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ATTORNEY GENERAL OF WASHINGTON

Utilities and Transportation Division

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December 2, 1994

Mr. Steve McLellan, Secretary
Washington Utilities and
Transportation Commission
1300 South Evergreen Park Drive SW
PO Box 47250
Olympia, WA 98504-7250

Re: Marine View Heights Homeowners Association v. Marine View
Heights, Inc.
Docket No. UW-940325

Dear Mr. McLellan:

Enclosed please find the original and 19 copies of the Motion of Commission to Strike Portions of Complainants' Brief in the above-referenced matter. Please accept the same for filing.

Very truly yours,

Ann E. Rendahl
Assistant Attorney General

dc

Enclosure

cc\enc: Parties of Record

AER\UW940325\SM.LTR

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BEFORE THE WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

MARINE VIEW HEIGHTS)	
HOMEOWNERS ASSOCIATION,)	
)	
Complainant,)	DOCKET NO. UW-940325
)	
v.)	
)	
MARINE VIEW HEIGHTS)	MOTION OF COMMISSION STAFF
INCORPORATION,)	TO STRIKE PORTIONS OF
)	COMPLAINANTS' BRIEF
)	
Respondent.)	
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The Staff of the Washington Utilities and Transportation Commission ("Commission"), by and through its attorney, Ann E. Rendahl, respectfully moves to strike portions of the Complainants' Brief filed with the Commission on November 21, 1994. The Complainants included a number of facts in their brief which were not a part of the record in this proceeding. In addition, the Complainants attached to their brief an October 25, 1994 letter from the Department of Health, which was not entered into evidence during hearings in this proceeding. Staff requests that this attachment and those portions of the Complainant's Brief set forth in Appendix A to this motion be stricken from the brief.

Ordinarily, the Staff would move to strike the entire brief if a party included in its brief facts that were not admitted as evidence, or not a part of the official record. However, the Complainants in this proceeding have chosen to participate pro se,

and are not represented by legal counsel. As such, the Complainants may not be aware that only facts admitted as evidence during the proceeding may be discussed or argued in brief. Thus, the Staff requests that those portions of the brief set forth in Appendix A, and the letter attached to the brief be stricken.

DATED This 2nd day of December, 1994.

Respectfully submitted,

CHRISTINE O. GREGOIRE
Attorney General

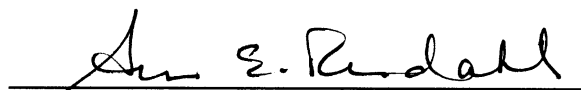


ANN E. RENDAHL
Assistant Attorney General

CERTIFICATE OF SERVICE

I hereby certify that I have this date served a true copy of the foregoing document upon the Marine View Heights Homeowners Association, c/o Delores Gregg, P.O. Box 1158, Moses Lake, WA 98837, and Fred Barker, Jr., Marine View Heights, Inc., 6897 SR 262 SE, Othello, WA 99344, by depositing a copy of the Motion of Commission Staff to Strike Portions of Complainants' Brief in the United States mail, with first class postage prepaid.

Dated This 2nd day Of December, 1994.



ANN E. RENDAHL

APPENDIX A

Page 6 A Deed of Trust, file number 921029030, recorded in Grant County shows Metropolitan Mortgage transferred ownership of the water company to James J. and Verlyn I. Sahli on October 23, 1992. A check with the Secretary of State's Office indicated James J. Sahli had reopened a Certificate of Inc. for Marine View Heights Incorporated, a profit organization.

Page 7 The Community had a meeting to try and determine what could be done. Long distance phone calls were made and an attorney contacted. The attorney advised if there were over 100 hook-ups or if the bill exceeded \$25.00 the Washington Utilities and Transportation Commission had jurisdiction over the water company. Customers physically drove the streets counting hook-ups. It was determined that there were 120 hook-ups. Customers wrote letters and made long distance phone calls to the Washington Utilities and Transportation Commission in regard to the rate increase.

An attorney was contacted seeking advice. Many hours were spent trying to put together a legal protest.

