

COMMONWEALTH OF KENTUCKY  
BEFORE THE UTILITY REGULATORY COMMISSION

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In the Matter of:

THE COMPLAINT OF DON LORENZ AND )  
B.P. & L. PARTNERSHIP, AGAINST )  
CAMBRON-CRALLE, INC. AND P. B. ) CASE NO. 7682  
CORPORATION )

O R D E R

Preface

On December 13, 1979, Don Lorenz and B. P. & L. Partnership, hereinafter referred to as the "Petitioner", filed with this Commission a complaint against Cambron-Cralle, Inc. and P. B. Corporation, hereinafter referred to as the "Respondent". The essence of the complaint involved the Petitioner's wish to connect to the existing sewage treatment plant owned by the Respondent.

The matter was set for hearing on February 20, 1980, at the Commission's Offices in Frankfort. At the hearing, testimony was presented by Don Lorenz and Bert Cralle. The entire matter is now considered to be fully submitted for a determination by the Commission.

Findings In This Matter

The Commission, after consideration of all the evidence of record and being advised, is of the opinion and finds:

1. That the Petitioner owns commercial property on the north side of Old Shelbyville Road in Jefferson County, Kentucky.
2. That the Respondent owns a sewage treatment plant on the south side of Old Shelbyville Road in Jefferson County, Kentucky.
3. That on November 1, 1977, Respondent entered into an agreement with S. Allan Durst and Gordon L. Moert, whereby the Respondent would either provide capacity from the existing 160,000 GPD plant or expand the sewage treatment plant, with Durst and Moert participating in the cost of the expansion for an additional 100,000 gallons. Said agreement would make sewers available for a subdivision development owned by Durst and Moert.

4. That on November 9, 1977, Durst-Moert Developers executed an agreement with the Petitioners agreeing to a sewer line extension allowing the Petitioners to use 5,000 gallons of the treatment plant's capacity, since the Petitioner's property is contiguous to the Durst-Moert property.

5. That said agreement, shown as "Appendix A", between the Petitioner and Durst-Moert Developers, allows for nullification should the line extension not be approved by either the Health Department or the Respondent.

6. That the Respondent has the option to disapprove the line extension to provide service to the petitioners property as so written in the November 9, 1977, agreement between the Petitioner and Durst-Moert Developers.

7. That in a letter, shown as "Appendix B", to Durst-Moert Developers dated October 27, 1978, the Respondent expressed serious reservations about providing service to any other property other than the subdivision being developed by Durst-Moert Developers.

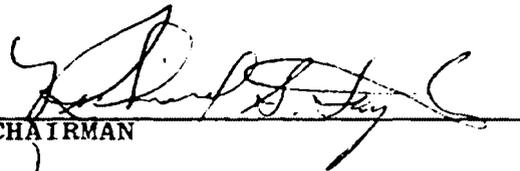
Orders In This Matter

The Commission, on the basis of the matters hereinbefore set forth, and the evidentiary record in this case:

HEREBY ORDERS that the Petitioner's request for connection to the existing sewage treatment plant owned by the Respondent be denied.

Done at Frankfort, Kentucky, this 2nd day of July, 1980.

UTILITY REGULATORY COMMISSION

  
CHAIRMAN

  
VICE CHAIRMAN

ATTEST:

  
COMMISSIONER

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SECRETARY

APPENDIX "A"

APPENDIX TO AN ORDER OF THE UTILITY REGULATORY COMMISSION IN CASE NO. 7682 DATED JULY 2, 1980

PLAINTIFF  
EXHIBIT # 3

AGREEMENT

#7682

This Agreement is made and entered into this 9th day of NOVEMBER 1977 by and between the Durst & Moert Developers, Inc., hereinafter referred to as "Company", and Donald A. Lorenz, 989 Logan Street, Louisville, Kentucky 40204, hereinafter referred to as "Engineer".

WITNESSETH:

Whereas the Company has entered into a contract dated September 20, 1977 with Development Planning & Engineering, Inc. to provide certain engineering services for a subdivision to be known as Towne Creek subdivision. The engineering contract referred to does not provide for engineering supervision, assistance in taking bids, or other items which the Company desires to have performed.

The Engineer has a 1 3/4 acre tract of ground zoned C-2 at the intersection of Old U.S. 60 and New U.S. 60, directly across from the proposed subdivision. Engineer would like to provide sanitary sewer service to said tract.

In consideration of Engineer's assistance and engineering supervision, negotiations and bidding the construction work, monthly draws, and other assistance required by the Company, the Company agrees to allow the Engineer, at no initial charge, to use up to 5,000 gallons per day of the treatment plant's capacity of the proposed addition to the Cross Creek treatment plant. It is understood that the Engineer shall design and bear all costs for extending the sewer collection lines from the end of the proposed section across Shelbyville Road to the subject property. It is also understood that the Engineer will pay the normal monthly service charge required by the plant operating company. Should approval of this line not be granted by the Health Department or for some reason the owners of the treatment plant, the P-B Corporation, not approve said use, this agreement shall be null and void.

COMPANY

ENGINEER

Durst & Moert Developers, Inc.

Donald A. Lorenz

Donald K. Moert  
S. Allen Durst  
Judith A. Moert  
Witness

Donald A. Lorenz  
Archie Morrison  
Witness

APPENDIX "B"

APPENDIX TO AN ORDER OF THE UTILITY REGULATORY  
COMMISSION IN CASE NO. 7682 DATED JULY 2, 1980

R. Exhibit #1

Denoy ~~4/3/78~~  
~~11/10/78~~  
~~11/17/78~~  
~~11/30/78~~  
12/14/78

October 27, 1978

Mr. Gordon Moert, President  
Durst & Moert Developers, Inc.  
309 Over-room Road  
Louisville, Kentucky 40243

Re: Cross Creek - Towne Creek Sanitary Sewers

Dear Gordon:

Our agreement regarding sewers only applies to the subdivision you and Alan are developing, and the extension across Old Shelbyville Road is really illegal.

I have serious reservations about wanting a commercial development on my plant, as they tend to develop chemicals, oil, etc., which is entirely a different type of waste.

I feel the line across Old Shelbyville Road should be out, and when this is done, I would like to be notified so that I can inspect the seal.

I would also like your assurance that there are no more extensions outside of your development. One of the things all treatment plant owners worry about is lines running to various places of which they have no knowledge.

Yours very truly,

Bert C. Cralle

BCC/ac