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PUC DOCKET NO. 52435

PETITION BY LEGACY EQUESTRIAN	§	BEFORE THE
CENTER LLC FOR EXPEDITED RELEASE	§	PUBLIC UTILITY COMMISSION
FROM WATER CCN NO 10150 HELD BY	§	OF TEXAS
MARILEE SPECIAL UTILITY DISTRICT IN	§	
COLLIN COUNTY	§	

PETITIONER’S RESPONSE TO APPEAL OF ORDER NO. 6

Legacy Equestrian Center LLC (“Legacy”) files this Response to the Appeal of Order No. 6, and in support thereof shows as follows:

Commission Staff filed what was entitled a Joint Request for Clarification and Abatement on June 2, 2022 requesting clarification if the decertification (or release) may proceed and what entity is responsible for Petitioner’s one-half of the Commission appraiser’s fee.

The Commission's order filed on March 1, 2022, released the tract of land from Marilee Special Utility District’s certificated service area under certificate of convenience and necessity number 10150. There is no need for clarification on whether the release can proceed because the release has already occurred. *See Petition of Legacy Equestrian Center LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*; Docket No. 52435; Order No. 6. Legacy concurs with this assessment. Additionally, Texas Water Code §13.2541(i) states, “The petitioner and the certificate holder shall each pay half the cost of the third appraisal.” Therefore, the petitioner is statutorily responsible for paying half of the Commission’s appraisal. TEXAS WATER CODE § 13.2541(i); *see also Petition of Legacy Equestrian Center LLC to Amend Marilee Special Utility District’s Certificate of Convenience and Necessity in Collin County by Expedited Release*; Docket No. 52435; Order No. 6. Whether or not the property has sold has no bearing on the petitioner’s, or its successor-in -interest’s, responsibility for payment of the appraisal. Moreover, Texas Water Code §13.2541 does not

prohibit the sale of property during the pendency of a decertification proceeding. To the contrary, the legislative intent of the Act establishing streamlined expedited release is quite clear that the law should operate as an incentive for developers to buy, sell, and develop land within a CCN that is not providing water service.

On motion of Senator Robert Nichols and by unanimous consent, his remarks regarding the Act were ordered reduced to writing and printed in the *Senate Journal* as follows:

Chapter 13 of the Water Code provides a landowner may petition TCEQ to be released from a certificate of convenience and necessity if the CCN holder is not providing service. CCNs are permits to allow the holder to be exclusive, provide a water and wastewater services to a geographic area. This exclusive right is granted as an incentive to provide water services, having the rights to a CCN is a state-granted monopoly and should come with responsibilities. However, the current process to be released from a CCN is cumbersome and costly for both the CCN holder and the landowner. It is a *disincentive for developers to buy and develop land within a CCN* because of the cost to be released or the fear of not being released from a nonserving CCN.

Senate Journal, 82nd Legislature, R.S. 47th day; p. 1320 (emphasis added).

Clearly the legislative intent of CSSB 573 was to promote low-cost development to benefit the Texas home-buying consumer. Marilee SUD has attempted to prolong this process by almost one year despite the intention of the Texas Legislature in enacting this law. Here, the landowner would be materially prejudiced if the Order granting decertification were overturned over five months later in light of development plans. Finally, there is no provision in the law that allows for abatement of this proceeding.

Accordingly, Petitioner requests an order denying the Appeal of Order No. 6 in Docket 52435.

Respectfully submitted,

COATS ROSE, P.C.

By:



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ATTORNEYS FOR PETITIONERS

CERTIFICATE OF SERVICE

I certify that a true and correct copy of this document was served on the following attorney of record on or before July 8, 2022 in accordance with 16 Tex. Admin. Code § 22.74(c).

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