

SMITH, MURDAUGH, LITTLE & BONHAM, L.L.P.

ATTORNEYS AT LAW

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SUITE 400

HOUSTON, TEXAS 77002-5211

713/652-6500

TELECOPIER 713/652-6515

W. JAMES MURDAUGH, JR.
HERMAN I. LITTLE, JR.
JAMES D. BONHAM
SARA J. ANDERSON
LORI G. AYLETT
MELISSA P. KILPATRICK
WM. SCOTT SMITH
G. TAYLOR GOODALL, JR.

CYRIL J. SMITH
(1904-1982)

June 9, 2010

VIA FEDERAL EXPRESS

Ms. LaDonna Castanuela, Chief Clerk (MC 105)
Texas Commission on Environmental Quality
12100 Park 35 Circle
Austin, Texas 78753

DIS
69568

CHIEF CLERKS OFFICE

2010 JUN 10 AM 10:02 AM

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Re: Cape Royale Utility District; Standby Fee; TCEQ Control No. 05052009-D04; Three withdrawals of Request for a Contested Case Hearing

Dear Ms. Castaneula:

We represent Cape Royale Utility District and have been authorized by its Board of Directors to forward you this information. The District has received three withdrawals of Request for Contested Case Hearing in the captioned Standby Fee Application, and I enclose them for filing with the Chief Clerk. Enclosed please find the following:

- 1) withdrawal from Sally Holland;
- 2) withdrawal from Kim and Glenn Horst; and
- 3) withdrawal from Gaudioso and Linda Taboada.

I have also included a copy of each of the withdrawals of protest for you to file stamp and return to my office, along with a self-addressed, stamped envelope for your convenience in returning the file stamped copies.

If you need further information, please do not hesitate to contact me.

Very truly yours,

Lori G. Aylett

Enclosures

cc: Mr. Craig Barnes
TCEQ Creation Review Team (w/encl.)
Mr. Tim Tucker

mw

Cape Royale Utility District

1330 Cape Royale Dr Coldspring TX 77331 Telephone: (936) 653-4861 FAX: (936) 653-2611



Withdrawal of Request for a Contested Case Hearing

Standby Fee Application

TCEQ Internal Control No: 05052009-D04

Applicant: Cape Royale Utility District

Requester Information:

Name: Holland, Sally

Mailing Address: 827 Sobota Ct
Houston TX 77079

Property Information:

Section: Royale Greens

Block: 3

Lot(s): 10

Date of Request for Hearing: September 2, 2009

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2010 JUN 10 AM 10:02
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Reason for withdrawal of request:

Cape Royale Utility District has provided a detailed explanation of the purpose and use of standby fees.

Based on the above explanation or action, we do hereby withdraw the request for a contested case hearing.

Signed: *Sally Holland* Date: 3-12-10
Property Owner

MW

Cape Royale Utility District

1330 Cape Royale Dr Coldspring TX 77331 Telephone: (936) 653-4861 FAX: (936) 653-2611



Withdrawal of Request for a Contested Case Hearing

Standby Fee Application

TCEQ Internal Control No: 05052009-D04

Applicant: Cape Royale Utility District

Requester Information:

Name: Horst, Kim and Glenn

Mailing Address: 7615 Old English Ct
Sugar Land TX 77479

Telephone: 281-451-3734

Property Information:

Section: Imperial Point

Block: 1

Lot(s): Part of 24

Date of Request for Hearing: September 14, 2009

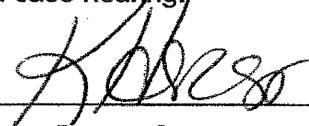
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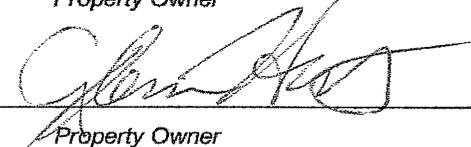
TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 JUN 10 AM 10:03
CHIEF CLERKS OFFICE

Reason for withdrawal of request:

This property will not receive an assessment for a standby fee. The actual size of the re-platted property contains 542 square feet, and is not considered large enough to develop.

Based on the above explanation or action, we do hereby withdraw the request for a contested case hearing.

Signed:  Date: 11/10/10
Property Owner

Signed:  Date: 11/10/10
Property Owner

MW

Cape Royale Utility District

1330 Cape Royale Dr Coldspring TX 77331 Telephone: (936) 653-4861 FAX: (936) 653-2611

January 8, 2010

Kim and Glenn Horst
7615 Old English Ct
Sugar Land TX 77479

RE: Request for Contested Case Hearing, TCEQ Control No 05052009-D04

Mr. & Mrs. Horst,

On October 30, 2009 Cape Royale Utility District sent a form to be filled out and returned regarding your request for a Contested Case Hearing with TCEQ dealing with standby fees assessed on a property you own in Cape Royale.

