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WS.20794A.11.0279



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ARIZONA CORPORATION COMMISS

ORIGINAL

UTILITY COMPLAINT FORM  
RECEIVED

Investigator: Guadalupe Ortiz

Phone: ( ) 2012 APR 11 P 12:49

Fax:

Priority: Respond Within Five Days

AZ CORP COMMISSION  
DOCKET CONTROL

Opinion No. 2012 - 103144

Date: 4/9/2012

Complaint Description: 08Z Rate Case Items - Other  
N/A Not Applicable

Complaint By: First: **Judy** Last: **Jerrells**

Account Name: Judy Jerrells

Home: (000) 000-0000

Street: N/A

Work:

City: N/A

CBR

State: AZ Zip: 00000

is: E-Mail

Utility Company: **DII-Emerald Springs, LLC**

Division: Sewer/Water

Contact Name: ''

Contact Phone: (000) 000-0000

Nature of Complaint:

Email Received - Opinion In Favor:

RE: Docket No.'s WS-20794A-11-0140  
WS-20794A-11-0279

Arizona Corporation Commission  
**DOCKETED**

APR 11 2012

From: RON/JUDY JERRELLS [mailto:  
Sent: Thursday, April 05, 2012 9:50 AM  
To: Guadalupe Ortiz; mailmasters@azcc.gov  
Subject: DOCKET # WS-20794A-11-0140

DOCKETED BY

Commission of ACC:

April 5, 2012

RE: Docket No. WS-20794A-11-0140

I am a homeowner in Emerald Springs who has written to you on a previous occasion regarding the current issue of Mr. Henry Melendez vs. Mr. Doyle Thompson providing sewer to our Community.

I served on/for the HOA Board for seven years:

- 2004 - 2005 Treasurer
- 2005 - 2008 Secretary/Treasurer
- 2008 - 2011 Provided Bookkeeper and Secretarial Duties to the Board
- In 2011 replaced my volunteer services with a paid service by Bookkeeping professional

I have been in opposition to Mr. Thompson as a sewer provider based on his past performance as our sewer provider prior to 2004. The facts and documentation has been submitted to you by another homeowner (Sherri Mehrvar), so I will not duplicate her efforts.

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While I am not a permanent homeowner and use Emerald Springs as a vacation location, I have been involved in the Community activities since my original purchase in 2003. I volunteered my time, up to 2011, and maintained many of the HOA records. Because I am not a permanent resident, I have listened to the permanent residents' comments over the years and attended almost every HOA meeting to keep abreast of the Community issues. I feel it important to bring to your attention, the current Board members have been owners since 2010, 2008 and 2010 respectively and have attended no Board meetings prior to 2011 or showed any interest in Community subjects until recently. This can give them a unique perspective on situations which can be beneficial at times, but without some knowledge of the past, they can be maneuvered by personal agendas and grievances which have little to do with the subject of sewer provider.

The most recent comments the Commission has received have caused me to submit this additional letter of opposition. Possibly Mr. Thompson's level of service and personal gain to his own Community have been improved to the level of acceptance as the Emerald Springs Sewer Provider. This Board has not communicated to its members any facts related to the concerns from the past, but possibly can provide these to the Commission at the April meeting. As stated in Ms. Mehrvar's letter, this Board has not held meetings and at the only meeting they did hold, they provided only an agenda of the meeting, no minutes of their discussions or actions, even after my request for such minutes, as I was unable to attend. Financials are not provided, even after my request for their attachment to the minutes, so how much effort is being spent of our HOA dues on this sewer issue is unknown and what contractual agreement with Mr. Thompson has been finalized is also unknown. Without these facts how can a homeowner be expected to be knowledgeable about the Board's findings?

It seems evident this Board is now embarrassed and trying to 'cover their tracks' based on the most recent letters of opposition. It was the Board of 2010 who DEMANDED Mr. Melendez become ACC and ADEQ compliant. Mr. Melendez had been reporting in the previous HOA meetings his progress with the permitting process due the lack of sufficient sewage generated by Emerald Springs to meet ADEQ standards. There was no current permit type for the level of sewage generated and it would be considerably costly to the HOA to meet all the daily testing standards. He reported this to the membership at several meetings for years, with little or no comment from the members or the Board.

In 2003/2004 Mr. Melendez had to pay to add equipment to the EIA site to insure proper filtration, but that never is recognized. Around 2006 Mr. Melendez worked with ADEQ regarding drainage issues in the community and helped with ADEQ compliance requirements for not only the community but individual property owners by providing a labor force (he was reimbursed by individuals for expenses). He attended meetings in Phoenix and met with ADEQ officials in Emerald Springs so individuals and Board members did not have to travel and duplicate efforts, but this is never recognized.

