

JOSEPHINE FULLER
328 Coventry Road
Spicewood, Texas 78669
(512) 743-2553
ratepayersrepjosiefuller@gmail.com

April 29, 2020

Via Interchange Filing

Water Utility Division
Public Utility Commission of Texas
Texas 1701 N. Congress Avenue
P.O. Box 13326
Austin, Texas 78711-3326

RE: FIRST AMENDED RATEPAYERS APPEAL OF WATER AND SEWER RATE INCREASES BY THE WINDERMERE OAKS WATER SUPPLY CORPORATION UNDER TEXAS WATER CODE SECTION 13.043.

Comes now Josephine Fuller as the Ratepayers Representative, together with 52 affected Ratepayers representing more than ten (10%) of the 250 + Ratepayers of the Windermere Oaks Water Supply Corporation (“WOWSC”) to file this Petition appealing the recent water and sewer rate increases passed by the 2020 WOWSC Board of Directors. On February 11, 2020 the WOWSC sent out a rate increase letter informing the Ratepayers of the new base water and sewer rate representing a 71% increase in rates with an effective date of March 23, 2020 (see Exhibit A, Rate Increase Letter). We respectfully submit the attached Petition of Appeal Rates Established by the Board of Directors of the WOWSC which includes the 52 Ratepayers signatures (see Exhibit B).

The Ratepayers assert the WOWSC rate increases are not just and reasonable and request the Public Utility Commission of Texas review the rates imposed by the 71% increase. The old rates and new rates charged by WOWSC are;

Water Rates*

Meter Size	Old Rates	New Rates
5/8 “ x 3/4”	\$50.95	\$90.39

The gallon charge is;

- 0 through 2,000 gallons: \$3.55 per 1,000 gallons;
- 2,001 through 4,000 gallons: \$6.50 per 1,000 gallons;
- 4,001 through 8,000 gallons: \$9.75 per 1,000 gallons;
- 8,001 through 15,000 gallons: \$3.00 per 1,000 gallons;
- 15,001 or more gallons: \$15.00 per 1,000 gallons

*The WOWSC tariff does not list rates for any other meter size except for the 5/8 “x 3/4”.

Sewer Rates*

Meter Size	Old Rates	New Rates
5/8 " x 3/4"	\$40.12	\$66.41

\$3.94 per 1,000 gallons of water consumed, up to 10,000 gallons.
10,000 or more gallons: no additional charge

*The WOWSC tariff does not list rates for any other meter size except for the 5/8 "x 3/4".

The WOWSC rate increases are excessive and do not represent a reasonable increase to pass on to the Ratepayers. The WOWSC Board of Directors have referenced in their numerous letters to the Ratepayers that the rate increases are necessary to pay for past, present and future legal expense to defend the actions of the WOWSC Board of Directors in several lawsuits (see Exhibit C, D and E), which include;

1. *Rene Ffrench, John Richard Dial And Stuart Bruce Sorgen V. Friendship Homes & Hangars, LLC, Windermere Oaks WSC, et al., Cause No. 48292, 33rd Judicial District Court, Burnet County, Texas (Exhibit C);*
2. *TOMA Integrity, Inc., et al. V. Windermere Oaks WSC, Cause No. 47531, 33rd Judicial District Court, Burnet County, Texas (Exhibit D); and*
3. *Windermere Oaks Water Supply Corporation v. The Honorable Ken Paxton, Attorney General of Texas, Cause No. D-1-GN-19-006219, 201st Judicial District Court, Travis County, Texas (Exhibit E).*

In the myriad of letters sent out by the WOWSC Board of Directors (See Exhibit F) justifying legal expenditures as the exclusive reason for increasing rates, there appears to be no reference of raising rates for system improvements or paying down debt, simply just to pay legal fees. Additionally, at a October 9, 2019 WOWSC board meeting the WOWSC president, Joe Gimenez acknowledged that the WOWSC intends to secure a \$500,000 loan from CoBank (see Exhibit G, item 11, #3 (5)1(1)) so they can pay off an old loan with a \$200,000 balloon payment coming due, he further states that the ratepayers should not finance any current capital expenditures.

The Ratepayers argue that the WOWSC has owned and currently owns valuable real estate assets in the Spicewood Airport which is within their service area and which should have been sold and should be sold to the highest bidder to defray Corporation debt and supplement income for capital improvements.

In 2016 the WOWSC Board sold approximately four acres of land the Corporation owned in the Spicewood Airport to the vice president of the water system at that time. According to the current WOWSC attorney, in a written letter (See Exhibit H, Demand Letter) his belief was that the land was sold to the director substantially below market value based on a forensic appraisal recommended by the WOWSC law firm and commissioned by the 2018 WOWSC Board of Directors. The land was sold at a minimum 50% below market value according to the appraisal, and hence the WOWSC did not receive a substantial profit to defray Corporation debt and reserve funds for system improvements. Furthermore, the WOWSC now claims that legal expenses for defending the sale of WOWSC land to the past director of the Corporation (which was ruled by Burnet County District Court, a violation of Texas Government Code, Section 551.041) will now exceed the revenue received for the sale, resulting in a net proceeds deficit for this transaction.

The additional 7+ acres of land owned by the WOWSC in the Spicewood Airport still remains unsold and has not be marketed to any potential buyers. This property undoubtedly could have be sold to the highest bidder to defray any and all debt of the Corporation and even supplement funds for capital improvement projects (See Exhibit I). However, this is not what the board chose to do, they chose to increase water and sewer rates to pay for past and current board members legal expenses.

To date, insurance claims to supplement legal expenses have all been denied by the WOWSC Insurance Carrier (see Exhibit J) and as a result of the denial the Ratepayers are burdened with these immense legal expenses for the defense of the alleged malfeasance actions of the past and current WOWSC board members. The sale of the WOWSC land assets are the central issue in the *Rene Ffrench, John Richard Dial and Stuart Bruce Sorgen V.*

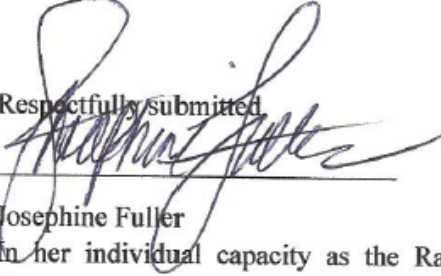
Friendship Homes & Hangars, LLC, Windermere Oaks WSC, et al lawsuit. The *Windermere Oaks Water Supply Corporation v. The Honorable Ken Paxton, Attorney General of Texas* lawsuit addresses WOWSC transparency, specifically a public information request of WOWSC attorney invoices and the refusal by the WOWSC to produce these invoices. Without access to the attorney invoices the Ratepayers are left powerless to verify the WOWSC alleged legal expenses as their justification for raising our water and sewer rates.

The Ratepayers charge that the WOWSC has mismanaged the Corporation finances over the past several years and continue to mismanage system finances. It is our belief that the WOWSC Board of Directors have prodigal habits related legal expenditures, have not allocated funds properly to reserve accounts, have been negligent at selling our valuable real estate assets at market value and irresponsible with their refusal to sell current real estate assets to offset Corporation debt. Additionally, we question the Corporation's practice of charging standby fees to select property owners in the Certificate of Convenience and Necessity (CCN) service area and outside of the CCN service area while not assessing this fee to other property owners in the CCN service area, which appears to be discriminatory.

The Ratepayers have attached Exhibits to support their position that the rate increases are not just and reasonable and seek the Commissions review of these excessive rates.

The Ratepayers designate Josephine Fuller as their representative, and correspondence may be made to:

Josephine Fuller
328 Coventry Road Spicewood,
Texas 78669
(512) 743-2553
ratepayersrepjosiefuller@gmail.com

Respectfully submitted

Josephine Fuller
In her individual capacity as the Ratepayer Representative and as a
Ratepayer

cc: Windermere Oaks Water Supply Corporation

EXHIBIT A



DATE: February 11, 2020

TO: ALL WINDERMERE OAKS WSC MEMBERS & CUSTOMERS

RE: NOTICE OF RATE/TARIFF CHANGES EFFECTIVE MARCH 23, 2020

At its February 1, 2020 Annual Board meeting, the Board of Directors of WOWSC voted unanimously to increase water and wastewater utility rates and revise our Tariff accordingly. The new rates will be in effect beginning for utility service between March 23 through the April 2020 reading, and will be reflected on bills you receive in late April/early May. The rate changes are detailed below.

The amount of the rate increase was determined through an analysis of the Corporation's 2019 operating expenses by the Texas Rural Water Association. The rate analysis considered all the operating expenses we incurred, including \$169,000 in legal fees. This historically high amount reflected legal defense costs incurred due in large part to two lawsuits brought against WOWSC by TOMA Integrity, Inc. and by Rene Ffrench, John Richard Dial, and Stuart Bruce Sorgen. The Board also committed to revisiting these rates again in September. If the legal battles continue, or if other operational expenses arise, the Board may need to increase rates again. The Board also committed to reducing rates once the suits against it are dropped, settled, or decided in its favor.

The following sections of the Tariff, modified:

Section G. Rates and Service Fees

7. Monthly Charges

a.—Base Rate / Service Availability Charge

(1) Water Service

The minimum water Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$90.39

(2) Sewer Service

The minimum sewer Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$66.41

OLD RATES:

Section G. Rates and Service Fees

7. Monthly Charges

a.—Base Rate / Service Availability Charge

(1) Water Service

The minimum water Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$50.95

(2) Sewer Service

The minimum sewer Service Availability Charge

(5/8" x 3/4" & 3/4 " meter) shall be \$40.12

The above new rates become effective MARCH 23, 2020

The Windermere Oaks Water Supply Corporation achieved perfect results for water quality in 2019 from the Texas Commission on Environmental Quality. The legal expenses we are incurring to defend our corporation far exceed the expenses necessary to continue to provide clean drinking water and to effectively treat our effluent. It is our hope that once the legal expenses subside, we can lower these rates to a level reflective of those costs *without* ongoing litigation. If you have any questions, please email WindermereWater@gmail.com or call (830) 613-8137 and someone will get back to you. A copy of the revised tariff will be filed with the Water Utilities Division, Public Utility Commission of Texas, PO Box 13326, Austin, Texas 78711-3326.

From the Board of Directors of Windermere Oaks Water Supply Corporation.

Windermere Oaks Water Supply Corporation
 424 Coventry Rd. Spicewood, Texas 78669
 Billing Questions: (830) 598-7511 Ext 1
 Water or Sewer Emergency: Phone (830) 598-7511 Ext 2

Windermere Oaks Water Supply Corporation

424 Coventry Rd. Spicewood, TX 78669

Fee Schedule Summary

Standby Fees

The monthly charge assessed each lot of any subdivision in the Corporation's lawful service area where a real estate covenant, deed restriction or other agreement in the landowner's chain of title creates an obligation for the landowner to pay a monthly fee pending the initiation of actual water and/or sewer service.

The Standby Fee is \$14.95 per month for water and \$14.95 per month for sewer.
(If the annual Standby Fees are paid in a lump sum by January 31st, the Standby Fee for water is \$124.20 and the Standby Fee for sewer is \$124.20.)

Membership Fee

The Windermere Oaks Water Supply Corporation is a member-owned, non-profit corporation established to provide potable water and/or wastewater utility services to its members. Membership in the corporation is a prerequisite for eligibility for services. Membership fees are associated with each property for which service is provided. Memberships may be surrendered or transferred if the associated property is sold.

