

Bryan W. Shaw, Ph.D., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 30, 2016

To: Persons on the Attached Mailing List (by mail and facsimile as indicated)

Re: Concerning the Application of The Villas at Timberwood Homeowners Association for renewal of Texas Land Application Permit No. WQ0014670001 and the related Hearing Request; TCEQ Docket No. 2015-1790-MWD.

The above-named matter is scheduled to be considered by the Texas Commission on Environmental Quality (Commission) at its April 6, 2016 public meeting. On March 30, 2016, Erin Banks, P.E. filed a request on behalf of The Villas at Timberwood Homeowners Association (Applicant) for continuance of this matter to the June 22, 2016 Commission agenda. The Applicant notes that the request for continuance is unopposed. The Applicant explains that its motion is not for purposes of delay, but to pursue settlement discussions.

Pursuant to 30 TAC § 10.4 and the Commission's Resolution issued on February 2, 2009, Docket No. 2009-0059-RES, **this matter is hereby continued to the June 22, 2016 Commission agenda**, beginning at **9:30 A.M.** The meeting will take place in Room 201S of Building E, at the Commission's offices located at 12100 Park 35 Circle in Austin, Texas. No further responses or replies are authorized by this continuance.

If you have any questions about the public meeting or related matters, please contact Ron M. Olson, Assistant General Counsel, at (512) 239-0608.

Respectfully,

A handwritten signature in black ink, appearing to read "Tucker Royall".

Tucker Royall
General Counsel

Mailing List

Mailing List
The Villas at Timberwood Homeowners Association
TCEQ Docket No. 2015-1790-MWD

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March 30, 2016

Tucker Royall
Texas Commission on Environmental Quality
Office of General Counsel
MC-101
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Austin, TX 78711-3087

**RE: WQ0014670001 Permit Renewal
Docket No. 2015-1790-MWD
Continuance Request**

Dear Mr. Royall,

On behalf of our client, The Villas at Timberwood Homeowner's Association, we are filing this Motion for Continuance to allow time for our owner's and SAWs to discuss issues related to their protest. We are requesting that this item be removed from the April 6, 2016 agenda and placed on the June 22, 2016 agenda. We have conferred with OPIC, ED, and SAWS and they have no objection to this request. This request is not to delay the process, but to allow for an opportunity for settlement discussions.

Please contact me at erin.banks@wwdengineering.net or (512) 288-2111 if you have any questions regarding this request.

Respectfully submitted,



Erin K. Banks, P. E.



CC (Via E-mail): The Villas at Timberwood Homeowner's Association
Anthony Tatu, TCEQ
Firoj Vahora, TCEQ
Kyle Lucas, TCEQ
Bridget Bohac, TCEQ
Isabel Segarra Trevino, TCEQ
Joe Freeland, Matthews & Freeland

Bryan W. Shaw, Ph.D., P.E., *Chairman*
Toby Baker, *Commissioner*
Jon Niermann, *Commissioner*
Richard A. Hyde, P.E., *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 2, 2016

TO: Persons on the Attached Mailing List

RE: Docket No. 2015-1790-MWD

**The Villas at Timberwood Homeowners Association
Request(s) filed on Permit No. WQ0014670001**

The above-referenced application and all timely filed hearing requests/requests for reconsideration on the above-referenced application will be considered by the commissioners of the Texas Commission on Environmental Quality (TCEQ) during the public meeting on **April 6, 2016**. The meeting will begin at 9:30 a.m. in Room 201S of Building E, at the commission's offices located at 12100 Park 35 Circle in Austin, Texas.

In accordance with commission rules, copies of the timely hearing requests/requests for reconsideration have been forwarded to the applicant, the Executive Director of the TCEQ, and the Public Interest Counsel of the TCEQ. Each of these persons is entitled to file a formal written response to the hearing requests/requests for reconsideration on or before 5:00 p.m. on **March 14, 2016**. Persons who have filed timely hearing requests/requests for reconsideration may file a formal written reply to these responses on or before 5:00 p.m. on **March 28, 2016**.

All responses and replies must be filed with the Chief Clerk of the TCEQ. Responses and replies may be filed with the Chief Clerk electronically at <http://www.tceq.texas.gov/goto/eFilings> or by filing an original and 7 copies with the Chief Clerk of the TCEQ. The mailing address of the Chief Clerk is: Office of Chief Clerk, ATTN: Agenda Docket Clerk, Mail Code 105, TCEQ, P. O. Box 13087, Austin, Texas 78711-3087 [Fax number (512) 239-3311]. On the same day any response is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, the Applicant and the requesters at their addresses listed on the attached mailing list. On the same day any reply is transmitted to the Chief Clerk, a copy must also be sent to the Executive Director, the Public Interest Counsel, and other requesters and the applicant at their addresses listed on the attached mailing list.

