

TCEQ DOCKET NO. _____

APPEAL BY CLYDE JOHNSON AND SONS HEREFORD RANCH, LTD. OF THE DECISION BY THE BOARD OF DIRECTORS OF JOHNSON RANCH MUNICIPAL UTILITY DISTRICT PURSUANT TO TITLE 30 TEXAS ADMINISTRATIVE CODE § 293.180	§ § § § § § §	BEFORE THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY
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JOHNSON PARTNERSHIP’S APPEAL OF DISTRICT DECISION

TO COMMISSIONERS OF TEXAS COMMISSION ON ENVIRONMENTAL QUALITY:

Petitioner, Clyde Johnson and Sons Hereford Ranch, Ltd. (the “**Johnson Partnership**” or “**Petitioner**”), has been aggrieved by the decision of Respondent, Johnson Ranch Municipal Utility District (the “**District**” or “**Respondent**”), denying Petitioner’s use of District facilities. Therefore, pursuant to Section 293.180 of Title 30, Texas Administrative Code (“**TAC**”) and Section 54.239 of the Texas Water Code (“**TWC**”), the Johnson Partnership files this appeal to the Texas Commission on Environmental Quality (“**TCEQ**”).

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I. NATURE OF DISPUTE

Petitioner, the Johnson Partnership, is the owner of 24 acres of land (the “**Homestead Lot**”) within the District. The District is a body politic and corporate, and a political subdivision of the State of Texas operating under Chapters 49 and 54 of the TWC.¹ The District’s boundaries encompass the entire 774.5-acre Johnson Ranch Subdivision in Comal County, which includes the Homestead Lot. The Johnson Partnership is under contract to sell the Homestead Lot to a developer for high-end multifamily housing, such as townhomes and duplexes. Without access to the District’s water and wastewater services, the development cannot occur, the multimillion-dollar sales contract will terminate, and the property’s fair market value will plummet.

The District’s Board of Directors (the “**Board**”) is composed of property owners in the Johnson Ranch Subdivision. They have expressed opposition to multifamily development of Petitioner’s property. Without a valid legal or factual basis, the Board has interfered with normal arrangements by District personnel to deliver water and wastewater services to the Homestead Lot.

In an apparent stalling tactic to block Petitioner’s sale of the Homestead Lot to the multifamily developer, the Board has declined to take any official action on Petitioner’s request for service despite including the request on its published agenda month after month.² Petitioner cooperated with Respondent in prolonged negotiations over the issue, including a day-long mediation, without success.

¹ Order Granting Conversion of Comal County Water Control and Improvement District No. 1 into a Municipal Utility District. Ex. A.

² Board Agendas and Minutes attached as Ex. B.

Finally, Petitioner made formal demand on the Board to make a decision on Petitioner's request for utility service at the Board's most recent scheduled meeting (June 10, 2025). If not, Petitioner gave notice that it would take the Board's inaction as a decision of denial.³ Nevertheless, on June 10, 2025, the Board failed to publicly deliberate and vote on Petitioner's request for service. Instead, the Board's President sent a letter notifying Petitioner that "Johnson Ranch MUD is unable to approve plans in violation of the Development Agreement to which you and Johnson Ranch MUD are parties."⁴

If the Board authorized the President's letter, then it deliberated and voted in secret to deny the Johnson Partnership's request for utility services. This would be unlawful and a violation of the Texas Open Meetings Act, Chapter 551, Texas Government Code; *see, e.g., Acker v. Texas Water Commission*, 790 S.W.2d 299 (Tex. 1990). If the Board did not authorize the President's letter, then she unlawfully engaged in an *ultra vires* action in violation of Petitioner's rights. In either case, the District's decision was not only wrong on the merits, but also outside of its statutory authority.

