



Harris County Appraisal District

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Office of General Counsel

July 20, 2010

Via Electronic Filing

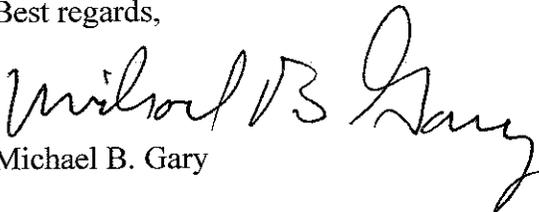
LaDonna Castanuela, Chief Clerk
Texas Commission on Environmental Quality
Office of the Chief Clerk (MC-105)
Austin, Texas 78711-3087

Re: Appeal of the Executive Director's Negative Use Determination
regarding Revised Use Determination Application No. 8262,
Mizuho Corporate Bank MHCBA (USA);
TCEQ Docket No. 2010-0252-MIS-U.

Dear Ms. Castanuela:

Attached for electronic filing, please find a copy of Harris County Appraisal Districts' Response Brief to the June 16, 2010 Appeal by Mizuho Corporate Bank (MHCBA) (USA) as referenced above.

Best regards,



Michael B. Gary

Board of Directors

Glenn E. Peters, *Chair*
Lawrence Marshall, *Secretary*
Ed Heathcott
Gary W. Stein
Toni Trumbull
Leo Vasquez

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Jim Robinson
Chief Deputy & General Counsel
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Director of Information & Assistance

Roland Altinger

Taxpayer Liaison Officer

Peggy Mason

**TCEQ DOCKET NO. 2010-0252-MIS-U
USE DETERMINATION NO. 8262**

APPEAL OF THE EXECUTIVE	§	BEFORE THE
DIRECTOR'S POSITIVE USE	§	
DETERMINATION ISSUED TO	§	TEXAS COMMISSION ON
MIZUHO CORPORATE BANK	§	
APPLICATION NO. 8262	§	ENVIRONMENTAL QUALITY

**HARRIS COUNTY APPRAISAL DISTRICT'S RESPONSE BRIEF TO THE JUNE 16,
2010 APPEAL BY MIZUHO CORPORATE BANK MHC (USA)**

Harris County Appraisal District ("HCAD") files this Response to the June 16, 2010 Appeal by MHC (USA) Leasing & Finance Corporation ("MHC") of the negative use determination issued on May 25, 2010 for Use Determination Application 8262.

HCAD respectfully requests that the negative use determination, issued by the Texas Commission on Environmental Quality ("TCEQ") on May 25, 2010 for Use Determination Application 8262, and as attached to MHC's June 16, 2010 Appeal, be upheld.¹

I. BACKGROUND

On April 28, 2010, the TCEQ heard HCAD's appeal of a positive use determination issued on December 3, 2009, which approved a name change, and back-dated the positive use determination then at issue to February 23, 2005. HCAD's appeal asked that the matter be remanded by the Commission to the Executive Director for a negative use determination.²

¹ MHC (USA) Leasing & Finance Corporation's June 16, 2010 Appeal of the Texas Commission on Environmental Quality's May 25, 2010 Negative Use Determination for Application No. 8262.

² Harris County Appraisal District's February 15, 2010 Appeal of the Texas Commission on Environmental Quality's December 3, 2009 Positive Use Determination for Application No. 8262.

On June 18, 2010, HCAD received from MHCB a courtesy copy of its June 16, 2010 Appeal.³ Attached to the June 16th Appeal was a copy of TCEQ's May 25, 2010 issuance of a negative use determination for Use Determination Application 8262.⁴