When the customers purchased their property in Marine View Heights, they were provided documentation stating that the water system would be given to the homeowners when all of the lots in the community were sold. This was also indicated by the Realtor working for Metropolitan Mortgage, the developer. Customers wrote letters and petitioned the Attorney General's Office regarding the legality of the sale by Metropolitan Mortgage, and its promise of turning the water system over to the homeowners.

At this point customers were in an uproar--they didn't know what to do. People were contacting every agency they could think of who might help.

Page 8 A state agency told customers there was a possibility the water company would go into receivership and it would be best if customers were an association and not just a community.

Again, many hours were spent drafting Articles of Inc., By-laws and Covenants. People in the community were fighting over the covenants. It was necessary for an

attorney to review some of the paperwork. This was very expensive.

Page 8 April 16, 1993, a Quit Claim Deed, file number 930416079, recorded in Grant County showed that ownership of the water company was transferred from James J. and Verlyn I. Sahli to Marine View Heights Incorporated, Fredrick R. Barker Jr., President, James J. Sahli, Secretary.

The Health Department told the customers the water company couldn't do this; however, it was done.

Page 10 Customers physically counted the number of hook-ups and communicated with the Washington Utilities and Transportation Commission that there were over 100 hook-ups and that they should be under the jurisdiction of the Commission.

In March of 1993, the water company hired a Certified Water Operator. He only looked at the well one time, did not take any water tests and terminated his employment after only three or four days.

Page 11 The water company installed the first chlorinator pump in December of 1992, without the approval of the Health Department. It failed. Two months later another chlorinator pump was installed. It failed. Two months later another chlorinator pump was installed and it too failed. Finally a fourth chlorinator pump was purchased which was apparently large enough to handle the problem. None of this work was ever approved by the Department of Health and in fact to date the chlorinator has not been approved.

Page 12 Correspondence from the Department of Health to Marine View Heights Inc. dated October 25, 1994, listed 18 issues of concern regarding the plan. (attachment)

The portion of the plan that comprises the chlorination system talked about using flow through pressure tanks for contact time but failed to provide alternatives such as a separate feed line to the reservoir. All alternatives must have cost estimates and advantages/disadvantages listed and discussed. To date the water company still does not have proper chlorine contact time and has not satisfied the request of the Department of Health.

In December of 1992, customers found an empty Clorox (name brand) bottle at the well. At this point, customers did not know this was a product of the chlorinator.

It was an added burden to make ice cubes with boiled water - some customers couldn't use their icecube makers.

Page 12 and some had skin rashes,
There was a report of fish dying in the fish tank.

Page 13 Some customers were afraid to use the water for cooking thus used bottled water for this.

Because of inconsistencies in receiving notification customers called the water company to find out the water tests results. Because customers did not feel they could trust the water company's response they were forced to ask for written documentation. Customers were also making long distance phone calls to the Department of Health (they do not have a 1-800 number) checking test results and requesting documentation.

Page 14 Again when the proper amount of water samples were not being taken customers were required to make phone calls to the company and Department of Health.

When they did begin to comply the test was taken by the un-certified water operator at his residence, instead of at "representative points in the system."

Page 15 The last reported sample was taken on January 17, 1989.

The water system is less than 100 miles from the Hanford Nuclear Facility and it is feasible that radioactive elements could get into the system. This test was not taken as required.

Page 16 A letter dated October 25, 1994, to Marine View Heights Inc. from the Department of Health lists eighteen (18) issues that must be addressed. (attachment) These issues are significant indicators the water company will not become compliant in a timely manner.

which had a moratorium from 1985 to 1993.

Just recently this customer suffered another heart attack.

Page 21 Numerous new customers hooked up to water after the departmental order had been issued and water exceeded the maximum contaminant level and new customers were never advised of any violations nor given any written communication regarding the violations.

Page 26 The Washington Utilities and Transportation Commission and the Department of Health continue to receive complaints about this company.

Page 27 The customers have contacted everyone they could think of who might help resolve this problem including the Governor's office, Senator, State Representatives, County Commissioners, EPA offices, Public Utilities District, local and state Health Department offices, and the Washington Utilities and Transportation Commission.

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