It is vital that the enclosed form be signed and returned to us.

Sincerely,



Tim Tucker
General Manager

Cape Royale Utility District

1330 Cape Royale Dr Coldspring TX 77331 Telephone: (936) 653-4861 FAX: (936) 653-2611



Withdrawal of Request for a Contested Case Hearing

Standby Fee Application

TCEQ Internal Control No: 05052009-D04

Applicant: Cape Royale Utility District

Requester Information:

Name: Taboada, Gaudioso & Linda

Mailing Address: 5022 El Claro Cir
West Palm Beach FL 33415

Property Information:

Section: Kings Ridge 1

Block: 2

Lot(s): Lots 4, 6, 59

Date of Request for Hearing: October 12, 2009

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2010 JUN 10 AM 10: 03
CHIEF CLERKS OFFICE

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Reason for withdrawal of request:

Cape Royale Utility District has provided a detailed explanation of the purpose and use of standby fees.

Based on the above explanation or action, we do hereby withdraw the request for a contested case hearing.

Signed: Date: 11/09/09
Property Owner

Signed: Date: 11/09/09
Property Owner

mw

Cape Royale Utility District

1330 Cape Royale Dr

Coldspring TX 77331

Telephone: (936) 653-4861

FAX: (936) 653-2611



November 3, 2009

Linda & Gaudioso Taboada
5022 El Claro Cir
West Palm Beach FL 33415

RE: Request for Contested Case Hearing, TCEQ Control No 05052009-D04

Mr. & Mrs. Taboada,

Cape Royale Utility District received a copy of your request for a Contested Case Hearing regarding standby fees assessed on a property you own in Cape Royale. We would appreciate the opportunity to explain the purpose and use of standby fees with the hope that you would consider withdrawing your request.

The Texas Commission on Environmental Quality allows underdeveloped water districts within Texas to apply for standby fees as a means to recoup the substantial investment in water and sewer systems that have already been built and are being maintained on a daily basis. Cape Royale has over 1,700 lots within its platted boundary, but only 654 lots have been developed and have connected to the water/sewer system. An investment of \$18 million has been made to make these services available to every lot, and maintenance of these systems is an ongoing cost. With less than half of the buildable lots paying the monthly costs of operation, we have made application to the State of Texas to continue collecting a closely regulated, fair and reasonable amount from the owners of undeveloped lots to help subsidize our expenses.

These standby fees have been included on Cape Royale property owners' annual statements for the past 12 years. If you will check your closing documents that were produced at the time of closing, you should find reference to these fees. We would also like to point out that we are working to reduce the amount of these fees, and when we reapply for eligibility in 2012, we should be seeing another significant drop in these rates.

Preparing for a contested case hearing will cost the District several thousand dollars in additional legal fees, which will only add to our operational expenses. Participating in a contested case hearing can be a lengthy and potentially expensive process for you, as well. Perhaps we can avoid the unnecessary litigation with communication.

We know that the immediate availability of excellent water and sewer service adds value to your property investment. We hope that this letter provides adequate explanation, and we are enclosing a Request Withdrawal form that needs to be signed and returned to Cape Royale Utility District after your review.

Thank you in advance for your timely response.

Sincerely,

A handwritten signature in black ink, appearing to read 'Tim Tucker', is written over a horizontal line.

Tim Tucker
General Manager

Sally Holland
827 Soboda Ct
Houston, TX 77079

Sept. 2, 2009

To the TCEQ:

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49368 *lt*

I have been sent a notice of application from Cape Royale Utility District of San Jacinto County, Texas, concerning a proposed standby fee for my undeveloped property located at lot 10, block 3, on Cherry Hills Dr, Royale Greens section of Cape Royale.. Internal Control Number is 05052009-D04.

I request a contested case hearing due to the fact that property values have depreciated terribly in that area so much so that the properties are far less than we paid for them. Also, I have paid for the water meter, and for the pipes running in front of the property, as well as last year I paid 354.20 to Cape Royale POA, 90.14 to Cape Royale Utility District and 60.48 to San Jacinto County. This is a total of 504.82.

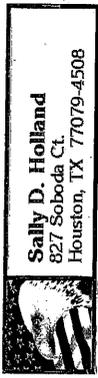
We paid 7,000.00 for the property and it is worth about 3,000.00 at the present time. Please give my request careful consideration.

