

TCEQ DOCKET NO. 2023-0845-DIS

APPLICATION BY SAMUEL	§	BEFORE THE
SPARKMAN BRINDLEY TRUST	§	TEXAS COMMISSION ON
FOR THE CREATION OF JOHNSON	§	ENVIRONMENTAL QUALITY
COUNTY MUNICIPAL UTILITY	§	
DISTRICT NO. 1 IN JOHNSON	§	
COUNTY, TEXAS	§	

**MOTION FOR LEAVE REGARDING
RESPONSE TO HEARING REQUESTS**

In a letter in the above referenced docket dated September 20, 2023, the Chief Clerk of the Texas Commission on Environmental Quality (“*TCEQ*”) notified interested parties that the above referenced matter will be considered by the TCEQ Commissioners on October 25, 2023. The Chief Clerk’s letter provides an opportunity for certain parties to file written responses to hearing requests by October 2, 2023. Filing instructions in the Chief Clerk’s letter identify the TCEQ’s eFiling System as a method to file such responses, which note that documents must be submitted by the close of business (5 p.m. CST) unless otherwise specified.

Responses filed by Cipriani Island Laguna Azure, LLC and Megatel Homes, LLC (collectively “*Cipriani*”) were filed using the TCEQ’s eFiling System. However, due to unanticipated logistical and technical issues, Cipriani’s briefing regarding the hearing requests was received by TCEQ at 5:24 p.m. on October 2, 2023, and various other exhibits were filed less than 90 minutes later.¹ All documents filed were served on the interested persons on the mailing list included with the Chief Clerk’s letter shortly thereafter. In addition, other backup documents were filed by the TCEQ Executive Director on October 6, 2023 which are relevant to filings by the parties and for consideration Commission consideration.

¹ Part 1 and Part 2 of the exhibits to an affidavit which were filed on October 2, 2023 inadvertently included the same documents. The correct exhibits for Part 1 have been filed. The correct exhibits were served on the parties on October 2, 2022.

Pursuant to TCEQ's rules at 30 Tex. Admin. Code §1.10(g), the Commission may choose not to consider documents which have not been filed in strict compliance with TCEQ's filing procedures. Pursuant to TCEQ's rules at 1 Tex. Admin. Code §1.10(h), the Commission or general counsel may waive one or more filing requirements, and pursuant to 10 Tex. Admin. Code §10.3 the general counsel by agreement of the interested persons or on the general counsel's own motion may extend a filing deadline. To the extent the Commission may chose not to consider the documents filed by Cipriani after 5 p.m. on October 2, 2023, Cipriani requests leave so that such documents will be considered by the Commission. Cipriani does not believe that any interested person would be prejudiced since interested parties have until October 16, 2023 to file responses, and Cipriani's filings were filed and served within a very short timeframe after 5 p.m. on the due date.

On October 3, 2023, Cipriani contacted counsel for the TCEQ Executive Director, counsel for the TCEQ Office of Public Interest Counsel, counsel for the City of Mansfield ("*City*"), and counsel for Johnson County Special Utility District ("*JCSUD*"), which includes all of the interested parties on the mailing list attached to the Chief Clerk's letter. Counsel for the TCEQ Executive Director and counsel for OPIC responded on the same day that they do not object to a motion for leave to address Cipriani's documents which were filed past 5 p.m. on October 2, 2023. Cipriani contacted counsel for the City again on October 9, 2023, and on October 10, 2023 counsel for the City responded that the City would object to a motion for leave. Although the City could have filed its own objections, the City has chosen not to do so. Cipriani contacted counsel for Johnson County Special Utility District again on October 10, 2023, but no response has been received regarding JCSUD's position on a motion for leave.

If the Commission or the general counsel is inclined not to consider Cipriani's documents filed after 5 p.m. on October 2, 2023, and if the general counsel or the Commission determines not to expressly grant leave to Cipriani for its unintentional filing errors, Cipriani requests that the above referenced matter be continued and considered by the Commissioners at the next available date.

Respectfully Submitted,




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**COUNSEL FOR:
CIPRIANI ISLAND LAGUNA AZURE, LLC
MEGATEL HOMES, LLC**


CERTIFICATE OF CONFERENCE

I hereby certify that I have consulted with counsel for the TCEQ Executive Director, counsel for the Office of Public Interest Counsel, counsel for the City of Mansfield, and counsel for Johnson County Special Utility District regarding the above referenced Motion for Leave Regarding Response to Hearing Requests. It is my understanding that neither the TCEQ Executive Director or the Office of Public Interest Counsel objects, but that the City of Mansfield objects. Johnson County Special Utility District has not responded.

By: 
_____ Derek Seal

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of Cipriani Island Laguna Azure, LLC's and Megatel Homes, LLC's foregoing Motion for Leave Regarding Response to Hearing Requests has been forwarded via electronic mail or U.S. Mail to the persons on the mailing list attached hereto, on October 11, 2023.

By: 
_____ Derek Seal

MAILING LIST
Johnson County Municipal Utility District No. 1
Docket No. 2023-0845-DIS; Internal Control No. D-
07202022-033

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