Membership Fee	\$ 402.50
Membership Transfer Fee	\$ 40.25

Equity Buy-In Fee

In addition to the Membership Fee, each Applicant for new service where a new service tap is necessary shall be required to achieve parity with the contributions to the construction of the Corporation's facilities capacity that have been made previously by existing Members. This fee shall be assessed prior to providing or reserving service on a per service unit basis for each property and shall be assigned and restricted to that property for which the service was originally requested.

Equity Buy-In Fee	\$ 4,600
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Customer Service Inspection and Installation/Repair Fees

A Customer Service Inspection is required. Also the Corporation shall charge an installation fee (also known as "tap fee") for services as follows: **Standard Service** shall include all labor, materials, engineering, legal, customer service inspection, and administrative costs necessary to provide individual metered water and/or wastewater service, and shall be charged on a per tap basis. The Corporation **Customer Service Inspection Fee is \$350.00**. The **Installation Fee for water service is \$862.50**, and the **Installation Fee for wastewater service is \$862.50**. **Non-Standard Service** Installation Fee(s) shall be as determined by the Corporation on a case-by-case basis in accordance with the terms of the Corporation's Tariff.

Monthly Base Rate and Usage Charges

Water Service: Effective March 23, 2020 the monthly charge for metered water service ("Base Charge") is **\$ 90.39**. Additional gallonage charges apply as follows:

0 through 2000 gallons	\$ 3.55 per 1,000 gallons
2,001 through 4,000 gallons	\$ 6.50 per 1,000 gallons
4,001 through 8,000 gallons	\$ 9.75 per 1,000 gallons
8,001 through 15,000 gallons	\$13.00 per 1,000 gallons
15,001 or more	\$15.00 per 1,000 gallons

Wastewater (Sewer) Service: Effective March 23, 2020 the monthly charge is **\$66.41**.

Additional water consumption gallonage charges apply as follows:

0 through 10,000 gallons	\$ 3.94 per 1,000 gallons of water consumed
10,001 or More	No additional charge

PLUS applicable state taxes.

APPROVED February 1, 2020

The Corporation reserves the right to amend the above fees at any time.

Rates Effective 3.23.2020 2.11.20

EXHIBIT B

**Petition to Appeal Rates Established by the Board of Directors of
Windermere Oaks Water Supply Corporation, 424 Coventry Road, Spicewood, Texas 78669**

The undersigned ratepayers of Windermere Oaks Water Supply Corporation hereby appeal the decision of the board of directors of the Corporation affecting the rates charged to them by Windermere Oaks Water Supply Corporation. The rate change is effective March 23, 2020. On February 11, 2020, the ratopayers were notified by the service provider of a water rate increase. The old rate charged by the service provider was \$50.95 Base Rate / Service Availability Charge for Water Service of a 5/8" x 3/4" meter and the new rate of \$90.39 Base Rate / Service Availability Charge for Water Service for a 5/8" x & 3/4" meter. Larger size meters base rates were not published in the letter or in the revised tariff. Additionally, On February 11, 2020, the ratepayers were notified by the service provider of a sewer rate increase. The old rate charged by the service provider was \$40.12 Base Rate / Service Availability Charge for Sewer Service of a 5/8" x 3/4" meter and the new rate of \$66.41 Base Rate / Service Availability Charge for Sewer Service for a 5/8" x & 3/4" meter. Larger size meters base sewer rates have not been published in the letter or in the revised tariff. The combined water and sewer increases are \$65.73 or an overall 71% increase.

The undersigned request that the Public Utility Commission of Texas review the decision by the Windermere Oaks Water Supply Corporation Board of Directors to determine if the rates established by the Tariff including water fees, sewer fees, standby fees, membership fees and equity buy fees are just and reasonable. The undersigned designate Josie Fuller, Windermere Oaks Water Supply Corporation Member as their representative on this matter. Correspondence to the ratepayers' representative may be directed to Ms. Josie Fuller, 328 Coventry Road, Spicewood, Texas 78669, 512-743-2553.

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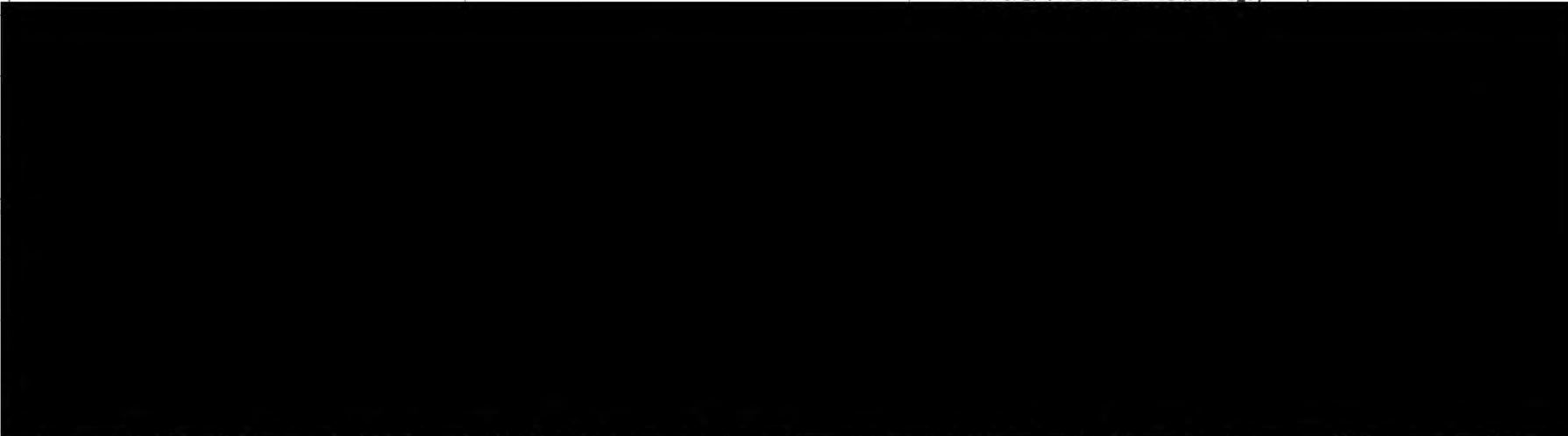
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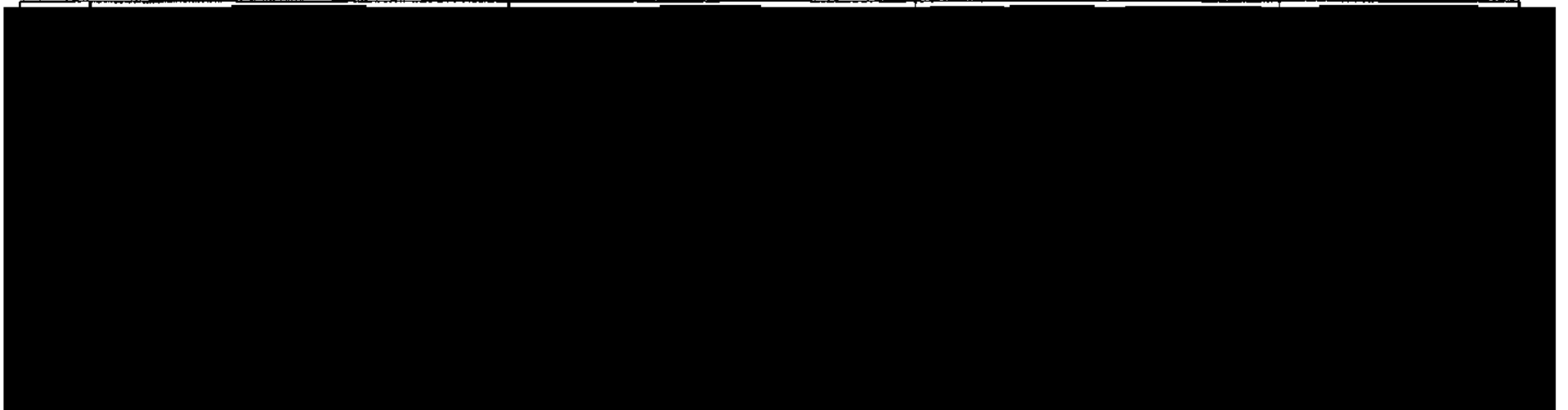
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EXHIBIT C

CAUSE NO. 48292

RENE FFRENCH,	S	IN THE DISTRICT COURT
JOHN RICHARD DIAL,	S	
STUART BRUCE SORGEN,	S	
Individually and as Representatives	S	
of WINDERMERE OAKS WATER	S	
SUPPLY CORPORATION	S	
<i>Plaintiffs</i>	S	33RD JUDICIAL DISTRICT
	S	
V.	S	
	S	
FRIENDSHIP HOMES &	S	
HANGARS, LLC, and WINDERMERE	S	BURNET COUNTY, TEXAS
OAKS WATER SUPPLY CORPORATION,	S	
and its Directors WILLIAM EARNEST	S	
THOMAS MICHAEL MADDEN,	S	
DANA MARTIN, ROBERT MEBANE,	S	
PATRICK MULLIGAN, JOE GIMENEZ,	S	
DAVID BERTINO, MIKE NELSON,	S	
DOROTHY TAYLOR, NORMAN MORSE	S	
<i>Defendants</i>		

ORDER

Came on to be Considered the following Motions/Request:

1. Defendants Windermere Oaks Water Supply Corporation's and its Directors' Joint Motion to Dismiss under Rule 91a;
2. Plaintiffs' Request for Leave to file Supplement to Consolidated Response;
3. Defendant Friendship Homes & Hangars, LLC's Motion to Strike Plaintiffs' Supplement to Consolidated Response.


Having considered the said Motions/Request, the Court Rules as follows:

1. Defendants' Joint Motion to Dismiss under Rule 91a is Hereby DENIED.
2. Plaintiffs' Request for Leave to file Supplement to Consolidated Response is Hereby GRANTED.
3. Defendant's Motion to Strike Plaintiffs' Supplement to Consolidated Response is Hereby DENIED.

The remaining Motions described in the Supplemental Joint Status Report, as modified by the January 23, 2020 Rule 11 Agreement, remain under Submission by the Court.

IT IS SO ORDERED.

SIGNED this 6th Day of February, 2020.


Judge Margaret G. Mirabal
Presiding Judge

CAUSE NO. 48292

RENE FFRENCH,	S	IN THE DISTRICT COURT
JOHN RICHARD DIAL,	S	
STUART BRUCE SORGEN,	S	
Individually and as Representatives	S	
of WINDERMERE OAKS WATER	S	
SUPPLY CORPORATION	S	
<i>Plaintiffs</i>	S	33RD JUDICIAL DISTRICT
	S	
v.	S	
	S	
FRIENDSHIP HOMES &	S	
HANGARS, LLC, and WINDERMERE	S	BURNET COUNTY, TEXAS
OAKS WATER SUPPLY CORPORATION,	S	
and its Directors WILLIAM EARNEST	S	
THOMAS MICHAEL MADDEN,	S	
DANA MARTIN, ROBERT MEBANE,	S	
PATRICK MULLIGAN, JOE GIMENEZ,	S	
DAVID BERTINO, MIKE NELSON,	S	
DOROTHY TAYLOR, NORMAN MORSE	S	
<i>Defendants</i>		

ORDER

Came on to be Considered Defendants' Pleas to the Jurisdiction, and Motions for Summary Judgment described in the Parties' Supplemental Joint Status Report, as modified by the January 23, 2020 Rule 11 Agreement. Further, Came on to be Considered Defendants' Joint Objections to Plaintiffs' Summary Judgment Evidence. Having Considered said Motions, Plaintiffs' Responses, and Defendants' Replies, the Court Rules as follows:

MOTIONS FOR SUMMARY JUDGMENT

1. Defendant Windermere Oaks Water Supply Corporation's and its Directors' First Amended Joint Motion for Summary Judgment is Hereby **DENIED**.
2. Defendant Friendship Homes and Hangars, LLC's Motion for Summary Judgment is Hereby **DENIED**.
3. Defendants' Joint Objections to Plaintiffs' Summary Judgment Evidence are Hereby **DENIED**.