The Board has not permitted the District engineer to proceed with analysis of water and sewer demands for the proposed development, and therefore did not base its decision on engineering or capacity reasons. Furthermore, the planned development will add significant *ad valorem* property value and tax revenues for the District. Accordingly, the Board did not base its decision on harm to the District's property values or tax revenues. This highlights the Board's dereliction of duty in failing to hold a public hearing and vote on Petitioner's request, which would benefit the taxpayers of the District who have the burden of paying for up to \$71,580,900.00 in bond indebtedness.

³ Correspondence attached as Ex. C.

⁴ Correspondence attached as Ex. D.

The alleged basis for the District’s denial of utility services to the Johnson Partnership is the Board’s unilateral determination that the proposed development would violate land-use rules contained in the Development Agreement for the Subdivision. The Development Agreement specifically vests the City of Bulverde, not the District, with authority to regulate and enforce those land-use rules.⁵ The City has already approved the Johnson Partnership’s planned multifamily use of the Homestead Lot.⁶ To the extent that the TCEQ finds it appropriate to examine the contractual question, Petitioner demonstrates below that multifamily development of the Homestead Lot will not violate the Development Agreement. The weakness of the Board’s argument raises the reasonable inference that the argument is no more than a pretext to cover the Board members’ unsupported, subjective dislike of the idea of even high-value multifamily residences in their neighborhood.

In summary, the District has no statutory or contractual authority to adjudicate land-use issues, it may not unilaterally deny utility services for land-use reasons, it has promulgated no regulations or procedures for such an adjudication, and the Board took action in violation of state law and its own rules. Finally, the Board is wrong that Petitioner’s development plans violate the Development Agreement’s land-use rules. For the reasons provided below, the TCEQ should grant this appeal and reverse the District’s decision to deny utility services to the Johnson Partnership’s 24-acre property within the District’s boundaries.

II. BACKGROUND

The Johnson Ranch Subdivision (the “**Subdivision**”) is located in and near the City of Bulverde (the “**City**”) in Comal County, Texas. On July 22, 2008, the City exercised its authority

⁵ Development Agreement, including the original Master Plan, attached as Ex. E.

⁶ Correspondence attached as Ex. F.

under the Texas Local Government Code⁷ to enter into the Johnson Ranch Subdivision Development Agreement (the “**Development Agreement**”)⁸ concerning the Subdivision, which lies almost entirely outside the City’s corporate limits in the ETJ. By executing the Development Agreement with the Developer⁹ and the Landowner,¹⁰ the City extended its planning authority over the Land.¹¹ The Development Agreement incorporates a development plan prepared by the Developer and approved by the City. The Development Agreement authorizes the City’s enforcement of land-use and development regulations agreed to by the Developer and the City. By its terms, the Development Agreement’s land-use rules control over other regulations that would normally apply within the City’s limits and extraterritorial jurisdiction.

The District’s predecessor in interest was included as a party to the Development Agreement. The District’s portions of the contract address its regulation by the City in connection with its obligation to provide water and wastewater utility services to the planned development, its issuance of bonds, its possible subdivision, and its possible annexation by the City. Conspicuously, the District was left out of the contractual provisions for the regulation of land use and development. By its express terms, the Development Agreement vests such regulatory enforcement with the City. The Development Agreement contains no provision for the District to make land-use determinations or to deny utility service on the basis of land-use rules. Accordingly, the District has never promulgated any rules or procedures for such a decision-making process.

⁷ Subchapter G, Chapter 212

⁸ Development Agreement, including the original Master Plan, attached as Ex. E.

⁹ DH/JB Development, Inc.

¹⁰ Petitioner, Johnson Partnership.

¹¹ The Johnson Ranch Subdivision.