The procedures for evaluating hearing requests/requests for reconsideration are located in 30 Texas Administrative Code (TAC) Chapter 55, Subchapter F (§§55.200-211) of the commission's rules. The procedures for filing and serving responses and replies are located in 30 TAC Chapters 1 (§§1.10-11) and 55 (§55.209) of the commission's rules.

The hardcopy filing requirement is waived by the General Counsel pursuant to 30 TAC §1.10(h). Copies of these rules may be obtained by calling the Public Education Program toll free at 1-800-687-4040.

The commissioners will not take oral argument or additional comment on this matter at the public meeting. Therefore, it is important to address the sufficiency of the requests in timely filed written responses and requesters' replies. At the public meeting, the commissioners may ask questions of the applicant, requesters, or TCEQ staff. The commissioners will make a decision on the request(s) during the meeting and will base that decision on the timely written requests, public comments, any written responses and replies, any responses to questions during the meeting, and applicable statutes and rules. Copies of all timely public comments and requests have been forwarded to the Office of Alternative Dispute Resolution to determine if informal, voluntary mediation might help resolve any dispute.

The attachment to this letter is intended to help you better understand how the TCEQ processes and evaluates hearing requests and requests for reconsideration. To obtain additional information, or to ask questions about anything in this letter, please call the Public Education Program toll free at 1-800-687-4040.

Sincerely,

A handwritten signature in black ink that reads "Bridget C. Bohac". The signature is written in a cursive, flowing style.

Bridget C. Bohac
Chief Clerk

Enclosures: Copies of protestant correspondence to Applicant, Executive Director, Office of Public Interest Counsel, and Alternative Dispute Resolution.

ATTACHMENT

Procedures Concerning Requests for Reconsideration and Requests for Contested Case Hearing

The purpose of this document is to describe commission procedures for evaluating requests for reconsideration and requests for contested case hearing. This document is not intended to be a comprehensive guide to public participation at the TCEQ.

The three commissioners determine the validity of requests for reconsideration and requests for contested case hearing and vote to grant or deny the requests during a public meeting. These public meetings are usually held every other Wednesday in Austin. Prior to the meeting, the following occurs:

- (1) the written requests are distributed to the executive director, the public interest counsel, and the applicant. These persons may file a response at least 23 days before the meeting;
- (2) the requester may then file a reply to the responses at least 9 days before the meeting. This is the requester's opportunity to address any deficiencies in the request that have been identified by TCEQ staff or the applicant. The requester must submit any information he or she wishes the commissioners to consider (ex: maps or diagrams showing requester's location relative to the applicant's proposed activities) by this deadline; and
- (3) the commissioners read the requests, the responses to requests, and the replies, before the public meeting. Then, during the public meeting, the commissioners vote to grant or deny the requests.

Requests for Reconsideration

A request for reconsideration must expressly state that the person is requesting that the commission reconsider the executive director's decision and state the reasons why the commission should reconsider the executive director's decision. The commission will consider a request for reconsideration at a scheduled public meeting and grant or deny the request.

Requests for Contested Case Hearing

A contested case hearing is an evidentiary proceeding, similar to a hearing in civil court. The law allows for holding a contested case hearing on certain types of applications.

A valid request for a contested case hearing must:

- (1) demonstrate that the requester is an "affected person" with a "personal justiciable interest" related to a legal right, duty, privilege, power or economic interest which would be affected by the application in a manner not common to the general public;

- (2) if the request is made by a group or association, identify one or more members who have standing to request a hearing, and the interests the group or association seeks to protect;
- (3) expressly request a contested case hearing;
- (4) raise disputed issues of fact that are relevant and material to the commission's decision on the application which were raised during the comment period and not withdrawn prior to the filing of the Executive Director's Response to Comment; and
- (5) include any other information as specified in public notices.

The commission is authorized to protect human health and safety, and natural resources. The commission cannot address other matters outside the commission's authority, such as the effect of the existence of a proposed facility on nearby property values.

When the commissioners deny hearing requests, they often proceed to vote on approval or denial of the application. Alternatively, they may remand the application to the executive director for final action. If a hearing request is granted and the application is referred to the State Office of Administrative Hearings (SOAH), the commissioners will specify a list of issues which will be the subject of the hearing and an expected date for the SOAH judge's proposal for decision. The SOAH judge will conduct the hearing and submit a proposal to the commission to approve or deny the application.

The Alternative Dispute Resolution Office may contact requesters to determine their interest in informal discussions with the permit applicant and a mediator.

By necessity this document gives a very general description of commission procedures. If you have any questions, please call the Public Education Program toll free at 1-800-687-4040.

MAILING LIST
THE VILLAS AT TIMBERWOOD HOMEOWNERS ASSOCIATION
DOCKET NO. 2015-1790-MWD; PERMIT NO. WQ0014670001

FOR THE APPLICANT:

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REQUESTER(S):

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