Yours Truly,

Sally Holland
827 Soboda Ct
Houston, TX 77079
281-493-9722

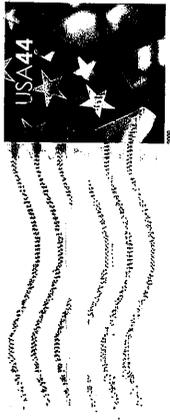
TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 SEP -4 AM 10: 09
CHIEF CLERKS OFFICE

MW



Sally D. Holland
827 Soboda Ct.
Houston, TX 77079-4508

TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY
2009 SEP -4 AM 10: 09
CHIEF CLERKS OFFICE



HOUSTON TX 772
03 SEP 2009 PM 3: 4

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SEP 04 2009

TCEQ MAIL CENTER

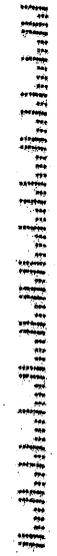
CCO Office of the Chief Clerk

MC 105, TCEQ

P.O. Box 13087

Austin, TX 78711-3087

78711+3087



September 14, 2009

Office of the Chief Clerk
MC 105
TCEQ
PO Box: 13087
Austin, TX 78711-3087

*DIS
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Subject: Cape Royale Utility District – Maintenance Standby Fee's

Dear Office of the Chief Clerk:

- 1) **We request a contested case hearing**
- 2) Property Owners/Applicants: Kim and Glenn Horst
- 3) Contact Address: 7615 Old English Ct., Sugar Land, TX 77479
- 4) Daytime Phone: 281-451-3734
- 5) Fax Number: 281-343-9170 (must be turned on, call PRIOR to faxing)
- 6) TCEQ Internal Control Number: 05052009-D04
- 7) Location: Cape Royale Subdivision, San Jacinto County, Sub-partial lot #25
- 8) Property Address: attached to: 171 Imperial Circle, Coldspring, TX 77331

CHIEF CLERKS OFFICE

2009 SEP 16 AM 11:08

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

Brief Description:

Please refer to the attached Survey.

We would like to contest any standby fees or any additional taxes, placed on a piece of property, which only is approximately 542 feet, in a long pie shape. The majority of this property is a drainage ditch. NO building of any kind will ever be or could ever be built on this sliver of property. This was NEVER a separate building lot. Therefore, a standby fee is incomprehensible.

Please allow for an EXCEPTION to be made on this property, based on the mitigating circumstances. Thus, all standby fees would be waived.

If you have any additional questions or need any additional information, please feel free to contact Kim Horst at 281-451-3734.

Thank you.