The District was created, organized and exists under state law for the purpose of furnishing water and wastewater utility services to properties within the Subdivision which comprises its boundaries. It is the District's statutory obligation under the Texas Water Code to provide utility services to properties within its boundaries. There is no language in the Development Agreement that specifically prohibits multifamily use of the Homestead Lot. Nevertheless, the current Board of the District is obstructing this property owner's right under the Development Agreement to develop the Homestead Lot. The Board's denial of service is made without legal or statutory authority. It has promulgated no rules or regulations under TWC 54.205 concerning land-use requirements for utility service. It has identified no District rules for utility service that Petitioner has violated or failed to satisfy. The Board's entire strategy depends on using a distorted interpretation of the Development Agreement to refuse District services, thereby obstructing the development. The Board is wrong in the following respects:

- i. The Development Agreement vests the City, not the District, with the authority to regulate and enforce the land-use and development plan in the Subdivision.
- ii. The Board has denied Petitioner's request without due process and in violation of the Texas Open Meetings Act.
- iii. The land-use provisions in the Development Agreement are between the City, the Developer, and the Landowner. They do not include the District.
- iv. The City, which has the jurisdiction to enforce the Subdivision's land-use and development rules, accepts the Johnson Partnership's proposed multifamily use of the Homestead Lot.
- v. The District has no legal authority to refuse utility services to property owners in the District on the basis of an adjudicated land-use dispute.

- vi. The Board's failure and refusal to approve utility services to the Homestead Lot in an attempt to enforce land-use rules in the Development Agreement is illegal and unauthorized.
- vii. Assuming, for argument's sake only, that the Subdivision's density rule for single-family lots apply to this multifamily lot, the Homestead Lot actually complies with proper application of the rule.

III. PROCEDURAL HISTORY AND JURISDICTION

Petitioner files this appeal to the TCEQ out of an abundance of caution.¹² The language of the Texas Water Code is arguably broad enough to encompass Petitioner's complaint against the District. It provides:

"Section 54.239. APPEAL TO THE COMMISSION OF DECISION OF BOARD REGARDING FACILITIES. A person aggrieved by a decision of a board involving the cost, purchase, or use of facilities may appeal the decision to the commission by filing a petition with the commission seeking appropriate relief within 30 days after the date of the decision."

The Texas Administrative Code's language in Section 293.180 is nearly identical to the TWC's above-quoted provision. Petitioner clearly has been aggrieved by the conduct of the District, which is denying it utility services.

However, the Board has never made an official decision on Petitioner's request for utility services by publicly deliberating and voting on the matter. In its most recent meeting, the Board took no official action on the agenda item, and it has not published nor approved minutes for the

¹² Petitioner also filed suit in Cause No. C2025-0300E in the 466th District Court of Comal County.

meeting. Instead, by letter dated June 10, 2025, the Board’s President communicated to Petitioner that utility services will not be provided to the Johnson Partnership’s property in the District.

Petitioner has not found applicable precedent for seeking relief from the TCEQ when a District declines to provide utility services, but this situation would seem to fall within the statutory language of: “*A person aggrieved by a decision of a board involving the... use of facilities may appeal the decision to the commission. . . .*”

In addition, although the statutory appeal language is permissive (“*may appeal*”), Petitioner has found no caselaw determining whether or not the appeal provisions of the TWC and the TAC are administrative remedies which must be exhausted as a prerequisite for judicial action. Given the negative consequences of a potential failure to exhaust administrative remedies, Petitioner seeks relief from the TCEQ for the District’s refusal to provide utility services to the Johnson Partnership’s property in the District.

IV. EVIDENCE, ARGUMENT, AND ANALYSIS

A. Petitioner’s Rights as a Property Owner in the District.

Section 54.201 of the TWC gives the District the monopoly power and duty to accomplish the purposes for which it was created. *See* TWC 13.001(b)(1) and *City of Houston v. Northwood Municipal Utility District No. 1*, 73 S.W.3d 304, 312 (Tex. App.-Houston [1st Dist.] 2001)

The District’s statutory purposes include:

- (1) supply water for municipal uses, domestic uses, power, and commercial purposes and all other beneficial uses or controls;*
- (2) collect, transport, process, dispose of, and control all domestic, industrial, or communal wastes whether in fluid, solid, or composite state;*