II. REPLY TO MHCB's JUNE 16, 2010 APPEAL

MHCB's June 16th Appeal raises no new substantive issues beyond those previously briefed and argued at the April 28, 2010 hearing. MHCB's Appeal simply states, "The basis for the appeal is that, contrary to the assertions in the negative use determination, MHCB is not: (1) providing a service that prevents, monitors, controls, or reduces air, water, or land pollution; or (2) participating in the commercial trade of pollution control equipment."⁵ MHCB provides nothing beyond this simple statement that it disagrees with the negative use determination. MHCB provides no legal or factual arguments, cites no legal authorities, and provides no analysis of why it believes the negative use determination is not the proper determination for the application at issue. Therefore, it is HCAD's position that the appeals, briefs, responses and replies filed prior to the April 28, 2010 hearing before the TCEQ, and the arguments presented at the oral hearing on April 28, 2010, remain precisely on point, and the resulting negative use determination should be upheld.⁶

³ MHCB (USA) Leasing & Finance Corporation's June 16, 2010 Appeal of the Texas Commission on Environmental Quality's Negative Use Determination for Application No. 8262.

⁴ Texas Commission on Environmental Quality Use Determination, dated May 25, 2010 for Use Determination Application No. 8262.

⁵ MHCB (USA) Leasing & Finance Corporation's June 16, 2010 Appeal of the Texas Commission on Environmental Quality's Negative Use Determination for Application No. 8262 at 1.

⁶ See, Harris County Appraisal District's February 15, 2010 Appeal of the Texas Commission on Environmental Quality's Positive Use Determination for Application No. 8262; MHCB(USA) Leasing & Finance Corporation's April 5, 2010 Response to the Harris County Appraisal District's Appeal of the Executive Director's Positive Use Determination for Application No. 8262; Executive Director's April 6, 2010 Response to Harris County Appraisal District's Appeal of the Executive Director's Positive Use Determination; Office of Public Interest Counsel's April 6, 2010 Response to Appeal of Positive Use Determination; and Harris County Appraisal District's April 16, 2010 Reply Brief to Response Briefs.

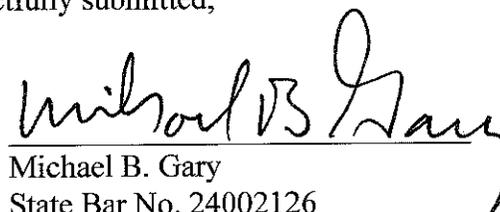
MHCB asserts, in its June 16th Appeal, that nothing in the negative use determination reflects that the Executive Director considered the economic impact of issuing the negative use determination as allegedly contemplated by the Commission during the April 28th hearing.⁷ However, the negative use determination simply states what the determination is based upon, it does not state everything that was or was not considered by TCEQ.⁸ Therefore, MHCB has been properly apprised of the basis of the TCEQ's negative use determination.

III. CONCLUSION

For the reasons stated herein, specifically, the lack of any new substantive arguments in the review of Use Determination Application 8262, HCAD respectfully requests that the Commission deny MHCB's appeal and uphold the current negative use determination.

Respectfully submitted,

By:



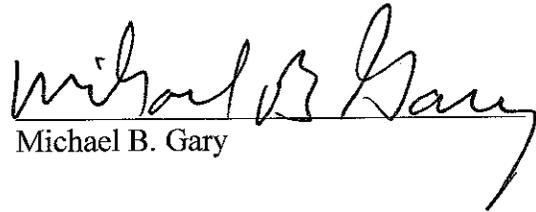
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ATTORNEY FOR,
HARRIS COUNTY APPRAISAL DISTRICT

⁷ MHCB (USA) Leasing & Finance Corporation's June 16, 2010 Appeal of the Texas Commission on Environmental Quality's Negative Use Determination for Application No. 8262 at 1.

CERTIFICATE OF SERVICE

I hereby certify that on July 20, 2010, an original of the Harris County Appraisal District's Response to the June 16, 2010 Appeal by MHCB (USA) Leasing & Finance Corporation was filed with the Texas Commission on Environmental Quality's Office of the Chief Clerk, electronically at <http://www10.tceq.state.tx.us/epic/efilings/>, and that copies were also mailed to all other persons on the attached mailing list on the same day.


Michael B. Gary

⁸ Texas Commission on Environmental Quality Use Determination, dated May 25, 2010, for Use Determination Application No. 8262 at 2.

Mailing List

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