

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

INSURANCE COMPANY OF GREATER
NEW YORK, a/s/o QUAIL RUN REAL ESTATE
L.P d/b/a QUAIL RUN APARTMENTS
200 Madison Avenue
New York, NY 10016,

Complainant,

v.

UNITED WATER COMPANY
211 East Park Circle
P.O. Box 4151
Harrisburg, PA 17111

Defendant.

NO.: C-2013-2393832

**PREHEARING MEMORANDUM OF
INSURANCE COMPANY OF GREATER NEW YORK**

Pursuant to 52 Pa. Code §§ 5.72-5.75 and the Prehearing Conference Order issued by Administrative Law Judge Susan D. Colwell on February 24, 2014, Complainant, Insurance Company of Greater New York a/s/o Quail Run Real Estate L.P. d/b/a Quail Run Apartments (“INSCO”), submits this Prehearing Memorandum:

I. REPRESENTATION

INSCO’s attorneys in this matter are:

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INSCO agrees to accept electronic service to all attorneys listed above to be followed

up with one hard copy of the documents served.

II. PRESENTLY IDENTIFIED ISSUES

At all times material hereto, on or before June 11, 2010, Complainant's subrogor owned the real property and improvements known as Quail Run Apartments located at 4001 Rawleigh Road, Lower Paxton, Pennsylvania 17109 (hereinafter "Quail Run"). At all times material hereto, Tina Jefferson (hereinafter "Jefferson"), leased and occupied Apartment 4065 Rawleigh Street in Quail Run ("Unit 4065") pursuant to a lease executed May 4, 2007 and renewed June 1, 2010. Jefferson allowed her children Andre Drayton and Symone Scott to occupy Unit 4065 unsupervised at all times material hereto.

At all times material hereto Defendant United Water Company (hereinafter "United Water") provided domestic water services to Quail Run, a fire hydrant located in the courtyard adjacent to Quail Run and several other fire hydrants in the immediate area. On June 11, 2010, a fire originated in Unit 4065, due to careless smoking and improperly discarded smoking byproducts which ignited combustible materials and then spread throughout the apartment. The Colonial Park Fire Department responded to the emergency at 4:58 AM, arrived on scene at 5:05 AM and attempted to use hydrants in the vicinity of Quail Run to suppress the fire. However, United Water failed to provide enough water pressure to allow for a sufficient amount of water to extinguish the above-referenced fire.

Specifically during the fire, the Colonial Park Fire Department could not obtain adequate water volume specifically from either of the two (2) hydrants available in the area despite twice requesting that United Water increase the water pressure serving the fire scene. There was a fire hydrant in the courtyard of Quail Run immediately behind the burning building. The firefighters began to use this hydrant and encountered difficulties

with low water pressure which caused a delay while they waited for their line to be charged. To supplement their efforts, another hose was deployed to a second hydrant approximately 1100 feet away at Locust Lane and Willow Street. Persistent lack of water volume and low pressure led the firefighters to twice request Quail Run to increase the pressure at the scene and prolonged the fire.

United Water was well aware of the lack of sufficient and proper water pressure in the Lower Paxton Township area and failed to rectify the same. Upon review of the local media files, United Water press releases, P.U.C. filings, Dauphin County and Lower Paxton Township meeting minutes it is clear that the area had shown significant growth in population and the commercial as well as residential structure. Records show that the quantity of water necessary to support that growth in Lower Paxton Township has not always been available or ahead of that growth to safely support it. Examples of the shortfall beyond that of the instant case include a 2006 United Water press release indicating rate increases are to be used, in part, to increase water pressure. Further, United Water was previously notified of insufficient water volumes as a nearby bowling alley serviced by them collapsed during a fire on April 4, 2007, where sufficient volumes of water were unavailable through hydrants, requiring the fire department to resort to shuttling water to the scene in tanker trucks. United Water's behavior, pattern and practice of failing to supply adequate water pressure to Quail Run and its surrounding areas was wanton, wilful, and reckless.