As a property owner within the boundaries and jurisdiction of the District, the Johnson Partnership has the right to receive utility services from the District. The District and its Board must fulfill all their duties and obligations to the District's property owners, including the Johnson Partnership under the Texas Water Code, the Development Agreement, and the Amended and Ratified Utility Construction Agreement Between Johnson Ranch Municipal Utility District and DHJB Development, LLC ("**Utility Agreement**").¹³

The sole basis given by the District for denying its obligation to provide utility services is its claim that the Johnson Partnership's plans for the Homestead Lot violate the Development Agreement's land-use rules. Thus, the District is relying on contractual covenants to restrict the Johnson Partnership's use of its own property. In a new decision by the Texas Supreme Court¹⁴ dealing with deed restrictions concerning density, the Court noted:

"[C]ovenants restricting the free use of property are not favored . . . because the right of individuals to use their own property as they wish remains one of the most fundamental rights that individual property owners possess." Tarr v. Timberwood Park Owners Ass'n, 556 S.W.3d 274, 280 (Tex. 2018) (cleaned up)."

B. District's Lack of Authority to Deny Service to Petitioner.

It is the District's obligation to provide water and waste-water services to taxpaying and rate-paying property owners within the Johnson Ranch Municipal Utility District. The Johnson Family Partnership is a taxpaying property owner in the District, and it is in compliance with the District's rules of service.

The District only has the authority it has expressly been delegated by the State of Texas in the TWC. The District has no statutory grant of authority to adjudicate land-use rights.

¹³ Utility Agreement, dated February 27, 2012, attached as Ex. G.

¹⁴ *EIS Development v. Buena Vista Area Assoc.*, No. 23-0365, ___S.W.3d___ (Tex. 2025), attached as Ex. H.

Accordingly, it has promulgated no rules for the adjudication of land-use rights. The District's application process does not involve land-use approval. The only land-use jurisdiction in the District rests with the City of Bulverde, which is the local platting authority within its corporate limits and ETJ. Under the Development Agreement the City, not the District, has the authority for land-use planning and enforcement. The City has confirmed in writing that the Homestead Lot may legally be developed as a multifamily residential lot.¹⁵ The Johnson Partnership's right to develop or sell the Homestead Lot for multifamily residential use is permitted under the Development Agreement.

The Texas Water Code does not authorize the Board Members to adjudicate property rights or to unilaterally withhold utility service from District citizens with whom it disagrees. If a water District acts beyond its statutory powers, its actions are void. *Tri-City Fresh Water Supply Dist. No. 2 of Harris Cty. v. Mann*, 135 Tex. 280, 142 S.W.2d 945, 948 (1940); *see also Mobil Oil Corp. v. Matagorda County Drainage Dist. No. 3*, 597 S.W.2d 910, 913 (Tex.1980). Such unilateral action without due process would be oppressive and cause significant financial loss to the Johnson Partnership. The District may seek judicial review of a land-use dispute, but it has not been given adjudicative authority. The District has not been given such extreme power by the Development Agreement or by the statutes authorizing its existence and operations.

The Development Agreement's land-use plan was expressly agreed to by the City, the Developer, and the Landowner (Johnson Partnership). On Pages 1-2 of the Development Agreement, it specifies:

¹⁵ Correspondence attached as Ex. F.

