

COMMONWEALTH OF KENTUCKY
BEFORE THE UTILITY REGULATORY COMMISSION

In the Matter of:

THE COMPLAINT OF MR. WILLIAM C. BALLOU,)
LOUISVILLE, KENTUCKY, AGAINST FOREST) CASE NO. 7703
HILLS DEVELOPERS, INC.)

O R D E R

Preface

On October 16, 1979, the Commission received a letter from Mr. William C. Ballou, hereinafter referred to as "Ballou", wherein he questioned the legitimacy of a charge described as a "tap-on fee" imposed by Forest Hills Developers, Inc., hereinafter referred to as "Forest Hills". On October 12, 1979, Ballou was notified that if he did not pay a \$1,200 fee by October 22, 1979, the charge for connection of Ballou's home at 7811 Cardinal Hill Court in Louisville, Kentucky, would be raised to \$1,800.

The position of Forest Hills is set forth in a letter dated November 19, 1979, from their Attorney, Alan T. Slyn, to Ballou. In this letter, Mr. Slyn explained that the fee demanded by Forest Hills was actually a "construction aid charge".

On November 29, 1979, Mr. Ballou corresponded with Mr. Slyn and explained his understanding that three homeowners, including himself, would each pay their share of the \$2,475 expended by Forest Hills to extend the sewer main. Accordingly, Ballou sent payment of \$825, plus interest at an annual rate of nine per cent (9%) for the number of days between the date he was connected to the system and the date he rendered his \$825 payment.

The matter was set for hearing on March 10, 1980, at the Commission's offices in Frankfort. At the hearing, testimony was presented by Ballou, Jack Farley, A. B. Schlatter and Marjorie Weber. 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 Ballou owns residential property located at 7811 Cardinal Hill Court, Louisville, Kentucky. Further, that said property was a part of a tract of land conveyed to Jack Farley, Builder, by Forest Hills.

2. That Forest Hills constructed a sewer main extension in 1970 which was adequately sized to serve eleven (11) homes on Cardinal Hill Court and Timber Haven Road.

3. That the only record of the construction cost in this matter is an invoice indicating a balance of \$4,054.13 due in January 1973, with interest being added monthly to the unpaid balance.

4. That according to the record in this matter, the individual contributions in aid of construction from the said eleven (11) residents totaled \$7,462.13 at the time the case was submitted.

5. That the total of the contributions from said eleven (11) customers which are or which reasonably could be expected to be served by the sewer main extension is more than sufficient to defray the costs involved in constructing the said extension.

6. That each customer should pay his proportionate share of the costs of the said extension and that said payment should not exceed \$825 in this instance. Further, that the amounts collected by Forest Hills in excess of the said \$825 should be refunded together with ten (10) per cent annual interest thereon from date of payment to the date said refund is made.

7. That Forest Hills Developers should, within thirty days of the date of this Order, file with this Commission its schedule for making the refunds prescribed herein. Said schedule should set forth the amount of each individual refund,

the name of the party to whom each refund will be paid, the date on which the refund will be paid and the actual amount of interest to be paid on each refund. Further, that all refunds should be completed within sixty (60) days of the date of this order.

8. That Forest Hills' tariff on file with this Commission does not contain any provision for collecting a late payment or penalty charge and without such a provision, Forest Hills is not authorized to require a penalty to be paid by Ballou.

9. That the Forest Hills' tariff does not include a sewer main extension policy or any other basis for seeking contributions in aid of construction from applicants for its sewage disposal services.

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 Forest Hills shall make no further demands for additional payment from Ballou in this matter.

IT IS FURTHER ORDERED that all monies paid to Forest Hills in excess of \$825 per lot shall be refunded to said lot holders together with ten (10) per cent interest from date of payment.

IT IS FURTHER ORDERED that Forest Hills shall file with this Commission, within thirty (30) days of the date of this order, its schedule for making the refunds herein prescribed. Said schedule shall set forth the name of the party to whom each refund will be paid, the amount of each refund, the date on which each refund will be paid, and the actual amount of interest to be paid on each refund. Further, Forest Hills shall complete the distribution of said refunds and interest thereon within sixty (60) days of the date of this order.

IT IS FURTHER ORDERED that prior to beginning of any future construction of sewer main extensions on which Forest Hills will seek contributions in aid of construction from the applicants

for said extensions, Forest Hills shall request this Commission's approval of its plans for the apportionment of the costs of such extensions.

Done at Frankfort, Kentucky, this 3rd day of September, 1980.

UTILITY REGULATORY COMMISSION

Chairman

Vice Chairman

Commissioner

ATTEST:

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Secretary