As a direct and proximate result of United Water's acts and/or omissions, the fire destroyed Unit 4065, caused significant property damage to the apartment building located at 4060 Rawleigh Street and generally throughout Quail Run. At the time of the fire,

INSCO provided insurance to Quail Run. Pursuant to the policy of insurance between INSCO and Quail Run, INSCO has made payments to Quail Run for the damage and destruction caused by the fire. To the extent of the aforesaid payments by INSCO to Quail Run, INSCO is subrogated to Quail Run's rights against the Defendants herein.

INSCO has identified the following issues that should be examined in this proceeding:

- (a) United Water's failure to provide sufficient water volume to Quail Run to allow the Colonial Park Fire Department to properly fight the fire;
- (b) United Water's failure to provide increased water volume to Quail Run after Colonial Park fire department specifically requested increased water volume to fight the fire;
- (c) United Water's causing and/or allowing the fire to spread due to a lack of appropriate water volume at Quail Run;
- (d) United Water's failure to notice, observe, understand, discern and/or perceive the dangerous condition caused by failing to provide adequate water volume to Quail Run at the time of the fire;
- (e) United Water's failure to act in a reasonable prudent manner in disregard of the safety of Quail Run in general;
- (f) United Water's pattern and practice of failing to supply adequate water pressure to Quail Run;
- (g) United Water's wanton, wilful, and reckless behavior, pattern and practice of failing to supply adequate water pressure to Quail Run and its surrounding areas and;

(h) United Water's failure to comply with applicable fire codes.

INSCO reserves the right to address other issues identified through its continued review and analysis of this filing or as raised by other parties.

III. COMPLAINANT POSITION ON THE ISSUES

United Water had prior notice of insufficient water volumes in the hydrants servicing the Quail Run Apartments and the surrounding vicinities, prior to the fire on June 11, 2010. On multiple prior occasions local fire departments complained to United Water regarding low pressure issues while engaging in firefighting activities at Quail Run and the surrounding areas. Accordingly, it is Complainant's position that liability lies with United Water as the insufficient water volume/service to the hydrants in the Quail Run Apartments was the proximate cause of the catastrophic loss sustained by Quail Run.

IV. WITNESSES

1. Richard R. Brown
Risk Assistance, Inc.
121 W. Main Street
Maple Shade, NJ 08052
856-779-7222
Subject of Information: Information and Investigation concerning Subject Fire Loss.

2. Russ Daniels
Paul Zamrowski Associates
550 Deer Pointe Rd
West Chester, PA 19073
610-353-5595
Subject of Information: Information and Investigation concerning Subject Fire Loss.

3. Fire Chief Tom Swank
Colonial Park Fire Company
717-648-4221
Subject of Information: Knowledge of the Fire Incident.

4. Balden Raj Sharma
233 Springfield Lane
Downingtown, PA 19335
Subject of Information: Knowledge of Quail Run Apartments.

5. Sgt. Gregory S. Taylor
Lower Paxton Township Police Department
717-657-5656
Subject of Information: Knowledge of the Fire Incident.

INSCO continues to evaluate which witnesses to present in this proceeding and reserves the right to present additional witness as may be necessary depending on the course of the proceeding. INSCO will provide the Presiding Officer as well as the other parties in this matter reasonable notice if necessary.

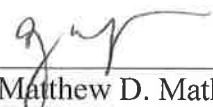
V. LITIGATION AND DISCOVERY RULES

INSCO is amenable to working with United Water to adopt a reasonable litigation schedule and/or necessary modifications to the Commission's discovery rules.

VI. SETTLEMENT

INSCO is willing to participate in settlement discussions with any party to conclude this matter or narrow the issues in this case.

Respectfully submitted,



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d/b/a Quail Run Apartments

Date: 3/21/14

CERTIFICATE OF SERVICE


I, Gary L. Bailey, Esquire, hereby certify that a true and correct copy of *Complainant's Prehearing Memorandum* was served via certified mail on this 21st day of March, 2014 upon the following:

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