*“WHEREAS, the **City** is authorized to make and enter into this Development Agreement with **Developer** and **Landowner** in accordance with Subchapter G, Chapter 212, Local Government Code to accomplish the following purposes:*

*A. **Extend the City’s planning authority** over the Land by providing for a **development plan prepared by Developer and approved by the City** under which certain general uses and development of the Land are authorized.*

*B. **Authorize enforcement by the City of land use and development regulations** other than those that lawfully apply within the City limits and/or ETJ as may be **agreed to by Developer and City.***

NOW THEREFORE, **Developer, Landowner and City**. . . agree as follows:”

[emphasis added]

As to the District’s involvement in the Development Agreement, Page 2 goes on to address the City’s contractual relationship with the District:

C. Provide for **infrastructure** for the Land including: (i) streets and roads, (ii) street and road drainage, (iii) land drainage; (iv) internal water storage and distribution, wastewater collection, treatment and disposal, and other utility systems, and (v) provide for good-faith negotiation of limited purpose annexation of commercial areas subject to satisfactory negotiations of a strategic partnership agreement between the **City** and [the **District**].

Contractual terms between the City and the District are contained in Articles IV, V, and VI of the Development agreement, which are immaterial to this appeal.

C. Petitioner’s Development Does Not Violate Development Agreement.

In her letter¹⁶ denying utility services to Petitioner's Homestead Lot, the Board's President alleges two reasons why the multifamily development would violate the land-use restrictions in the Development Agreement, to wit:

- i. The District claims that the Development Agreement does not permit multifamily residential development in those areas designated in the Master Plan for High Density Residential Use.
- ii. The District also makes the convoluted claim that, if multifamily development occurs on the Homestead Lot, it would thereby be "converted" from a residential lot to a mixed-use lot, which would cause the existing development in the Subdivision to "fall out of compliance with density requirements."

Both of the District's purported reasons for denying service depend on a rewriting of the Development Agreement to get the result the Board desires. The Development Agreement is silent on the categories of residential development allowed in the residential areas of the Subdivision, and it says nothing about the density effect of developing a residential lot for multifamily, rather than single-family use.

1. The Development Agreement's Land-Use Plan

The Johnson Ranch Master Plan¹⁷ was incorporated into the Development Agreement. As shown by the original Master Plan, land use in the subdivision was divided between areas for high-density residential development and areas for high-density mixed-use development. The vast majority of the 775-acre subdivision (including the Homestead Lot) was set aside for high-density residential development in the City's ETJ. Since 2008, most of that residential development has

¹⁶ Ex. D.

¹⁷ The Development Agreement's Master Plan is attached as Ex. E.

consisted of dense single-family lots. But, there is nothing stated in the Development Agreement or the Master Plan to disallow other residential uses such as duplexes, townhomes, and triplexes in the Residential Area.

Except for a few strips of land along Hwy 281 and FM 1863, Johnson Ranch is outside of City limits, and it is not subject to City land-use zoning regulations. City subdivision regulations apply only within its corporate limits, and by its terms, the Development Agreement controls over City ordinances. Nevertheless, the District points to City ordinances for the proposition that “residential use” includes “single-family residential uses only.” However, the City’s zoning regulations permit “residential development that accommodates multiple families on a single lot at densities greater than those permitted in the single-family zoning districts.” City of Bulverde, TX, Code of Ordinances, Chapter 14, Article 3, Section 14.03.007(a).

Finally, the District’s argument misses the point. The Development Agreement states:

“The Project is a master planned, mixed use community that may include the lawful uses, together with park and recreational facilities, depicted on the Master Plan.”

The Master Plan does not designate any area in the Subdivision for single-family lots only, but rather for “Residential Development.” Multifamily residences are in no way excluded from “Residential Development.”

The District has argued that multifamily housing is only permitted in the Mixed-Use area because it is explicitly permitted there. This false logic would mean that single-family housing is only permitted in the Mixed-Use area because it also is explicitly permitted there. In Note 12 of

the Master Plan, both multifamily housing and single-family housing are explicitly permitted in the mixed-use area:

*“Mixed use areas in the Bulverde ETJ may be used for any lawful use authorized or allowed pursuant to state law including, but not limited to, the following types of development: office, retail, commercial, restaurant, warehouse, industrial, theatre, outdoor sales and **residential housing including townhomes, condominiums, duplex / triplex / fourplex, multi-family apartments, and single family housing.**”* [emphasis added]

