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DOCKET NO. 51619
SOAH DOCKET NO. 473-22-2652

COMPLAINANT MOTION TO CHALLENGE THE GALLERY AND
ROSCOE PROPERTY MANAGEMENT'S CONFIDENTIAL
DESIGNATION OF ITEMS 77 AND 78 IN THE DOCKET

11/15/22

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

**COMPLAINANT MOTION TO CHALLENGE THE GALLERY AND ROSCOE
PROPERTY MANAGEMENT’S CONFIDENTIAL DESIGNATION OF ITEMS 77 AND
78 IN THE DOCKET**

I. Background

On Tuesday, November 1, 2022, The Gallery Apartments and Roscoe Property Management filed their Position Statement and Direct Testimony¹ into the Docket and designated it as confidential. Despite the fact that I had twice called to their attention² that they had violated the terms of SOAH Order No. 1 by failing to email me to notify me when they submit filings into the Docket³ and the Presiding Administrative Law Judge had also ordered them to do so⁴ in the future, they once again failed to notify me of their filing.

I was unable to access the filing on the PUC Interchange because it was confidential. In the evening of November 3rd, I emailed PUC Central Records and asked them how I could access the filing. On the next afternoon, a Friday, Phillip Lehmann, the PUC Staff Attorney assigned to this Complaint, emailed me and informed me that non-PUC staff members were unable to access confidential items on the PUC Interchange and that the attorneys representing The Gallery ought to provide me a copy of the filing and suggested that I contact them and ask them for it.

¹ Item 77 in the Docket

² Item 74 on pdf page 5 second paragraph

³ Item 59 on pdf page 8 right below A. FILING AND SERVICE PROCEDURES

⁴ Item 75 on pdf page 4 first paragraph

Late that afternoon, I emailed the attorneys who are representing The Gallery and then on Monday they emailed me the filing. Later that same day, November 7th, the law firm representing The Gallery also filed an amended motion to dismiss⁵ and also designated it as confidential but emailed me their filing this time without me having to make an email request for it.

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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. When I refer to paragraphs in my footnotes, I count partial paragraphs as paragraphs. Therefore, the second paragraph on a page may actually be the first full paragraph on that page.

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II. Discussion

I will reference the following Texas Administrative Code rules in this motion:

1 TAC §155.103 (c) Confidential information filed in public cases.

(2) Confidential documents necessary for resolution of the case. A party may designate an entire document or exhibit as confidential in a proceeding that is open to the public only if:

- (A) the entire document or exhibit contains confidential information or includes personal identifying information;
- (B) redaction of the document or exhibit would remove confidential information or personal identifying information necessary to the resolution of the case; and
- (C) no less restrictive means other than withholding the information from public disclosure will adequately or effectively protect the specific confidentiality interest asserted.

1 TAC §155.103 (d) Challenging confidentiality designations. A party may file a motion to challenge the redaction or confidential filing of any information, or the judge can raise the issue.

⁵ Item 78

If a confidentiality designation is challenged, the designating party has the burden of showing that the document should remain confidential.

Neither Item 77 or Item 78 adhere to even one of the three conditions listed in 1 TAC §155.103 (c) (2) (A), (B), and (C) much less all three of them. So, in accordance with 1 TAC §155.103 (d) I am challenging their designation as confidential in the hopes that these items will be available to the public, including myself, to easily access on the PUC Interchange.

III. Prayer

I respectfully request that Items 77 and 78 have their confidential designation removed so that they are available for the public to view on the PUC Interchange. If the respondents feel that there is information in those filings that have confidential information then they ought to redact that information, but there is no reason for the text of those filings to be redacted or remain confidential.

*

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 November 15, 2022 in accordance with the Order Suspending Rules filed in Project No. 50664.

/s/ Jeff Connors
Jeff Connors
Complainant