PLEAS TO THE JURISDICTION

All Parties agree and stipulate that Plaintiffs have standing to bring suit against Defendants under the following statutes:

A. Texas Business Organizations Code sec. 20.002(c)(1) (authorizing suit by a Member against a Corporation to enjoin the performance of an act or the transfer of property by or to the Corporation);

B. Texas Business Organizations Code sec. 20.002(c)(2) (authorizing claims by the Corporation, acting through Members in a representative suit, against current and former officers and directors of the Corporation for exceeding their authority);

C. Texas Business Organizations Code chapter 22, subchapter J (authorizing suit to determine the validity or effectiveness of any corporate act or ratification).

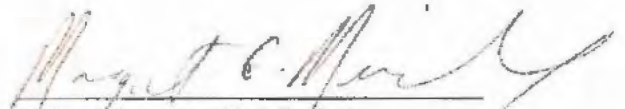
With regard to Defendants' Pleas to the Jurisdiction, the Court Rules as follows:

1. To the extent Defendants' Pleas to the Jurisdiction are based on the ground that Plaintiffs lack standing to bring suit as individuals seeking individual damages against the current and former officers and directors of Defendant Windermere Oaks Water Supply Corporation, the Pleas to the Jurisdiction are Hereby **GRANTED** as to that ground.

2. To the extent Defendants' Pleas to the Jurisdiction are based on the ground that Plaintiffs lack standing to bring a Representative Claim on behalf of the defendant Windermere Oaks Water Supply Corporation that is outside the scope of the grant of standing by Texas Business Organizations Code sec. 20.002(c)(2), the Pleas to the Jurisdiction are Hereby **GRANTED** as to that ground.
3. To the extent Defendants' Pleas to the Jurisdiction are based on the ground that Plaintiffs cannot assert claims of breach of fiduciary duty, constructive fraud, and other theories in pursuit of claims brought pursuant to Texas Business Organizations Code, secs. 20.002 (c)(1) and (c)(2), and Chapter 22 subchapter J, the Pleas to the Jurisdiction are Hereby **DENIED** as to that ground.

IT IS SO ORDERED.

SIGNED this 24th Day of February, 2020.



Judge Margaret G. Mirabal
Presiding Judge

EXHIBIT D

NO. 47531

TOMA INTEGRITY, INC,

Petitioners,

v.

WINDERMERE OAKS WATER
SUPPLY CORPORATION,

Respondent.

§ IN THE DISTRICT COURT

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33RD JUDICIAL DISTRICT

§ BURNET COUNTY, TEXAS

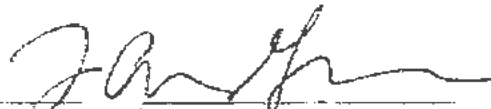
ORDER GRANTING PETITIONERS' MOTION FOR SUMMARY JUDGMENT
& DENYING RESPONDENT'S MOTION TO DISMISS

On the 15th day of June, 2018, the Court heard Petitioners' Motion for Summary Judgment and Respondent's Motion to Dismiss. Having considered the motions, the summary judgment evidence and the arguments of counsel, the Court finds and concludes that Petitioners' Motion for Summary Judgment be, and it hereby is, GRANTED, in that the Court only finds that a violation of the Open Meetings Act occurred.

Respondent's Motion To Dismiss is hereby DENIED.

All other prayers for relief are hereby DENIED.

SIGNED this 23rd day of July, 2018.



Presiding Judge

EXHIBIT E

Velva L. Price
District Clerk
Travis County
D-1-GN-19-006219
Victoria Benavides

CAUSE NO. D-1-GN-19-006219

**WINDERMERE OAKS WATER
SUPPLY CORPORATION**

Plaintiff,

v.

**THE HONORABLE KEN PAXTON,
ATTORNEY GENERAL OF TEXAS**

Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

**201ST
JUDICIAL DISTRICT**

**WINDERMERE OAKS WATER SUPPLY CORPORATION'S
ORIGINAL PETITION FOR DECLARATORY RELIEF**

TO THE HONORABLE JUDGE OF THE COURT:

Plaintiff Windermere Oaks Water Supply Corporation (the "WOWSC" or "Plaintiff") files this Original Petition seeking a declaratory judgment pursuant to Section 552.324 of Chapter 552 of the Texas Government Code (the "Texas Public Information Act" or the "Act").

I. EXECUTIVE SUMMARY

1. WOWSC seeks a declaratory judgment from the Court to allow it to withhold from release to the public invoices detailing legal services provided to WOWSC from March 7, 2018 to May 28, 2019 (the requested information is the "Legal Invoices") because the Legal Invoices are properly exempted from disclosure under Texas Government Code Section 552.022 and, more specifically, pursuant to the privileges provided by Rule 503 of the Texas Rules of Evidence ("Rule 503") and Rule 192.5 of the Texas Rules of Civil Procedure ("Rule 192.5"). Specifically, § 552.022 and Rules 503 and 192.5 allow a governmental entity to withhold information contained in a legal invoice pursuant to the attorney-client and the work product privileges.

Velva L. Price
District Clerk
Travis County
D-1-GN-19-006219
Kyla Crumley

CAUSE NO. D-1-GN-19-006219

WINDERMERE OAKS WATER
SUPPLY CORPORATION,
Plaintiff,

v.

THE HONORABLE KEN PAXTON,
ATTORNEY GENERAL OF TEXAS,
Defendant.

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IN THE DISTRICT COURT OF

TRAVIS COUNTY, TEXAS

201ST JUDICIAL DISTRICT

RULE 11 SCHEDULING AGREEMENT

Pursuant to Rule 11 of the Texas Rules of Civil Procedure, the parties agree to the following schedule:

1. Motions for summary judgment are due no later than **May 22, 2020**;
2. Responses to motions for summary judgment are due no later than **June 19, 2020**; and
3. A hearing on summary judgment motions will be set for **July 22, 2020** at 2:00p.m.

The parties may agree to modify the terms of this scheduling agreement in accordance with Rule 11 of the Texas Rules of Civil Procedure.

AGREED:

/s/ Jose E. de la Fuente w/ permission

J. TROUPE BREWER
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JOSE E. de la FUENTE
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LLOYD GOSSELINK ROCHELLE &
TOWNSEND, P.C.
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Telephone: (512) 322-5800
Facsimile: (512) 472-0532

ATTORNEYS FOR PLAINTIFF

/s/ David G. Gordon

DAVID G. GORDON
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Assistant Attorney General
Administrative Law Division
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Facsimile: (512) 320-0167
david.gordon@oag.texas.gov

ATTORNEY FOR DEFENDANT

EXHIBIT F



July 10, 2019

Dear Water Supply Corporation Customer,

We would like to share with you some good news regarding your water company as well as some developments we are working to resolve.

First, we have recently posted the results of the Consumer Confidence Report for 2018. This summary recounts our compliance with Environmental Protection Agency regulations as monitored by the Texas Commission on Environmental Quality. In all 12 areas monitored, no violations were found. We are pleased with the continuing effort of our manager and operating company to produce water which meets or exceeds state and federal water quality requirements.

Secondly, our water intake pumping barge went back online in April. Temporary pumps had supplied water to our system after the October 16 flood severely damaged the barge. There were concerns that normal summer time decreases in lake levels could impact the temporary pumps' efficiency. The hard work of our manager removed these concerns and the repaired pumps have been operating well.

Third, our financial position is very strong. We base this statement on new reviews we initiated to evaluate our financial health. Our debt to service coverage ratio, debt to capital ratio, days cash on hand are all very positive. Without going into a lot technical detail here about what they mean, you should put aside any doubts which may have arisen in the last few years about our financial situation.

Fourth, in mid-June, an appellate court ruled in favor of WOWSC and sided with the lower trial court's judgment rendered last year with regards to a land sale by WOWSC in 2016 and related agenda items. In sum, while a previous board did not properly post parts of the agenda items related to the land sale, the violation did *not* warrant the court's intervention in voiding the land sale. This is a victory for WOWSC because voiding the land sale would have had serious financial implications for WOWSC.

Unfortunately, the Board is now dealing with yet another, *new* lawsuit that was filed in late May against WOWSC and former Board members. The plaintiffs claim various rights as 'shareholders' against the former Board members as related to the land sale in 2016.

As a result of the various lawsuits filed against WOWSC (which remain ongoing) and our continuing compliance with responses to numerous Public Information Act requests, WOWSC's 5-month expenditures on legal services have already totaled \$63,000, exceeding our 12-month budget by \$25,000. We are concerned about this steep additional cost for 2019 and will be attempting various measures to contain those costs going forward.

In our next letter to you, we hope to have more good news about operational improvements we've made. Several are in the works. For now, we hope this letter succeeds in giving you an idea about developments at your water supply company.

Sincerely,

Your Windermere Oaks Water Supply Corporation Board of Directors



Windermere Oaks Water Supply Corporation

Committed to Providing Clean, Safe Water for All Our Residents

January 2, 2020

Dear WOWSC Member,

Your Board of Directors is dedicated to the continuing success of the water company in 2020. We look forward to the New Year and the hope it brings for resolution of dissensions of the past and the beginnings of community cooperation and peace. We hope with this letter to update you on significant events relating to 2019 and our look forward.

Of great importance, our Board in November initiated a rate analysis process which may result in higher water and sewer rates in 2020. We feel compelled to explain why. In the three years since the sale of WOWSC land reduced debt after completion of the wastewater treatment plant, a small but persistent and insistent group of members have launched multi-faceted offensives against our non-profit corporation and Board, resulting in the significant expense of WOWSC funds. As 2019 ended, we estimate our total legal fees neared \$175,000, far exceeding the \$38,000 originally budgeted.

The good news is that the group's first lawsuit seems pretty much resolved in WOWSC's favor. On December 13, the Texas Supreme Court denied hearing an appeal of a decision by the 6th Court of Appeals that favored our company with regard to execution of the 2016 land transaction (that is, the court declined to void that transaction as the plaintiffs had requested). The litigants have indicated they will appeal to the Texas Supreme Court to reconsider its denial in 2020. We believe their effort will be denied, again. But in defending our corporation in just that lawsuit and appeal, we spent approximately \$40,000 this year alone. Adding in previous year's expenses, our successful defense against this suit cost WOWSC nearly \$100,000.