Thus, the District’s attempt to rewrite the actual language and meaning of the Development Agreement would end in a ridiculous result, with no residential development permitted in the area designated for “Residential Development.” This is what the Texas Supreme Court is warning about in *EIS Development v. Buena Vista Area Assoc.*, No. 23-0365, ___S.W.3d___ (Tex. 2025)¹⁸

Historically, when the Subdivision was created, the Johnson Partnership retained the 24-acre Homestead Lot which included the family’s traditional homestead. The Homestead Lot is one lot in an area planned for residential use. The large size of the Homestead Lot makes it suitable for multifamily residences. The City has confirmed in writing that the Johnson Partnership has the right under the Development Agreement to develop or sell the Homestead Lot for the multifamily residential uses now planned by the Johnson Partnership.¹⁹

Residential development is development of real estate for dwelling or living. Unless otherwise specified, “residential” encompasses both single-family residential use and multifamily residential use. Petitioner’s proposed development of the Homestead Lot is for one land use only

¹⁸ Ex. H.

¹⁹ Correspondence attached as Ex. F.

-- multifamily residential use. There will be no mixing of uses. Plans for the Homestead Lot will exclude traditional apartment complexes (2-story+ residential buildings) and will include only townhomes, duplexes, and triplexes.

2. Single-Family Lot Density Rules Do Not Apply to This Multifamily Lot

There is only one density restriction in the Development Agreement and it applies to single-family residential lots only. The Agreement contains no density restrictions on any other form of land use:

3.01 The Project: The Project is a master planned, mixed use community that may include the lawful uses . . . depicted on the Master Plan.

*3.02 Single Family Residential Use: All single-family residential lots shall be of a minimum dimension of 50-feet by 110-feet. . . .The density of all single-family residential areas shall be limited to one **single-family lot** per 30,000square feet of gross land area within the residential portion of the Land (which includes all areas not developed as commercial, retail, industrial or mixed use). The density in individual single-family plats may vary above or below this overall density requirement, so long as the overall completed single-family residential density of the Project at full build out does not exceed the requirements of this Section 3.02. With each plat submittal, Developer shall provide a cumulative calculation of single family lots platted versus the total single family lots allowed based on the area of the residential development areas designated on the Project Master Plan.*

*3.04 Mixed Use Area: Within the mixed use areas as shown on the Project Master Plan, Developer may develop **all legal uses including, but not limited to**, apartments, town homes, condominiums, hospital services, medical offices, convalescent services, assisted living, nursing homes, other congregate care facilities, general retail sales, restaurants, theatres, commercial recreation facilities, hotel or motel facilities, general or professional offices, childcare*

services, communication services, office warehouse and/or light manufacturing. All such mixed use developments shall comply with the Applicable Rules. . . .

Section 3.02 is the only provision in the Development Agreement regulating lot size²⁰ and density²¹ in the subdivision. By its express terms, Section 3.02 applies only to the lot size and density of “single-family residential lots.” Neither the Development Agreement nor the Master Plan limit the subdivision’s Residential Area to single-family residences only, nor do they prohibit other residential uses from the Residential Area, such as build-to-rent duplexes, townhomes, and triplexes.

In summary, the Subdivision has no density restrictions on multifamily residential lots (whether located in the Residential Area or in the Mixed-Use Area), commercial lots, retail lots, industrial lots, or mixed-use. Thus, the Board’s statutorily unauthorized density rationale for interfering with multifamily development of the Homestead Lot is without basis. Last month in *EIS Development v. Buena Vista Area Assoc.*, the Texas Supreme Court made clear that contractual restrictions on land are not to be enforced beyond the reasonable meaning of the restrictive language itself:

“Because deed restrictions are “subject to the general rules of contract construction,” the omitted-case canon of textual interpretation helps courts understand the scope of a restriction and identify uses that fall outside that scope. The canon provides that “[n]othing is to be added to what the text states or reasonably implies That is, a matter not covered is to be treated as not covered.” We presume the drafters “chose the [text’s] language with care, purposefully choosing each word, while purposefully omitting words not chosen.”

