

## Mehgan Taack

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**From:** PUBCOMMENT-OCC  
**Sent:** Monday, April 24, 2023 11:36 AM  
**To:** PUBCOMMENT-OCC2; PUBCOMMENT-OPIC; PUBCOMMENT-ELD; Pubcomment-Dis  
**Subject:** FW: Public comment on Permit Number D-10132022-026  
**Attachments:** Req. for Contested Hearing (JCMUD #2).pdf

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**From:** vanessa.ramirez@mansfieldtexas.gov <vanessa.ramirez@mansfieldtexas.gov>  
**Sent:** Friday, April 21, 2023 4:12 PM  
**To:** PUBCOMMENT-OCC <PUBCOMMENT-OCC@tceq.texas.gov>  
**Subject:** Public comment on Permit Number D-10132022-026

**REGULATED ENTY NAME** JOHNSON COUNTY MUNICIPAL UTILITY DISTRICT NO 2

**RN NUMBER:** RN111588778

**PERMIT NUMBER:** D-10132022-026

**DOCKET NUMBER:**

**COUNTY:** JOHNSON

**PRINCIPAL NAME:** JOHNSON COUNTY MUNICIPAL UTILITY DISTRICT NO 2

**CN NUMBER:** CN606069250

**FROM**

**NAME:** Vanessa Ramirez

**EMAIL:** [vanessa.ramirez@mansfieldtexas.gov](mailto:vanessa.ramirez@mansfieldtexas.gov)

**COMPANY:** City of Mansfield

**ADDRESS:** 1200 E BROAD ST  
MANSFIELD TX 76063-1805

**PHONE:** 8172764274

**FAX:**

**COMMENTS:** On behalf of the City of Mansfield, please accept the attached request for contested hearing on the above referenced petition.



April 21, 2023

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

RE: Application by Cipriani Island Laguna Azure, LLC, to the Texas Commission on Environmental Quality for creation of Johnson County Municipal Utility District No. 2 (the "District"), TCEQ Internal Control No. D-10132022-026.

Dear Chief Clerk:

I am sending this correspondence on behalf of the City of Mansfield, Texas (the "City"). Please direct all future correspondence on this application to me, Vanessa Ramirez, at 1200 E. Broad St., Mansfield, Texas 76063. My daytime phone number is (817) 276-4274. The law firm of Taylor Olson Adkins Srolla & Elam, LLP serves as general counsel and city attorney to the City and should be copied on any and all correspondence relating to this matter, with attorney in charge designated as Bradley Anderle, 6000 Western Place, Ste. 200, Fort Worth, Texas 76107.

Cipriani Island Laguna Azure, LLC is applying to the Texas Commission on Environmental Quality (the "TCEQ") for creation of a new municipal utility district entirely within Johnson County, Texas and wholly within the extraterritorial jurisdiction of the City of Mansfield, Texas. The City of Mansfield opposes the creation of the District.

**I/We (the City) request a contested case hearing.**

The City is an "affected person" entitled to a contested hearing on the issues raised in this hearing request because the City has interests related to legal rights, duties, privileges, powers, or economic interests affected by the application that are not common to the general public and is an affected person under 30 TEX. ADMIN. CODE § 55.256. The proposed municipal utility district will be located wholly within the extraterritorial jurisdiction of the City. The City does not consent to its creation. Pursuant to Texas Water Code § 54.016(a), land within the City's extraterritorial jurisdiction cannot be included within the boundaries of a municipal utility district without the City's consent. For this and additional reasons, local governments, such as the City, with authority under state law over issues contemplated by an application, may be considered affected persons under 30 TEX. ADMIN. CODE § 55.256(b). The City has authority to protect the public health and safety within its extraterritorial jurisdiction and to regulate development within its extraterritorial

jurisdiction. TEX. LOC. GOV'T. CODE §§ 42.001, 212.044. Various city functions and services, including water and sewer services, emergency services, and health and safety concerns, may be affected by the creation of the District and are not taken into account by the application.

As a regional water and sewer service provider, the City has an interest to ensure that new development in its extraterritorial jurisdiction regionalizes with existing systems to the greatest extent possible in order to protect the public health, safety, and welfare of its cities. *See* Texas Water Code § 26.081(a). The City therefore has an interest in ensuring the creation and operation of the proposed municipal utility district is protective of the public health and safety within its extraterritorial jurisdiction. Thus, the City has authority under state law over the issued contemplated by this application, has interests not common to the general public, and is therefore an affected person. 30 TEX. ADMIN. CODE § 55.256(b).

The creation of the District is not proper because the City does have the reasonable ability to serve the property to be included in the District and has made a commitment with sufficient funds available to provide water and wastewater service adequate to serve the proposed development at a reasonable cost to the landowner. On July 5, 2022, the City of Mansfield advised the intended developer of the property to be included in the District, through the developer's attorney, that the City has agreed to provide water and sanitary sewer service to the subject property and will execute a legally binding contract on commercially reasonable terms to provide the service within the time limits prescribed by Section 42.042, Texas Local Government Code. Since this date, the City and representatives of the developer have been in communications related to the development of the property to be included in the District.

The creation of the District is not feasible and practical and is not necessary and would not be a benefit to the land proposed to be included in the District. The creation of the District is not necessary and would not benefit the land to be included in the District because the City can provide water and sanitary sewer service to the property, likely cheaper and at a better quality than the District. The City routinely provides public water and public wastewater service to development within the City and within significant portions of its extraterritorial jurisdiction, and the City is well equipped to provide such services to this property as well. It is consistent with the public interest to limit the number of water and wastewater providers in the state so that the providers can be more easily and carefully managed and monitored. The creation of additional private or semi-private water and wastewater providers and facilities increases the need for inspection, testing and monitoring, and, in circumstances where there is an established provider able to serve, this creates an increased burden without a concomitant public benefit.

Further, there are unanswered questions as to:

- (1) the reasonableness of projected construction costs, tax rates, and water and sewer rates; and
- (2) whether the District and its system and subsequent development within the District will have an unreasonable effect on land elevation, subsidence, groundwater level within the region, recharge capability of a groundwater source, natural run-off rates and

drainage, water quality, and the total tax assessments on all land located within the District.

For these reasons, the City requests that the Commission find that the City is an affected person, grant the City's request for a contested case hearing, and deny the petition for creation of the District.

Sincerely,



Vanessa Ramirez  
Assistant City Manager

cc (via email): Joe Smolinski, City Manager (joe.smolinski@mansfieldtexas.gov)  
Jeff Price, Executive Director of Public Works (jeff.price@mansfieldtexas.gov)  
Bradley A. Anderle, City Attorney (banderle@toase.com)