In May, the group filed yet another lawsuit and expanded it in November. We don't want to belabor every allegation in their 50+page petition that, among other things, seeks money damages against ten current and former directors, out of their own pockets. We do believe that the litigants' claims against the water company, and its directors, are completely without merit. We believe that the members who brought the suit don't even have legal standing to bring most of the claims alleged. That hasn't yet stopped them, and we are being forced to deal with these matters at the courthouse. There is a large gap between the opinion of these members that the WOWSC got a "bad deal" out of the 2016 sale and their severe allegations against the company and its directors compared to the opinion of nearly every one of the current and former directors. (There is also an equally large gap between respectful discourse in public comment, and the relentless antagonistic and downright threatening behavior of these same members at our meetings.)

The legal costs in defense against the active lawsuit are even more staggering than the first lawsuit. They have required our current and former directors' participation in three full-day depositions, and they have issued requests for several more. They've heaped discovery requests upon us in wide-ranging fishing expeditions looking for anything to allege wrongdoing. Our legal bills to defend our corporation and directors in this case alone, including the costs related to responding to an avalanche of discovery and depositions, are nearing \$100,000.

Adding to our costs is the legal guidance we must routinely seek in order to respond to other aspects of the group's persistent aggressions. We have employed our legal team to guide us through the 46 Public Information Act requests filed this year alone, most from this small group. Because we are in litigation with this group, we had to file, in Travis County District Court, an appeal of an Attorney General staff attorney's letter ruling on an issue related to privileged communications regarding the lawsuits. We also had to secure

services from one of our Board members to serve at the Public Information Officer, at \$416 per month, to reduce the costs of otherwise relying on paralegals who would charge \$150 per hour. While individuals do have the legal right to submit Public Information Act requests to WOWSC, and WOWSC endeavors to comply with Texas law in responding to each such request, that process has costs.

In December, we were required to hold, by this small group's petition effort, a rare members' meeting, complete with mailed ballots, for the purpose of addressing this group's recall petition against Director Joe Gimenez. WOWSC took painstaking efforts to conduct this unusual proceeding according to the letter of the law. They gained only 56 votes, far short of the 127 votes needed to remove a director. But here too, legal and other expenses related to the process, calling, and conducting the meeting exceeded \$15,000.

Suffice it to say that we understand that there may be disagreements as to any course of action the WSC's Board of Directors may take with respect to any issue; we understand that not every member will agree with every decision a Board makes. The Board itself often has its own internal disagreements, and we encourage honest and civil discussion and debate. However, based on the information known by the current board, both this board and former members of WOWSC boards have, at all times, acted in the best interests of the corporation. Our strong financial position, the high quality of our water, and the long-term planning for asset replacement and upgrades attests to this.

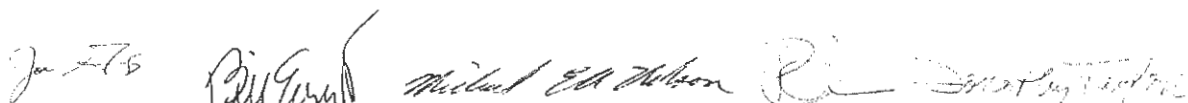
Sadly, this small group of members have persisted against the Board because they have an "axe to grind" against a third party, leaving the corporation and directors stuck in the middle. The 2016 real estate deal is directly or indirectly involved in every single one of the above-mentioned situations where the WOWSC is forced to defend itself through the expense of funds on legal advice or compliance with legal requirements of discovery and the like. Lawsuits, lawful responses to PIA requests, and response to the recall petition are related and involve one or more of the same individuals.

Moving forward, our immediate goal is to bring these pointless suits to a close and therefore end the corresponding expenditure of your water company's funds. But until this group stops or the courts finally put an end to things, we must continue to defend against these lawsuits. We must continue to respond to their Public Information requests. And we will continue to communicate with our members about the misinformation that the group spreads in the neighborhood. All this costs money – your money. And it may cost even more in 2020. We unfortunately must evaluate this possibility through the rate analysis process.

Meanwhile, we are trying our best to keep the water company moving forward. We amended the 2016 land contract to fix a number of flaws, and as part of the new agreement could gain \$20,000 from the title company if all the litigation is resolved this year. That would happen if the litigants were to withdraw their lawsuits, or once we prevail in court. This year we finished repair of our pumping barge and recouped \$59,000 from the insurance company. We purchased a generator to comply with state regulations. We were granted \$14,000 by the LCRA for a \$34,000 WOWSC investment in a backwash process that will reduce WOWSC use of water and save us an estimated three percent per year on this investment. We agreed on a no-cost expansion plan for a dispersant field through an agreement with the Spicewood Airport Pilot's Association. We earned approval for a lower rate loan to eventually pay off a higher rate balloon note which comes due in 2021. And we've returned our focus to a five-year plan for infrastructure repair and replacement. The plan has gone mostly untended in the last three years.

Our board is dedicated to the continuing success of the water company. After all, water is a necessity of life and becomes more precious as this region grows. Unfortunately, the most significant challenge we face is the cost involved in defending against the ongoing legal maneuvers of this small group of people. We will continue our defense for the long-term survival of our water company, but we sincerely hope that these continued expenditures will cease to be necessary someday soon.

Sincerely,





January 28, 2020

Dear WOWSC Member:

We want to make this short and simple and to the point.

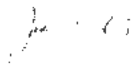
Because a few of your neighbors escalated their legal actions in late 2019 against your non-profit water supply corporation and members of the 2015, 2018 and 2019 Boards of Directors, we are experiencing significant negative cash flow problems in early 2020. Our legal bills are absorbing available funds for the operation, maintenance, and necessary upgrades to your water system that WOWSC committed to in 2019 and 2020.

Even after multiple court rulings in *favor* of WOWSC in these suits, and combined with the division the member plaintiffs have created in this neighborhood, their continuing legal assaults are forcing our Board to raise **your water rates – significantly – to cover ongoing legal expenses and maintain and operate our plant facilities. Upon consultation with TWRA representatives, our base rate water bill will be increased, possibly as much as \$50 per month, and we may need to revisit that later in the year if the increased revenues are still insufficient to pay our bills.**

In 2018 and 2019 we spent approximately \$210,000 in legal fees. Recent legal bills from late 2019 to be paid in 2020 already are nearing \$100,000. With no end in sight of the Plaintiffs' continued legal attack, the Board projects a \$180,000 loss (if rates are not raised) given the increase to our legal fee budget projections to \$250,000 this year. To put this in perspective, the legal defense of our corporation may amount to \$1,000 for each of our 250+ customers this year – or more.

Our Board hopes you will join us in asking **this small group to stop the lawsuits** and stop wasting money that **we all** ultimately end up paying in higher rates. We want our community to keep our non-profit water supply corporation, but the lawsuits are forcing us to consider all options – including bankruptcy, the sale of assets, or sale of the corporation – to ensure our continued water service. It should not be this way.

Let us get back to the business of running the water supply corporation effectively and efficiently. We will discuss these items at the annual member meeting Saturday February 1 at the Spicewood Community Center, at the conclusion of the WO POA meeting.


Joe Gimenez, President
The WOWSC Legal Subcommittee


Mike Nelson, Secretary/Treasurer

EXHIBIT G



Windermere Oaks Water Supply Corporation

424 Coventry Rd
Spicewood, Texas 78669

2019 - 2020 Board of Directors:
Joe Gimenez, President
Bill Earnest, Vice President
Mike Nelson, Secretary/Treasurer
David Bertino, Director
Dorothy Taylor, Director

Windermere Oaks Water Supply Corporation (WOWSC) meeting held: Wednesday, October 9, 2019

2019 - 2020 Board Members Present: Bill Earnest, Joe Gimenez, Mike Nelson, Dorothy Taylor

Minutes

The meeting was called to order at 6:00PM by Joe Gimenez. A quorum was established with four Board Members present.

1. Mark McDonald: Submitted two signed hard copies of petition for removal of Joe Gimenez from the WOWSC Board
2. Patti Flunker: Joe Gimenez discussed harassment with her boss at TRWA. Patti Flunker quit her position at TRWA.
3. Dorothy Taylor is newest member of our WOWSC Board and took her seat following appointment by Board at September meeting.
4. David Bertino sent letter announcing his resignation:

October 9, 2019

To the WOWSC Board and Members,

I David A Bertino Jr effective October 9, 2019 tender my resignation on the WOWSC board. Due to my new duties at work and the direction of this board, I will not be able to fulfill the duties that are required as a WOWSC board member. Please except this letter of resignation, read it at the meeting, and document it in the Meeting minutes.

Sincerely,

David A Bertino Jr.

1.

5. **RULES FOR PUBLIC COMMENT** – Board will consider adopting a sign-up sheet for member comments on specific agenda items, with comments limited to three minutes. (Comments on non-agenda items will be accommodated in item 12).
 1. Limit of three minutes per item per person
 2. Member Comment
 1. Danny Flunker: Move member public comment to start of meeting
 3. Motion made and carried to adopt a sign-up sheet for member comments on specific agenda items, with comments limited to three minutes per person per item.

6. Christine Mulligan: Thanked Joe Gimenez for his service and reminded meeting attendees that our members voted him into office at our last election.

7. Review, consider and take action to approve minutes of prior meetings/
 1. September 18 Special Meeting Minutes
 1. Motion made and carried to approve the September 18th Special Board Meeting Minutes
 2. September 18 Regular Meeting Minutes
 1. Motion made and carried to approve the September 18th Regular Board Meeting Minutes

8. EFFLUENT WATER AGREEMENT WITH SPICEWOOD AIRPORT PILOTS ASSOCIATION – Consideration of contract amendments, if any, requested by SAPA. Motion to adopt contract was passed Sept. 18 meeting, pending future review and consideration of any requested amendments from SAPA.
 1. At our September 18, 2019 Board meeting, the Board approved the contract providing WOWSC’s effluent water to SAPA.
 2. The Board president of SAPA signed the contract and noted one minor typo → added ‘r’ to the word “treasure” to make it “treasurer”.
 3. Member Comment
 1. Janey Richardson:
 1. Will SAPA pay for the effluent water?
 1. Board’s response: SAPA will pay for all expenses with regards to the project.
 2. Who is Andrew Heller?
 1. Board’s response: Andrew Heller is President of the SAPA.
 2. Marsha Westerman: Will SAPA pay for the engineering study?
 1. Board’s response: SAPA will pay for all expenses with regards to the project.
 3. Mark McDonald: Will existing pipe be used for the effluent?
 1. George’s response: No. The project requires new piping.
 4. Robb Van Eman:
 1. Will SAPA contract be posted?
 1. Board’s response: Board to ask attorneys if the contract should be posted.
 2. Who represented SAPA?
 1. Board’s response: Gary Young and Dana Martin
 3. Requested copy of the contract
 1. Board’s response: Please send reminder request
 4. Motion made and carried to approve updated contract providing WOWSC’s effluent water to SAPA.

9. ETHICS AND CONFLICT OF INTEREST POLICY – Review and pass resolution memorializing Board action in adopting new Policy Governing Ethics and Conflicts of Interests, thereby binding all current and future Board members to the standards set forth in the Policy.
 1. Joe read the resolution for our new WOWSC Conflict of Interest Policy
 2. Board had approved our new WOWSC Conflict of Interest Policy at the September 18, 2019 Board meeting but resolution summarizing it was read.
 3. Member Comments:
 1. Mark McDonald:
 1. Where will the policy be kept?
 1. Board’s response: Our new Conflict of Interest Policy will be kept on our website.
 2. Who determines what is a conflict of interest?
 1. Board’s Response: The WOWSC Board decides what is a conflict of interest.
 2. Patti Flunker: Questioned why she needed to send a letter regarding WOWSC’s Conflict of Interest Policy.
 3. Rob Van Eman: Any sanctions in policy?
 1. Board’s response: Read policy for details
 4. Jade Winters: Who wrote our new policy?
 1. Board’s response: Our attorneys provided a standard policy used by other water supply corporations they represent.