Judges “should not presume that every [text] answers every question, the answers to be discovered through interpretation” or “reconstruct[ion of] what [the drafters] would

²⁰ Lot size refers to the boundary dimensions of a lot.

²¹ Density refers to the number of lots within the subdivision.

have wanted.” Indeed, a perceived gap is simply “the space between what the [text] provides and what the gap-finding judge thinks it should have provided,” so filling it would “ultimately come[] down to the assertion of an inherent judicial power to write the [text].” “The traditional view” is that judges have no such power: “[t]he absent provision cannot be supplied by the courts.” Instead, “when [an author] prescribes in a fashion that courts regard as providing only ‘in part’ and not ‘in full,’ what remains is to be governed by preexisting law.” “[C]ourts will not rewrite [texts] to insert provisions parties could have included or to imply restraints for which they have not bargained.” [citations omitted]

And, of particular import to the Johnson Partnership’s position:

“If “the objective intent of the drafters of the restrictive covenant as it is reflected in the language chosen” “unambiguously fail[s] to address the property use complained of,” courts will not bar that use.” [citation omitted]

3. The Single-Family Lot Density Limit Is Not Exceeded

As shown above, the Homestead Lot is no way legally restricted to use as a single-family lot, and it is not subject to the density test for single-family lots. Nevertheless, even if, for argument’s sake, the single-family lot rule were to apply to the multifamily Homestead Lot, it would pass the test.

The single-family density rule in the Development Agreement sets the maximum number of single-family lots allowed in the Residential Area of the subdivision. The density test for single-family lots is straightforward as written, but it is being manipulated by the Board to get the result they desire.

First, the District employs the fiction that the Homestead Lot is a single-family lot that must be counted toward the total number of single-family lots allowed in the subdivision’s Residential Area. The Development Agreement mandates that single-family lot density must not exceed one lot per 30,000 square feet. Under Section 3.02, density is calculated by applying the

1:30,000 sq ft formula to the subdivision's total land area (774.5 acres), minus areas designated for (1) commercial use, (2) retail use, (3) industrial use, or (4) mixed use. For argument's sake, if the single-family lot density rule in Section 3.02 applied to the Johnson Family Partnership's multifamily lot as though it were a single-family lot, the correct calculation is as follows:

	ACRES
TOTAL JOHNSON RANCH LAND AREA	774.5
LESS: COMMERCIAL, RETAIL, INDUSTRIAL AND MIXED USE	-
FM 1863 LOT 2 MEMORY CARE	(3.2)
FM 1863 LOT 3 HIGHLANDER SR. VILLAGE	(6.9)
FUTURE FM 1863 COMM./RET./M.U./IND	(6.8)
FUTURE HWY 281 MIDDLE SECTION COMM./RET./M.U./IND.	(17.1)
FUTURE HWY 281 SOUTH SECTION COMM./RET./M.U./IND.	(12.7)
SUBTOTAL CURRENT/ FUTURE COMM./RET./M.U./IND.	(46.7)
"RESIDENTIAL PORTION OF THE LAND" (as defined in Sect. 3.02 of D.A.)	727.8
ALLOWABLE SINGLE-FAMILY RESIDENTIAL LOTS	1,057
ACTUAL SINGLE-FAMILY RESIDENTIAL LOTS	1,005

Thus, even if the Johnson Family Partnership's multifamily lot were to be treated as a single-family lot to invoke the single-family lot density rules, those rules would still allow for development of 52 more lots:

- The Subdivision's residential land area after the required deduction of commercial, retail, mixed use and industrial land, totals 727.8 acres.
- 727.8 acres equals 31,702,968 square feet of residential land area.
- 31,702,968 square feet of residential land area divided by 30,000 square feet equals 1,057 single-family lots at the rate of one lot per 30,000 square feet.
- To date, 1,005 single-family lots have been developed, allowing for 52 additional single-family lots.