Kim Horst
Kim Horst

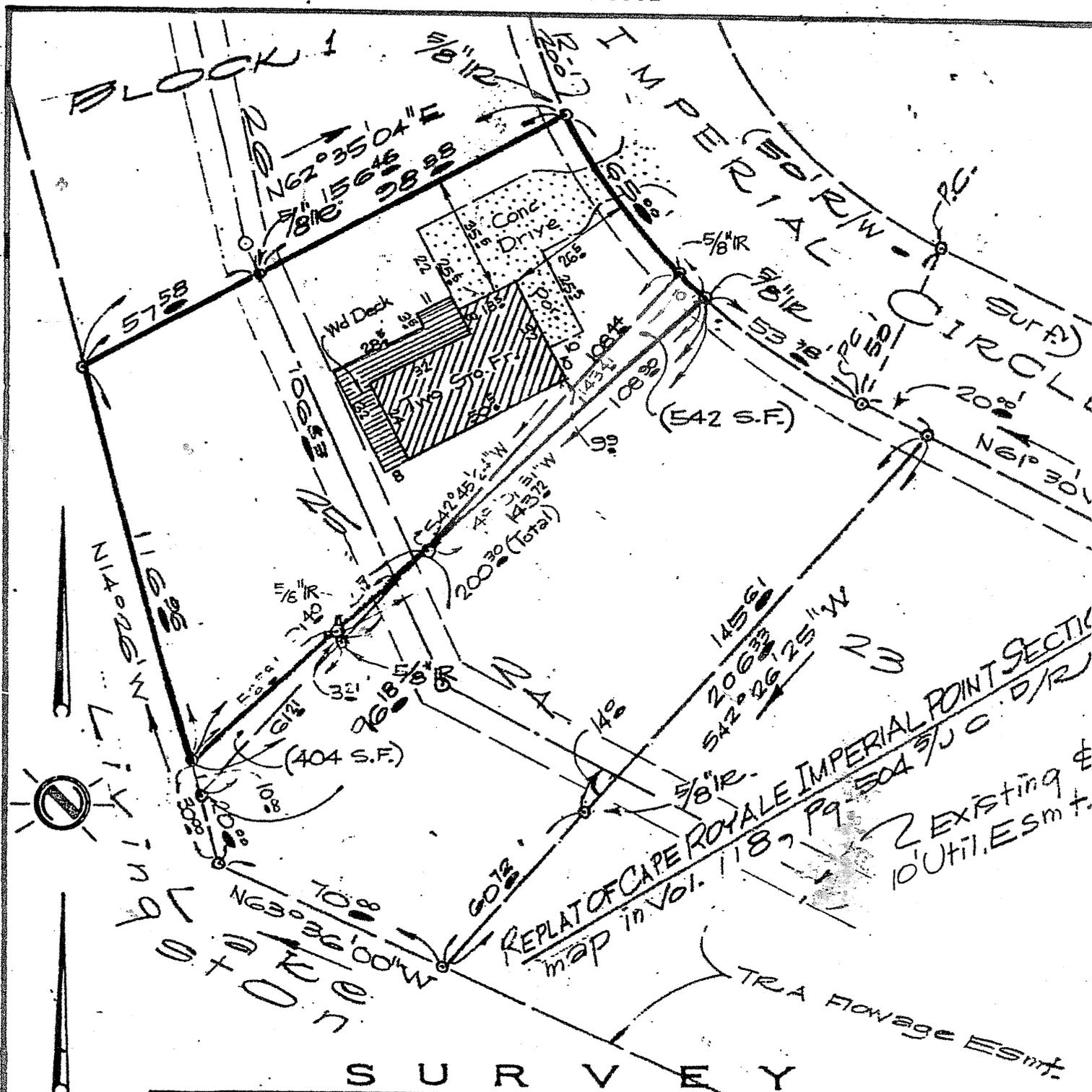
MW

THE MCKINLEY COMPANY, INC.

Box 4218

Pasadena, Texas

Phone - 473-3502



PART OF LOTS 24 & 25, BLK 1, "CAPE ROYALE" REPLAT OF IMPERIAL POINT SECTION "SUBDIVISION A" IN THE DRURY MCGEE SURVEY ABST. 28, SAN JACINTO COUNTY, TEXAS. SCALE: 1" = 40 FT. DATE: 11-24-1981.

TO ALL PARTIES INTERESTED IN TITLE TO PREMISES SURVEYED:
 I CERTIFY THAT THIS IS A PLAT OF A LOT
 No 25 IMPERIAL CIRCLE THE PROPERTY OF
 KNOWN AS
 SHOWING



Mr. Glenn A. Horst
7615 Old English Ct.
Sugar Land, TX 77479

N HOUSTON TX 773

15 SEP 2009 PM 5 T



TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 SEP 16 AM 11:07

CHIEF CLERKS OFFICE

Office of the Chief Clerk

MC 105

TCEQ

P.O. Box: 13087

Austin, TX

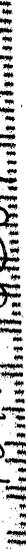
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SEP 16 2009

TCEQ MAIL CENTER
DZ

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78711-3087



October 12, 2009

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TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

2009 OCT 15 PM 2:54

CHIEF CLERKS OFFICE

Office of the Chief Clerk, MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

RE: Cape Royale Utility District standby fee

05052009-D04

Dear Sir:

We request a contested case hearing with regards to maintenance standby fee. This is a vacant lot. What is there to maintain for an undeveloped property? We don't use water nor drainage facilities. We even pay for homeowner's association dues. If there would be an adjustment of fees, we expect it to be fair and reasonable.

We live in Florida and we hope you would give consideration for those out-of-state owners with regards to newspaper publication about this notice.

Thank you for your kind attention.

Respectfully yours,



Gaudioso & Linda Taboada (owners)



Carlo & Eden Taboada (owners)

Handwritten initials

✓ ✓
Gaudioso & Linda Taboada
(owners)

-TCEQ Internal Control #05052009-D04
5022 El Claro Circle
West Palm Beach, Fl. 33415
(561)697-7763

- Cape Royale, Kings Ridge #1
239 Green Tree, Block 2, Lot 59
- Cape Royale, Kings Ridge #1
23 Green Tree, Block 2, Lot 6
- Cape Royale, Kings Ridge #1
15 Green Tree, Block 2, Lot 4

✓ ✓
Carlo & Eden Taboada
(owners)

- TCEQ Internal Control #05052009-D04
6040 Forest Hill Blvd. #104
West Palm Beach, Fl. 33415
(561)966-1110

- Cape Royale, Pine Harbour
11 Lost Tree, Block 5, Lot 3
- Cape Royale, Pine Harbour
15 Lost Tree, Block 5, Lot 4

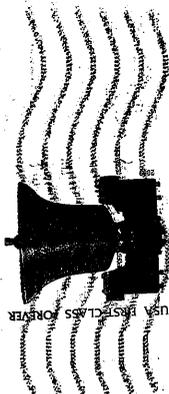


TEXAS
COMMISSION
ON ENVIRONMENTAL
QUALITY

WEST PALM BEACH

FL 334 41

12 OCT 2009 PM



2009 OCT 15 PM 2: 54

RECEIVED

OCT 15 2009

CHIEF CLERKS OFFICE

TCEQ MAIL CENTER
CC

Office of the Chief Clerk, MC 105
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, TX 78711-3087

78711-3087