5. Mikki Bertino: Not all members come to our Board meetings
4. Motion made and carried to approve resolution
5. Dorothy to add signed resolution to website

10. SIX MONTH REVIEW OF PROGRESS IN 'KEEPING THE MAIN THING THE MAIN THING' -- Discussion about Board and water company accomplishments since March 9, 2019, including:

1. finishing repair of pumping barge
2. securing \$59,000 in insurance recovery for pump platform
3. getting approval for new, lower interest rate loan to pay off higher interest rate balloon note
4. applying to LCRA for investment matching for conservation project that reduces WOWSC water use
5. approving purchase and installment of generator for compliance with TCEQ
6. offering contract proposal to SAPA for increasing size of available dispersant fields for effluent water
7. establishing process for handling unprecedented number of Public Information Act requests (37)
8. establishing ETHICS AND CONFLICT OF INTEREST POLICY by Board vote and for adherence by future Boards
9. re-establishing annual meeting date to comply with bylaws
10. developing managerial report for Board oversight
11. status of annual budget
12. company goals for next six months
 1. Member's Comments
 1. Robb Van Eman: Missed a few items. WOWSC filed lawsuit against Texas Attorney General.
 2. Janey Richardson: Can there be more communication sent out to all members from the Board?
 3. Brad Davis: Can meetings be moved to Saturday?
 4. Mikki Bertino: David Bertino went out on the river to find our missing barge, helped George to get the water turned back on quickly to the community, and saved thousands of dollars of cost to WOWSC.

11. MANAGER'S REPORT (George Burriss) --

1. LCRA CONSERVATION GRANT -- Manager to provide update on change in WOWSC contribution to LCRA Cost Sharing project for water conservation.
 1. Previous WOWSC share estimate for both projects was ~\$32K.
 2. George learned from the LCRA that the projected savings needs to be averaged over two years which increases WOWSC's cost to ~\$34K.
 3. Members Comments
 1. Mikki Bertino: How many years to recoup \$34K?
 1. Board's response: Estimate 3% return on money spent for both projects. Might be a little lower now as the estimated cost increased \$2000. Keeps WOWSC under existing contract avoiding renegotiation of LCRA contract.
 4. Motion made and carried for Joe to write a letter to LCRA stating WOWSC has the funds for these projects.
2. GENERATOR PURCHASE UPDATE--Manager will provide update on contract, deposit, schedule for installation.
 1. WOWSC paid \$35K to our supplier who placed an order for the generator.
3. COST ESTIMATES FOR FIVE YEAR PLANPROJECT--Progress on development of cost estimates for pre-treatment facility and other projects.
 1. WOWSC applied for \$500K loan from COBANK who approved it.
 2. Ten-year old cost estimate for pre-treatment clarifier was \$150K but the price has gone up considerably due to the increased cost of steel. Possibly \$400k.
 3. George is working on proposals with an engineer and is approaching other vendors for quotes
 4. WOWSC does not have a clarifier. WOWSC has a settling tank.
 5. Members Comments:
 1. Patti Flunker: Are we in good financial status? Rates were raised? Recommended COBANK as a lender to our Board in the past.

1. Board's response: Don't think today's members should pay up front for a large capital project that has a forty-year life span versus members paying for it over its lifetime. The COBANK loan will be used to pay-off our existing loan plus new projects over 20 years at a lower interest rate than our existing loan.
 2. Mark McDonald: Standby fees
 3. Danny Flunker: Why are airport lots not under standby fees?
 4. REGULATORY COMPLIANCE—Manager will provide detailed overview of regulatory compliance services of Utilities Inc. and progress in maintaining compliance.
 1. Compliance is a function of many many details. Certificate of Convenience and Necessity with State of Texas enables WOWSC. WOWSC follows Chapter 290 of Texas State Code requirements including facility construction, operators capability, quality levels. George is of the opinion the State of Texas owns our utilities and allows WOWSC to operate them.
 1. George approaches the relationship with TCEQ as though they are the owner of our utilities, and we are the operator. George handed out a sample of our monthly operating report that is submitted to TCEQ monthly
 2. Copies of the report and test data are kept at our facilities for their yearly audit
 3. George showed our facilities' monitoring plan which the operators follow
 1. George shared monitoring plan with the Board
 4. How is WOWSC WTP doing?
 1. Consumer confidence report is on our website and is also posted at the WO pavilion. TCEQ compiles the consumer confidence report without review by WOWSC. No violations were reported.
 2. Each year TCEQ sends out a compliance enforcement officer who writes reports. Our last report stated WOWSC needed to paint the pipes in the pump room. The pipes were painted to the specified colors and pictures were then sent to TCEQ.
 5. SEWER SYSTEM PERMIT RENEWAL—Report status of renewal process.
 1. WTP permit expires every five years. Every five years the permit renewal process takes ~ one year. Received TCEQ response stating the permit request is administratively complete. George believes we are on track to receive our permit by end of year.
 6. EASEMENT RELEASE REQUEST – Update, easement release requesting Center Cove.
 7. Jeff Hagar and George learned WOWSC does not have easement rights inside the Center Cove lots. This is in the Center Cove Covenants amendments. No easement release is needed from WOWSC for work performed inside the lot lines. Members Comments:
 1. Earl Miller: Is effluent water monitored?
 1. George's response: Yes. All changes to WTP and WWTP require TCEQ approval. TCEQ takes core samples of effluent water spray fields.
12. Executive Session under Texas Government Code § 551.071(1) and (2) regarding: a. Ffrench, et al., Intervenor-plaintiffs and Double F Hangar Operations, LLC, et al. v. Friendship Homes & Hangars, LLC, Windermere Oaks WSC, et al., Cause No. 48292, 33rd Jud. Dist., Burnet County Dist. Ct.; and b. TOMA Integrity, Inc., et al. v. Windermere Oaks WSC, Cause No. 47531, 33rd Jud. Dist., Burnet County Dist. Ct., on appeal at 6th Ct. of Appeals, No. 06-19-00005-CV.c. Appeal of Attorney General ruling filed in Travis County Court in the case of WOWSC v The Honorable Ken Paxton, Attorney General of Texas, for protection of corporate rights and privileges during ongoing litigation.
1. Entered session at 7:37PM
 2. Exited session at 8:14PM
 3. Members Comments
 1. Robb Van Eman:
 1. WOWSC attorneys have filed lawsuit against Texas Attorney General. Why did our attorneys sue the Texas Attorney General?
 2. What is the cost to sue the Texas Attorney General? What's in the budget?
 2. John Young: Loan needed to pay-off balloon payment.
 4. Motion made and carried to move this agenda topic up due to length of previous agenda topics and need to meet with lawyers when they are available

13. Consider and/or act on matters reviewed in the immediately preceding Executive Session agenda item.
 1. Joe motioned to move agenda item "Member comments" before Board convened in executive session. Motion carried.
 2. Item B: TOMA filed with the Texas Supreme Court and our WOWSC attorneys responded to the Supreme Court that they will respond as needed (to save cost).
 3. Joe read the following statement:

STATEMENT REGARDING FILING IN TRAVIS COUNTY COURT

This past May, WOWSC received a Public Information Act request that requested our legal invoices from the time period covering the entirety of the WSC's lawsuit with TOMA Integrity.

At the advice of our attorneys, and for the sole purpose of asserting privileges lawfully available to us to protect our position during this litigation, WOWSC requested a ruling from the Attorney General that we could withhold these invoices under those privileges while the lawsuit is ongoing.

This past August, the Attorney General ruled that while we may redact certain information within those invoices, the remainder must be released.

Upon review of this ruling by our legal team, they determined that the Attorney General's office did *not* apply the privileges to the full extent authorized by law, and that compliance with the AG's August ruling would put the WSC at a disadvantage during the remainder of the lawsuit with TOMA Integrity.

Pursuant my authority as Board President and Public Information Officer and at the advice of our legal counsel, I directed our legal team to file an administrative appeal of the August Attorney General ruling to protect the rights of the WSC while the lawsuit remains ongoing.

This is not a new legal proceeding with the Attorney General, but rather an appeal of a staff attorney ruling in a matter now ongoing since May of this year.

The WOWSC board remains in compliance with the Open Meetings Act, and has followed the advice of its attorneys in doing so.

I will not comment any further on the specifics of pending litigation with TOMA Integrity and the interrelated appeal of the Attorney General's ruling, as that is detrimental to our legal rights as a corporation, the parties involved, and the membership.

Again and to be clear, this appeal involving the Attorney General is simply and solely to protect our position during the pendency of the underlying litigation with TOMA Integrity.

Were the request for privileged information to be withdrawn, the appeal of the Attorney General's decision would of course become moot.

Any request for information that *does not* request privileged information (as has been the case with almost all of the 37 PIA requests submitted to the WSC this year) has been processed and will be processed without the involvement of the Attorney General.

However, we cannot afford to jeopardize our legal position while the suit with TOMA Integrity remains ongoing.

The Board certainly finds it unfortunate and regrettable that the public dialogue is not productive, but of course every member should feel free to speak his or her mind as they see fit, and as always, may speak at public comment at any open meeting of the Board.

4. PIA response resolution was read:
 1. Resolution approving and authorizing the continuing defense of the WSC's position of protecting attorney-client privileged information in response to PIA requests, including maintaining all pending appeals in court, at the direction of the Board President/Public Information Officer.
 2. Limited and finite PIA appeals process for attorney client privilege
5. Member comment
 1. Robb Van Eman: Statement from attorney is misleading.
 2. Janey Richardson: Attorney invoices were requested.
 3. Mike Burdette: Throwing away money
 4. Danny Flunker: Filed PIA and sent response to Texas Attorney General
 5. Jade Winters: Should our attorneys file in Burnett County instead of Travis County?
6. Motion made and carried to approve resolution authorizing the continuing defense of the WSC's position of protecting attorney client privileged information in response to PIA requests including maintaining all pending appeals in court at the direction of the Board President/Public Information Officer.