- In summary, if the Homestead Lot were to be treated as a single-family lot for density purposes, 51 more single-family lots may still be developed in accordance with the single-family lot density rule in the Development Agreement.

Of course, using the correct density calculation would not serve the District's false claim that the Homestead Lot is in violation of the density rule. Therefore, the Board Members resort to sleight of hand by treating the 24-acre Homestead Lot as one or more single-family lots, while at the same time claiming that it is a "mixed-use" lot to be deducted from the total land area. They do this to shrink the total land area in the density formula by 24 acres.²²

The Board Members' bad faith is evident as it obstructs Petitioner's right to develop the Homestead Lot for multifamily use by claiming the Homestead Lot is one or more single-family lot(s), and simultaneously a mixed-use lot. It is not, and cannot be, both.

"Mixed-use" development allows a blend of different uses, such as commercial, industrial, residential, etc. The Urban Land Institute is the foremost authority on land development throughout the United States. Its Mixed-Use Development Handbook characterizes mixed-use development as one that 1) provides three or more significant revenue-producing uses (such as retail/entertainment, office, residential, hotel, and/or civic/cultural/recreation), 2) fosters integration, density, and compatibility of land uses, and 3) creates a walkable community with uninterrupted pedestrian connections. [*Source: Urban Land Institute: Understanding Mixed Use and Multi-Use*](#)

The Homestead Lot is not in the subdivision's designated Mixed-Use Area, nor is it being developed for a mixture of uses. It is being developed in the residential area for one use only --

²² The District has also indicated it may improperly subtract other nondeductible acreage; to wit, Schools and Fire/EMS Station.

multifamily residential. The Board Members dislike this particular use, so they are unlawfully denying service to the Homestead Lot.

V. ADDITIONAL PROCEDURAL ISSUES

This petition is signed below by the property owner affected by the District's Board within 30 days of the Board's decision, as set forth above. The evidence attached hereto consists of true and correct copies of the original documents at issue in this appeal. To date, the District has not published or approved minutes of the June 10, 2025, meeting to include the decision being appealed, and Petitioner asks the Commission to order production of same. An initial deposit in the amount of \$5,000.00 to be applied toward the Commission's estimated costs to initiate the hearing is being submitted herewith. This appeal does not involve the cost or purchase of facilities. Petitioner is prepared to submit any other information as the Executive Director may require.

VI. CONCLUSION

In summary, the Johnson Ranch subdivision has no land-use prohibition against multifamily residential lots, whether they are located in the areas for Residential Development or Mixed-Use Development. The density restrictions contained in the Development Agreement apply to single-family lots only, and Petitioner's multifamily development plans do not violate the density restrictions. The Board's unlawful, *ultra vires* decision to block the multifamily development of the Homestead Lot should be reversed.

VII. PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, Clyde Johnson and Sons Hereford Ranch, Ltd., respectfully requests that the Texas Commission on Environmental Quality (i) determine whether or not it has jurisdiction over this appeal, and if so, (ii) find that the Johnson Ranch Municipal Utility District erred in its decision to deny utility service to Petitioner's

Homestead Lot in the District, and (iii) direct the District to cooperate with Petitioner to provide utility service for development of the Homestead Lot, including the planned multifamily development, and (iv) order the District to reimburse Petitioner's reasonable attorney fees, costs, and deposit incurred in pursuing its right to utility service from the District.

RESPECTFULLY SUBMITTED this 9th day of July, 2025.

**CLYDE JOHNSON AND SONS
HEREFORD RANCH, LTD.**

a Texas limited partnership



By its General Partner C J & S, LLC

Name: Michael G. Johnson

Title: Managing Member

JEFFREY LAW FIRM, P.C.

By: /s/ Ray B. Jeffrey

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