Roscoe for some of those total monthly amounts for over two and a half years now⁴ and, as mentioned in my response to their Motion to Dismiss, the closest that they've come to providing it is by producing the totals for The Gallery I from January 2020 to June 2020, which they tried to pass off as being from both The Gallery I and II⁵. I proved that those totals didn't include The Gallery II in both

¹ Item 69 on pdf page 3 in point 6

² Item 9 on pdf page 30 right below Relief sought

³ Item 39 on pdf page 3 right below Relief sought

⁴ Item 1 on pdf pages 56 and 57

⁵ _COMPLAINT#CP2020101118 - JeffConnors_ Request to see info on water_ wastewater_ and drainage bills from January to June 2020.msg in Item 12 ZIP folder

my *Reply to submissions made by The Gallery on 2/3/21*⁶ ⁷, which I submitted over a year and a half ago, and my *Reply to Respondent's Response to Formal Complaint*⁸.

I'll also point out again that The Gallery and Roscoe made me make five written requests to them for water billing info and then file Informal and Formal Complaints with the PUC before they provided me with anything⁹ and even then it was not all that I requested. I have also asked for the total amounts that they billed Gallery II residents for the months that I was overbilled, along with other info, in an RFI that I sent to The Gallery and Roscoe on July 29th and they haven't responded to that. They also didn't comply with the terms of SOAH Order No. 1 again¹⁰ and failed to send me an email informing me that they submitted Item 73 to the Docket even after I pointed out in my response to their earlier motion¹¹ that they had failed to do so. They didn't even show up for the prehearing conference on July 25th.

But now that they're due to file their Direct Testimony in less than three weeks and will finally be forced to stop pretending that they didn't break any PUC Rules and didn't overcharge Gallery II residents for a public utility they're requesting that an oral hearing be held to consider their Motion to Dismiss "at the earliest available opportunity". They based their argument for the motion on the false premise that paying me \$85 was all that was required to satisfy my relief sought when it is a matter of record that that's simply not true. It is my view that The Gallery and Roscoe shouldn't be rewarded for their misrepresentation of the facts by being granted a hearing on their motion and that the case should instead proceed as scheduled.

III. Prayer

I respectfully request that The Gallery and Roscoe's Motion to Dismiss and their request for a hearing on the motion be denied.

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⁶ Item 13 from pdf page 20 bottom four lines of the page to pdf page 22 second paragraph

⁷ Files referenced in text as evidence are all found in the Item 12 ZIP folder

⁸ Item 37 from pdf page 12 third paragraph to pdf page 15 last paragraph

⁹ Item 37 from pdf page 3 last paragraph to pdf page 5 second paragraph

¹⁰ Item 59 on pdf page 8 right below A. FILING AND SERVICE PROCEDURES

¹¹ Item 72 on pdf page 5 second to last paragraph

I will email frontdesk@roscoeproperties, stephanie.laird@rpmliving.com, jaime.hearn@rpmliving.com, jkat@conservice.com, edmunds@hooverslovacek.com, liu@hooverslovacek.com, and phillip.lehmann@puc.texas.gov to inform them of this submission to the docket.

Respectfully submitted,

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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 on October 12, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Jeff Connors

Jeff Connors

Complainant