14. FINANCIAL REPORT –Treasurer Mike Nelson to discuss monthly financial reports.

1. Dorothy found a \$1000 error on page 1 of the September report for MM+ (Money Market)
2. September Income: \$36.7K
 1. September Water + Sewer revenue: \$36.3K
 2. Year to date (YTD) Water + Sewer revenue at \$273.3K of YTD budget \$266.3K
 3. YTD Equity Buy-in Fees revenue at \$36.8K versus annual budget \$27.6K
 4. YTD Water & Sewer Taps revenue at \$15.5K versus annual budget \$10.4K
3. September Expenses: \$48.1K
 1. \$23.7K legal fees paid in September
4. September Net Income: (\$11.4K)
5. YTD Net Income: \$73.8K
6. YTD Legal/Appraisal at \$88.4K of annual budget \$38.0K
7. YTD Water + Sewer Repairs at \$20.6K of annual budget \$45.0K
8. September 2019 Metrics:
 1. Debt to Service Coverage Ratio (DSCR): (0.31)
 1. Three month rolling average: 0.93

2. Debt to Capital Ratio: 0.16
 1. Three month rolling average: 0.16
3. Days of Cash on Hand: 219 days
 1. Three month rolling average: 220 days
9. September 2018 Metrics:
 1. DSCR: 0.20
 2. Debt to Capital Ratio: 0.19
 3. Days of Cash on Hand: 187 days
10. Member Comment
 1. Earl Miller: Do we keep income from taps and buy-in fees in separate accounts from WTP & WWTP?
 1. Board response: No
 2. Joe Gimenez: Cash on hand is very positive.
 3. Robb Van Eman: Any financial risk to WOWSC?
 4. Danny Flunker: Insurance did not cover TOMA legal expenses
11. Motion made and carried to accept the September Financial Report noting the \$1000 error on page 1 for MM+

15. ADOPTION OF ELECTION PROCEDURES FOR THE ANNUAL MEMBERS MEETING –Board will consider possible action needed to begin adoption of election procedures for 2020 annual meeting.
 1. Select credentials committee volunteer: Janey Richardson
 2. Motion made and carried for Janey Richardson, Mike Nelson, and Bill Earnest to comprise the credentials committee.
 1. Note: Two of the three Credentials committee members (Bill and Mike) were selected at the March 9 Board meeting. A third member was needed, so the Board accepted Janey Richardson.
16. Comments from citizens and members who have signed sign-up sheet to speak (3-minute limit per person).
 1. Joe Gimenez:
 1. Our WOWSC Bylaws provide in article 8 section 9 for removal of Board Member. Joe read part of the section to meeting attendees, advising that a hearing for removal would occur at a members' meeting and that the next members' meeting was the annual meeting.
 2. Annual Member Meeting is targeted for Saturday, February 1st.
 3. Review with our legal team the removal of a Board Member.
 2. Robb Van Eman:
 1. Bylaws allow members to call a special Member Meeting for removal of a Board Member.
 2. Requested Joe resign.
 3. Danny Flunker:
 1. Requested public comments be placed at beginning of Board meeting agenda.
 2. Provided attorney invoices had redactions.
 4. Sandy Nigh:
 1. Moved here one year ago. Legal fees are a concern.
 2. Requested meetings be moved to the weekends.
 5. Mikki Bertino:
 1. What is the process for members to call a special Members Meetings?
 1. Board's response: In our WOWSC Bylaws, a Majority of Memberships (50% plus one) is needed to call a special Members Meeting.
 2. Requested Board members' vote be entered into the meeting notes when it's not unanimous.
17. New business and discussion and possible action on agenda for next meeting.
 1. Y2020 WOWSC Annual Members Meeting and election procedures next steps
18. Set date, time, and place for next meeting

1. Saturday, October 26th, at 9:00AM

19. Motion made and carried to adjourn at 8:45PM



Submitted by: Mike Nelson

APPROVED BY WOWSC Board on December 19, 2019

Billing Questions: (830) 598-7511 Ext 1
Water or Sewer Emergency: Phone (830) 598-7511 Ext 2

EXHIBIT H

Mr. de la Fuente's Direct Line: (512) 322-5849
Email: jdelafuente@lglawfirm.com

January 25, 2019

*Via Email: mollym@abdmllaw.com
and Via USPS Regular Mail*

Molly Mitchell
ALMANZA, BLACKBURN, DICKIE & MITCHELL, LLP
2301 S. Capital of Texas Highway, Bldg. H
Austin, Texas 78746

Re: Friendship Homes & Hangars, LLC purchase of real property interests
from Windermere Oaks Water Supply Corporation

Dear Molly,

I am writing to you on behalf of my client, the Windermere Oaks Water Supply Corporation ("WOWSC") in connection with real property transactions by Friendship Homes & Hangars, LLC ("Friendship Homes") relating to approximately 10.85 acres of property located on Piper Lane in Spicewood, Texas ("the property"). This letter is sent to you as counsel for Dana Martin and Friendship Homes as a matter of professional courtesy; if you contend that it should be addressed directly to Ms. Martin and/or Friendship Homes, please let me know and we will re-send it as instructed.

As you know, by a contract for sale dated January 19, 2015, closing in early 2016, and continuing until final addendum on February 16, 2017, Friendship Homes purportedly acquired two separate real property interests from WOWSC: 1) title in fee simple to approximately 3.86 acres along the west side of Piper Lane, in Spicewood, Texas, and 2) a "right of first refusal" to purchase an additional approximately 7.01 acres immediately to the west of the purchased property (collectively, "the transactions"). The total price paid by Friendship Homes to WOWSC for both interests was \$203,000.

The circumstances surrounding the transactions are problematic for several reasons.

Self-interested transaction: First and foremost, the managing member of Friendship Homes is Dana Martin. At all times relevant to the transactions, Ms. Martin also was a member of the board of the seller, WOWSC. While she purportedly recused herself from the ultimate vote on a portion of the transaction on December 19, 2015, at all times she remained a member of the board, and by virtue of that office had a fiduciary duty and a duty of loyalty to WOWSC, which requires that there be no conflict between duty and self-interest.

Actions taken in violation of the Texas Open Meetings Act: As a WOWSC Board member, Ms. Martin is charged with knowledge of the requirements of the Texas Open Meetings Act, and knowing that the meeting notice for the December 19, 2015 meeting was legally insufficient, did not speak up or note for the remainder of the Board that the meeting notice did not meet the requisite legal standard. Instead, she allowed her self-interest to be paramount, so that the meeting could go forward and she could enter into a contract for sale of the property. Further, Ms. Martin was surely aware that the purported “right of first refusal” was not mentioned in the meeting notice, and thus could not be considered or acted upon by the WOWSC Board at that meeting without violating the Texas Open Meetings Act. Again, Ms. Martin allowed her self-interest to be paramount, so that the meeting could go forward and she could obtain that right of first refusal, paying no additional consideration for that real property interest. These matters have been litigated, and are the subject of a final judgment in Cause No. 47531, *TOMA Integrity, Inc. v. Windermere Oaks Water Supply Corporation*, in the 33rd District Court of Burnet County, Texas.

Actions regarding improper appraisal: Prior to the transactions, on information and belief, Ms. Martin worked with Jim Hinton to present what was purported to be an objective appraisal of the property to the WOWSC Board (“the Hinton appraisal”) on or about September 1, 2015. This was done so that the WOWSC Board could consider the market value of the property and determine whether to sell the property, and under what price and other terms such transaction should be conducted.

The Hinton appraisal represented that it was intended to comply with all applicable rules and standards, and that its conclusion as to value was to be based on the “Highest and Best Use.” The Hinton appraisal concluded that the present use of the property was “vacant land,” and further concluded that remained the “highest and best use” for the property. The three comparable properties that were analyzed to determine the open market valuation were likewise “vacant land” properties.

Importantly, the property was (and still is) located amidst multiple hangar facilities at a private airport, Spicewood Airport, and had significant frontage on a taxiway for Spicewood Airport. In such circumstances, and considering the factors of legal permissibility, physical possibility, financial feasibility, and maximum

productivity, the actual highest and best use of the property is for division into multiple airport hangar lots, not simply to be used as “vacant land.” Notably, the Hinton appraisal did not take into account any comparable sales of hangar lots in the area. Its improper characterization of the highest and best use of the property, and selection of comparable properties consistent with that improper characterization, resulted in a significant under-valuation of the property. Upon information and belief, these defects violate applicable USPAP standards and render the Hinton appraisal fraudulent, and it was presented to fraudulently induce the WOWSC Board into taking action contrary to the best interests of WOWSC.

The WOWSC Board received the Hinton appraisal for the purpose of evaluating and conducting a potential sale of the property. On information and belief, Ms. Martin was aware of this purpose and intended use when the Hinton appraisal was provided to WOWSC. Also on information and belief, Ms. Martin conferred with Mr. Hinton regarding the appraisal before it was submitted to the WOWSC Board, knew that the actual market value of the property was well above the value presented in the Hinton appraisal, and failed to disclose that information to the WOWSC Board. Upon further information and belief, she was aware that the most likely buyer of the property was an enterprise that she had yet to form, Friendship Homes.

The resulting improper and unfair transactions: In reliance on the appraisal, the WOWSC Board elected to sell approximately 3.86 acres of the property for a price of \$203,000 to Ms. Martin’s enterprise, Friendship Homes, realizing a value of just over \$52,000 per acre. In reality, based on the proper highest and best use of airport hangar lots, the value of the 3.86 acres of the property sold was \$700,000, yielding a true value of approximately \$181,000 per acre. In addition, in further reliance on the under-valuation of the property contained in the appraisal, the WOWSC Board also transferred a “right of first refusal” to Ms. Martin’s enterprise for the remaining 7.01 acres of the property for no additional consideration, with that transaction being completed on February 16, 2017.

Thus, as a result, the WOWSC Board at the very least sold property with a proper market value of \$700,000 for a price of \$203,000, a difference of \$497,000. As a result of the actions related to the Hinton appraisal, material facts as to the transaction were not disclosed to, and upon information and belief, purposefully concealed from, the WOWSC Board. The resulting transaction, being for a price significantly lower than the proper market value at the time, was not fair to WOWSC. The circumstances above would constitute a breach of Ms. Martin’s fiduciary duty to WOWSC as a member of the WOWSC Board. Further, to the extent that the actions of Ms. Martin and Friendship Homes relating to the Hinton appraisal were committed in concert with and with the knowledge of Mr. Hinton, they may give rise to an action for civil conspiracy.

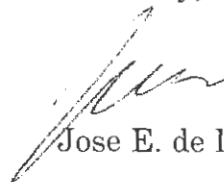
Finally, pursuant to the Unimproved Property Contract and as consideration for the transactions, Friendship Homes agreed to grant a 50-foot easement to run from Piper Lane to the west property line of the 3.86 acres that Friendship Homes acquired in fee simple. An inspection of the Burnet County property records finds no such valid and enforceable easement that has been created or granted to WOWSC, indicating that Friendship Homes has failed to perform this contract obligation. The absence of such easement significantly reduces the value of the remaining property. This works to Friendship Homes' significant advantage; absent an easement, the current market value of the remaining property is quite low, and if WOWSC attempts to sell it for its current reduced market value, Friendship Homes can execute its right of first refusal and acquire that portion of the property for a fraction of its potential value. Friendship Homes can then extend an easement through the property it currently owns, which will dramatically increase the value of the remaining property. Thus, by virtue of actions solely within Ms. Martin's and Friendship Homes' control, they will realize a significant appreciation in value on the property which value properly belongs to WOWSC.

This letter is the WOWSC's Board's notice and demand that you 1) preserve all documents, correspondence, records, and communications (including emails, text messages, and phone records) that you have had with Mr. Hinton or with any past or current member of the WOWSC Board regarding the property, the Hinton appraisal, or the transactions, and 2) to meet and confer promptly with WOWSC through its legal counsel to discuss WOWSC's claims against Ms. Martin and Friendship Homes, and a proper resolution thereof.

Please reply in writing indicating that you understand WOWSC's demands and will preserve all information described above, and will agree to meet and confer with WOWSC through its legal counsel within the next thirty days. In the event that you fail to do so, WOWSC will have no choice but to pursue all available avenues of relief, including pursuing litigation against Ms. Martin and Friendship Homes.