I find it difficult to understand these recent complaints regarding Mr. Melendez when none of these were ever discussed in the HOA meetings. None of these generated letters of complaint to the HOA regarding Mr. Melendez performance. When Mr. Thompson was the provider, almost every meeting in 2003 and 2004 had complaints from the permanent residents in Emerald Springs about his actions and lack of performance as a sewer provider. I am in total agreement regarding the performance of Mr. Melendez in several areas. I have been in disagreement with several issues and requested the Board take action on various occasions regarding my concerns with Mr. Melendez and the lack of proper documentation when the bankruptcy of Mr. Lambert processed in 2003. When I left the Board there were various outstanding projects that had been started, but not completed. Many of them negotiations with Mr. Melendez regarding ownership of the boat launch and dock, property for parking, property for the security gate location (north side), entry gate location (south side) and ownership of the lift station. A list was given to them for their continued follow-up. Instead they chose to pursue their own project to complete the road when funds were not available (another negotiation project with Mr. Melendez they were given) and install a security gate on property not belonging to the HOA or having a lease agreement with Mr. Melendez. Requests to obtain lease agreements were made several times, verbally agreed to by Mr. Melendez, but never followed up by the Board to create or finalize the projects. When repairs were required for the lift station, I expressed my opposition, but since the ownership issue had still not been resolved, I felt it important to the permanent residents to have it immediately repaired and to then continue with the

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resolution. The Board did nothing except pay the repair bill and state the next Board should work on the negotiations with Mr. Melendez.

In late 2010 the Board requested documentation from Mr. Melendez. They set up a meeting with him to have this presented, but the Board was a "no show", blaming Mr. Melendez when he was late returning to Emerald Springs from Phoenix - which he advised him could be the situation when they originally set up the meeting. Subsequently, Mr. Melendez provided over 11 email documents they would have been given at that meeting. They never asked for anything else, there was never an acknowledgement they got what they wanted or wanted more. I would like to see the documentation where they asked for other financial information they never received and see the minutes from a meeting stating this was a problem. No Board, since 2008 has requested to sit down and negotiate terms on any subject with Mr. Melendez. To my knowledge, no Board has made documented requests regarding complaints about other issues believed to be Mr. Melendez responsibility - even after I made repeated requests to do so.

While nothing to do with the sewer provider, letters have stated controversy about Mr. Melendez trying to subsidize the bad housing market with a 10-15 year solar farm project. Yes there was opposition however there was also support from many outside of Emerald Springs and people/businesses who understood the housing market around Ehrenberg could not support more residential housing, especially the low-income residential housing proposed as an alternative, which would lower our property values considerably. We pay the highest property taxes and have had no improvements to Ehrenberg (other than a new firehouse) since before 2000, the roads are not maintained and yet these same people in opposition to a solar farm had no problem with approving another bar establishment, less than 1000 feet from the Elementary School. This being the third bar in a town with NO amenities, which went out of business in less than two years! These same people in opposition claimed the solar farm would rezone the area to industrial and spread this rumor throughout the community. Yet upon my personal investigation with the zoning department found this not to be true and if a solar farm was approved it would be for solar ONLY and then revert back to residential. The zoning members were threatened with voting them out of office by the few permanent residents in Emerald Springs, so the project was denied. Again, there were personal agendas at work which did not serve the entire communities best interest, but it did maintain a good off-road area and discourage any jobs or interest in the area which might have been created.

In conclusion, I do not have an opinion one way or the other about who the sewer provider to Emerald Springs might be. I have resolved my interest in the area to be for my vacation purposes only and if the sewer is not working, I will go elsewhere. If there are outside intruders to the boat launch area, I will deal with that separately to the HOA rules for calling the Sheriff. However, repairs and costs associated with this action should not come from my dues. I only request that the standards which Mr. Melendez is being held be made the same for Mr. Thompson.

- 1) ADEQ compliant. Able to prove proper equipment to handle the capacity and flow for 53 homes on a continuing daily basis
- 2) ACC compliant. Have a permit in place which supports Emerald Springs
- 3) Take ownership of the lift station and all servicing pipeline to the sewer with a legal document.
- 4) Contract to state no outside use of the Emerald Springs Community areas -this was previously requested from the Board, so it should be available at the April meeting for your confirmation.

It is my personal opinion the issue of sewer after this development has been around for over 15 years should not even be a subject of discussion. The entity which provides water to Emerald Springs should be responsible for its disposal, the same as in other communities. Ehrenberg has existed for years with small agreements and standalone entities which only serve to complicate matters and create hostility amongst homeowners. The Ehrenberg Community should stand up and take ownership to its responsibilities and resolve this issue and many others for the betterment of the entire area and stop leaving it up to individual efforts to survive in a clean and healthy environment. The amount of property taxes we pay is outrageous and should subsidize this effort with no additional costs to the homeowners.

It is with great appreciation that we have you, ACC, to work through all of these facts. Emerald Springs since its creation has left many subjects unresolved. The State of Arizona upon the second bankruptcy of Mr. Lambert,

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left a lot of unresolved issues which the homeowners are simply not aware of or realize the complexity to get the issues resolved. It was a mistake to sell Mr. Melendez only the 34 lots and leave the HOA to resolve its own issues, but this is reality and the HOA needs your involvement to properly resolve the controversy.

Thank you,  
Judy Jerrells

\*End of Complaint\*

**Utilities' Response:**

**Investigator's Comments and Disposition:**

Opinion docketed with the Docket Control Center of the Commission to be made part of the record. CLOSED

\*End of Comments\*

**Date Completed: 4/10/2012**

**Opinion No. 2012 - 103144**

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