We look forward to your prompt response to this correspondence.

Sincerely,



Jose E. de la Fuente

JEF:cad

EXHIBIT I

APPRAISAL REPORT



DECEMBER 3, 2018

APPRAISAL OF FOUR INDIVIDUAL PARCELS WHICH ARE LOCATED ALONG THE WEST SIDE OF PIPER LINE AND THE EAST SIDE OF SODA CREEK ROAD, BURNET COUNTY, TEXAS

PREPARED FOR:

Windermere Oaks Water Supply Corporation
Double F Hangar Operations, LLC
c/o Mr. Jose E. de la Fuente
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

BOLTON REAL ESTATE CONSULTANTS, LTD.
3103 BEE CAVE ROAD, SUITE 225, AUSTIN, TEXAS 78746 | 512-477-1597
WWW.BOLTON-REALESTATE.COM



December 3, 2018

Windermere Oaks Water Supply Corporation
Double F Hangar Operations, LLC
c/o Mr. Jose E. de la Fuente
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

Re: Appraisal of four individual parcels which are located along the west side of Piper Lane and the east side of Soda Creek Road, Burnet County, Texas.

Dear Mr. de la Fuente:

As requested, we have inspected the above-referenced property and considered those factors which we deemed pertinent in arriving at an estimate of market value. We have been asked to determine the market value of the subject property considering the whole tract (±10.8815 acres), prior to the conveyance of ±3.8688 acres on March 11, 2016; the market value of the ±3.8688 acres conveyed on March 11, 2016; and the market value of the remaining ±7.0127 acres after the conveyance of ±3.8688 acres, considering access and no access to a taxiway easement located off of Piper Lane. We have conducted a market study of real estate activity in the immediate vicinity of the subject property and analyzed sales, offerings, and other developments which have occurred in the market area. Market Value, as used in this report, is defined (and intended by the appraisers to reflect term of cash or cash equivalency) as being:

The most probable price, as of a specific date, in cash, or in terms equivalent to cash, or in other precisely revealed terms, for which the specified property rights should sell after reasonable exposure in a competitive market under all conditions requisite to a fair sale, with the buyer and seller each acting prudently, knowledgeably, and for self-interest, and assuming that neither is under duress.¹


Based upon our investigation and analysis, it is our opinion that as of March 11, 2016 (Retrospective), the estimate of market value is as follows:

Opinion of Market Value of the ±10.8815 Ac. Tract (Parcel 1):	\$1,300,000.00
Opinion of Market Value of the ±3.8688 Ac. Tract (Parcel 2):	\$ 700,000.00
Opinion of Market Value of the ±7.0127 Ac. Tract – Taxiway Easement Access (Parcel 3):	\$ 760,000.00
Opinion of Market Value of the ±7.0127 Ac. Tract – No Taxiway Easement Access (Parcel 4):	\$ 120,000.00

Your attention is directed to the following data which, in part, forms the basis of our conclusions. Should you have any questions, please contact us.

Sincerely,


David R. Bolton, MAI, SREA
TX-1320117-G


R. Chance Bolton
TX-1380325-G

¹ Appraisal Institute, The Appraisal of Real Estate, 14th Edition, Page 58

APPRAISAL SUMMARY

Prepared By:	Bolton Real Estate Consultants, Ltd.
Property Owner:	Windermere Oaks Water Supply Corporation; Friendship Homes & Hangars, LLC
Client:	Windermere Oaks Water Supply Corporation; Double F Hangar Operations, LLC
Effective Date of Value:	March 11, 2016 (Retrospective)
Date of the Report:	December 3, 2018
Property Location:	West side of Piper Lane and east side of Soda Creek Road, surrounding the Spicewood Airport, in Burnet County, Texas.
Legal Description:	Parcel 1: ±10.8815 acres situated out of the Maria Salinas Survey No. 17, Abstract No. 776, and also consisting of Tract H1 and H2, Tract H on Piper Lane Subdivision, Burnet County, Texas Parcel 2: ±3.8688 acres consisting of a ±1.3489 acre tract being Tract H1, and a ±2.5199 acre tract being Tract H2, Tract H on Piper Lane Subdivision, Burnet County, Texas Parcel 3: ±7.0127 acres situated out of the Maria Salinas Survey No. 17, Abstract No. 776, and a taxiway easement situated out of Tract H2, Tract H on Piper Lane Subdivision, Burnet County, Texas Parcel 4: ±7.0127 acres situated out of the Maria Salinas Survey No. 17, Abstract No. 776, Burnet County, Texas
Tract Size:	Parcel 1: ±10.8815 acres (473,998 SF) Parcel 2: ±3.8688 acres (168,525 SF) Parcel 3: ±7.0127 acres (305,473 SF) Parcel 4: ±7.0127 acres (305,473 SF)
Improvements:	None of contributory value
Highest and Best Use:	As Vacant: Division of the property into multiple airport hangar lots (Parcel's 1, 2 & 3); Rural residential/recreational (Parcel 4)

IDENTIFICATION OF THE CLIENT

Windermere Oaks Water Supply Corporation
Double F Hangar Operations, LLC
c/o Mr. Jose E. de la Fuente
Lloyd Gosselink Rochelle & Townsend, P.C.
816 Congress Avenue, Suite 1900
Austin, Texas 78701

SUBJECT PROPERTY

The subject property is comprised of a total of ± 10.8815 acres that is located along the west side of Piper Lane and the east side of Soda Creek Road, adjoining the Spicewood Airport to the north, south and west, in Burnet County, Texas. We have been asked to estimate an opinion of market value of the entire 10.8815 acres, (Parcel 1), the market value of a total of ± 3.8688 acres conveyed in March of 2016 that is located along the west side of Piper Lane (Parcel 2), the market value of the remaining ± 7.0127 acres considering access to a taxiway easement off of Piper Lane (Parcel 3) and the market value of the remaining ± 7.0127 acres considering no access to the taxiway easement off of Piper Lane (Parcel 4).

INTENDED USERS

The intended user is Windermere Oaks Water Supply Corporation, Double F Hanger Operations, LLC, and/or their authorized agents, and to the extent necessary, the fact finders, judge and/or jury in the case. No other parties are intended users of this appraisal and no such parties should use or rely on this appraisal for any purpose.

INTENDED USE

The intended use of this appraisal report is for the presentation of our opinion of market value of the subject property associated with the lawsuit styled *Toma Integrity v. Windermere Oaks Water Supply Corporation; Cause No. 47531, filed in the 33rd District Court of Burnet County, Texas*. This report is not intended for any other use. The appraiser is not responsible for unauthorized use of this report.

INTEREST VALUED

Fee Simple Interest which is defined by The Appraisal of Real Estate, 14th Addition, as “absolute ownership unencumbered by any other interest or estate, subject only to the limitations imposed by the governmental powers of taxation, eminent domain, police power, and escheat.” This appraisal is made with the understanding that the present ownership of the property is subject to any easements or encroachments of record, current state laws, and local zoning/land use ordinances.

CONTINGENT AND LIMITING CONDITIONS

This appraisal report has been made with the following general assumptions:

1. No responsibility is assumed for the legal description provided or for matters pertaining to legal or title considerations. Title to the property is assumed to be good and marketable unless otherwise stated.
2. The property is appraised free and clear of any or all liens or encumbrances unless otherwise stated.
3. Responsible ownership and competent property management are assumed.
4. The information furnished by others is believed to be reliable, but no warranty is given for its accuracy.
5. The visual exhibits and illustrative material in this report are included only to help the reader visualize the property.
6. It is assumed that there are no hidden or unapparent conditions of the property, subsoil, or structures that render it more or less valuable. No responsibility is assumed for such conditions or for obtaining the engineering studies that may be required to discover them.
7. It is assumed that the property is in full compliance with all applicable federal, state, and local environmental regulations and laws unless the lack of compliance is stated, described, and considered in the appraisal report.
8. It is assumed that the property conforms to all applicable zoning and use regulations and restrictions unless a non conformity has been identified, described, and considered in the appraisal.
9. It is assumed that all required licenses, certificates of occupancy, consents, and other legislative or administrative authority from any local, state, or national government or private

entity or organization have been or can be obtained or renewed for any use on which the opinion of value contained in this report is based.

10. It is assumed that the use of the land and improvements is confined within the boundaries or property lines of the property described and that there is no encroachment or trespass unless noted in the report.
11. Unless otherwise stated in this report, the existence of hazardous materials, which may or may not be present on the property, was not observed by the appraiser. The appraiser has no knowledge of the existence of such materials on or in the property. The appraiser, however, is not qualified to detect such substances. The presence of substances such as asbestos, urea-formaldehyde foam insulation and other potentially hazardous materials may affect the value of the property. The value estimated is predicated on the assumption that there is no such material on or in the property that would cause a loss in value. No responsibility is assumed for such conditions or for any expertise or engineering knowledge required to discover them. The intended user is urged to retain an expert in this field, if desired.

EXHIBIT J



APR CLAIMS

January 30, 2018

VIA EMAIL and CERTIFIED MAIL, RRR TO:

Ms. Dorothy Taylor
President
Windermere Oaks Water Supply
Box 279
Spicewood, Texas 78669

Re: Insured: Windermere Oaks Water Supply Corporation
Insurer: Allied World Specialty Insurance Company
Date of Loss: 10/28/2016
Policy #: 5105-0460-03
Policy Period: 3/17/2016 TO 3/17/2017
Limit of Ins.: \$5,000
Subject: TOMA Integrity, Inc. vs Windermere Oaks Water Supply Corp.
Claim #: 2017001776

RESERVATION OF RIGHTS

Dear Ms Taylor

As a member of the Allied World group of insurance companies, the Insurer named in the caption above will be referred to in this letter as "Allied World." Allied World issued a Commercial WaterPlus Package Policy to Windermere Oaks Water Supply Corporation (hereinafter "WOWSC") under policy number 5105-0460-0, which includes Public Official and Management Liability with Employment Practices and Employee Benefits Coverage Form (Claims-Made) (the "POML Coverage Section") for the Policy Period of March 17, 2016 through March 17, 2017 (the "Policy").¹ Allied World has requested and authorized its Third Party Administrator, Network Adjusters, Inc., to evaluate the above-captioned matter on its behalf. Accordingly, this correspondence shall provide Allied World's supplemental coverage position under the Policy in connection with the mandamus pleading filed in Texas State Court styled, *TOMA Integrity, Inc. vs Windermere Oaks Water Supply Corporation*.

We have reviewed the information provided to us along with the relevant provisions of the Policy and completed our coverage investigation. As will be explained in greater detail below, Allied World has

¹ The Policy's other Coverage Parts – Property Coverage, Commercial Crime Coverage, and Commercial General Liability – are inapplicable to this matter, as this loss does not trigger the Insuring Agreements of those Coverage Parts.

determined that the Policy will provide a maximum of \$5,000 in “defense expenses” under Coverage B of the Policy’s POML Coverage Section.

This correspondence is directed to you in your capacity as an authorized representative of the above-named Insured for insurance coverage purposes. To the extent that you are not acting on behalf of the Insured with respect to insurance matters, we request that you direct a copy of this letter to the appropriate representative and advise the undersigned accordingly.

To assist you in understanding this coverage analysis, we suggest that you review the Policy along with this letter. This letter does not modify any of the terms and conditions of the Policy. Allied World must reserve its right to decline or limit coverage should any of the exclusions, endorsements, or any other provision of the Policy prove to be applicable.

SUMMARY OF ALLEGATIONS

The summary of facts that follows is based upon the allegations contained within the documents and information received to date. We recognize that those allegations are unsubstantiated at this time, and nothing in this letter is intended to suggest or imply that they have any legal or factual merit.

This matter was originally submitted to us on January 24, 2017, though it was reported as “Record Only.” The issue at that time was that, during a Board meeting of the entity, two (2) individuals took issue with the entire Board, upon learning that the Board had sold WOWSC property to a Board member. There was a petition before the Board for their removal of the individual who purchased the property. An analysis was made under both the General Liability Coverage part and the Public Officials Management Liability Policy for a coverage grant. The matter was disclaimed under both coverage parts in a letter to you dated March 22, 2017. This current matter is premised as a derivative claim thereof from the prior claim as to a violation of the Texas Open Meetings Act.

The Petition

A Mandamus pleading was filed as Plaintiff’s Original Petition for Mandamus and Discovery Requests in 33rd District Court, Burnett County, under Cause No. 47531 (the “Petition”). This Petition seeks equitable and injunctive relief to void the action and decisions that the Windermere Oaks Water Supply Corporation (WOWSC) to sell a parcel of WOWSC property to a Board member. Plaintiff TOMA Integrity, Inc. filed the Petition against WOWSC in seeking to enforce the application of the Texas Open Meetings Act (TOMA.). The Petition contains One Count for Mandamus/Injunctive Relief.

SUMMARY OF COVERAGE

We direct your attention to certain terms and conditions in the policy of insurance issued by Allied World that have affected coverage in this matter. As you know, the Policy is comprised of multiple coverage parts. Due to the nature of the underlying facts and allegations made therein and based upon the information received to date, it is Allied World’s position that analysis of this matter is properly conducted under Insuring Agreement (B) the POML Coverage Section of the Policy. We expressly note that the Commercial General Liability Coverage Section is inapplicable because the Petition does not allege “bodily injury” or “property damage” caused by an “occurrence” or “personal and advertising injury” caused by an offense and, therefore, the insuring agreement for the Commercial General Liability Coverage Section is not met. We further note that coverage under Insuring Agreement (A) of the POML Coverage Section is inapplicable, because the Petition

does not seek "damages", defined to mean monetary damages, arising out of a "claim" for a "wrongful act". If you disagree, or would like us to review this matter under any other coverage section, please contact me.

Please note that the following observations concerning coverage are based on the information presently available, and may be subject to change in the event Allied World becomes aware of additional information.

We direct your attention to the PUBLIC OFFICIALS AND MANAGEMENT LIABILITY COVERAGE FORM WA-PO 00006 00 (03/12), a part of your Policy which states in pertinent part:

SECTION I. – COVERAGES

C. COVERAGE B. INSURING AGREEMENT – DEFENSE EXPENSES FOR INJUNCTIVE RELIEF

1. We will pay those reasonable sums the insured incurs as "defense expenses" to defend against an action for "injunctive relief" because of a "wrongful act," an "employment practices" offense, or an offense in the "administration" of your "employee benefit plans" to which this insurance applies.

However:

a. The amount we will pay for "defense expenses" is limited as described in SECTION IV. – LIMITS OF INSURANCE; and

b. We have no obligation to arrange for or provide the defense for any action for "injunctive relief."

No other obligation or liability to pay sums or perform acts or services is covered.

2. This insurance applies only if:

a. The action seeking "injunctive relief" is brought in a legally authorized court or agency of the United States, any of its states or commonwealths, or any governmental subdivision of any of them;

b. Such action is filed during the policy period; and

c. The insured:

(1) First notifies us as soon as practicable after retaining counsel to respond to such action but in no case later than 60 days after the end of the policy period; and

(2) Is reasonably expedient in requesting us to reimburse any "defense expenses" incurred.

SECTION II. – EXCLUSIONS

This insurance does not apply under either Coverage A or Coverage B to:

5. Attorney's Fees and Court Costs

Any award of court costs or attorney's fees which arises out of an action for "injunctive relief"

19. Violation of Law

"Damages," "defense expenses," costs or loss arising from an insured's willful violation of any federal, state, or local law, rule, or regulation.

27. Profit, Advantage or Remuneration

Any "Damages," "defense expenses," costs or loss based upon or attributable to the insured gaining any profit, advantage or remuneration to which the insured is not legally entitled.

SECTION VIII. – DEFINITIONS

3. "Claim" means:

- a. written notice, from any party, that it is their intention to hold the insured responsible for "damages" arising out of a "wrongful act" of offence by the insured;
- b. a civil proceeding in which "damages" arising out of an offence or "wrongful act" to which this insurance applies are alleged;
- c. an arbitration proceeding in which "damages" arising out of an offence or "wrongful act" to which this insurance applies are claimed and to which the insured must submit or does submit with our consent;
- d. any other civil alternative dispute resolution proceeding in which "damages" arising out of an offence or "wrongful act" to which this insurance applies are claimed and to which the insured submits with our consent; or
- e. a formal proceeding or investigation with the Equal Employment Opportunity Commission, or with an equivalent state or local agency.

A "claim" does not mean any ethical conduct review or enforcement action, or disciplinary review or enforcement action.

5. "Damages" means monetary damages

6. "Defense expenses" means reasonable and necessary fees or expenses incurred by or on behalf of the insured for:

- a. Legal fees charged by the insured's attorney;
- b. Court costs;
- c. Expert witnesses; and
- d. The cost of court bonds, but we do not have to furnish these bonds.

"Defense expenses" do not include:

- (1) Any salaries, charges or fees for any insured, insured's "volunteer workers" or "employees," or former "volunteer workers" or "employees"; or
- (2) Any expenses other than a., b., c. and d. above.

12. "Injunctive relief" means equitable relief sought through a demand for the issuance of a permanent, preliminary or temporary injunction, restraining order, or similar prohibitive writ against an insured, or order for specific performance by an insured.

25. "Wrongful act" means any actual or alleged error, act, omission, neglect, misfeasance, nonfeasance, or breach of duty, including violation of any civil rights law, by any insured in the discharge of their duties for the Named Insured, individually or collectively, that results directly but unexpectedly and unintentionally in "damages" to others.

Based on the foregoing Policy language, and our review of the materials received, the Petition constitutes an action for “injunctive relief” because of a “wrongful act” against an insured during the policy period.

According to the Policy’s Declarations, the Policy’s POML Coverage Section provides \$5,000 Limit of Insurance for Each Action for Injunctive Relief under Coverage (B). Pursuant to Section IV, Paragraph (2) of the Policy’s POML Coverage Section, the Aggregate Limit of Insurance set forth in the Declarations for Coverage (B) applies to all “defense expenses” arising out of all actions for “injunctive relief”. Pursuant to Section IV, Paragraph (4), subject to the Aggregate Limit of Insurance, the “Each Action for Injunctive Relief” Limit of Insurance is the most we will pay under Coverage (B) for all “defense expenses” arising out of a single action for “injunctive relief”.

Although Allied World has determined that Insuring Agreement (B) responds to this matter, certain provisions in the Policy’s POML Coverage Section may also apply to bar or limit coverage for this action. Without intending to be exhaustive or exclusive, Allied World takes this opportunity to briefly identify some of these provisions.

First, in the Petition, Plaintiff seeks equitable and injunctive relief to void the action and decisions that the Windermere Oaks Water Supply Corporation (WOWSC) to sell a parcel of WOWSC property to a Board member. Plaintiff TOMA Integrity, Inc. filed the Petition against WOWSC in seeking to enforce the application of the Texas Open Meetings Act (TOMA.). According to Section II of the Policy’s POML Coverage Section Exclusion (27), this insurance does not apply under Coverage (B) to “damages,” “defense expense,” costs or loss based upon or attributable to the insured gaining any profit, advantage or remuneration to which the insured is not legally entitled. Because the action for “injunctive relief” is alleged to be based upon or attributable to profit, the insured gaining any profit, advantage or remuneration to which the insured is not legally entitled, this matter falls within the scope of Exclusion (27) and, therefore, Allied World respectfully reserves its rights to limit coverage for this matter pursuant to Exclusion (27).

Second, according to Section II of the Policy’s POML Coverage Section, Exclusion (19), this insurance does not apply under Coverage (B) to “damages,” “defense expense,” cost or loss arising from an insured’s willful violation of any federal, state, or local law, rule or regulation. In this matter, Plaintiff asserts violations of TOMA. Given the allegations, Allied World further reserves its rights to limit coverage to the extent the insured willfully violated any federal, state, or local law, rule or regulation.

Third, we note that the Petition seeks attorney’s fees. According to Section II of the Policy’s POML Coverage Section, Exclusion (5), this insurance does not apply under Coverage (B) to any award of court cost or attorney’s fees which arises out of an action for “injunctive relief”. Allied World expressly disclaims coverage for any award of attorney’s fees which arise out of the Petition.

Lastly, in addition to the foregoing, Allied World continues to reserve its rights, remedies, and defenses, including, without limitation, its right to disclaim or limit coverage as this matter continues to evolve, to the extent that:

1. the parties involved are not insureds;
2. this matter does not involve “wrongful acts”;
3. any amounts incurred in connection with do not constitute covered or insurable “damages” or “defense expenses”; and

4. this matter involves covered and uncovered matters or parties.

Please note that Section VI, Condition (6) of the Policy's POML Coverage Section provides that if other valid and collectible insurance is available to the insured for a loss or "defense expenses" we cover under this Coverage Form, this insurance is excess over any of the other insurance and its deductible or self-insured retention provisions, whether primary, excess, contingent or on any other basis. Accordingly, please advise as soon as possible if there are any other insurance carriers that have been placed on notice of this matter. In addition, please forward us copies of any and all other coverage letters issued by any other insurance carrier(s) in connection with this "claim." Allied World expressly reserves its rights related to other insurance.

RESERVATION OF RIGHTS

Based on the above, Allied World will provide coverage for the Petition under a Reservation of Rights. As outlined above, the coverage afforded under Coverage B of the Policy's POML Coverage Section is limited to \$5,000 in "defense expenses". This means that Allied World will pay up to a maximum of \$5,000 in "defense expenses" incurred in connection with the Petition.

Allied World's coverage position addressed herein is based upon the facts currently known, and Allied World will consider and evaluate any additional information you may present to it which you believe to be relevant to its coverage determination.

Please understand that this letter is not intended to provide an exhaustive review of all Policy terms, conditions and exclusions and Allied World expressly reserves its right to rely upon and enforce additional Policy terms when appropriate. Allied World may revise its coverage position and raise any other coverage issues or coverage defenses without prejudice, waiver or estoppel. Furthermore, this letter does not constitute a waiver of any policy provisions or defenses available to Allied World. Allied World expressly reserves all of its rights and defenses under the Policy and applicable law. Additionally, Allied World reserves the right to seek a determination in a court of law regarding any issues of coverage discussed herein as well as those not raised by this letter, but of which Allied World may subsequently become aware.

If you have any questions or concerns regarding Allied World's coverage position or anything stated herein, or if you have additional information which you believe may affect Allied World's coverage position, please do not hesitate to contact the undersigned at 303 221 9676 or by email pflynn@networkadjusters.com

Sincerely,

Pete Flynn

Network Adjusters, Inc.

"Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison."