

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

G.A. HOMES, INC., :
 :
 :
 v. : No. C-2021-3023766
 :
 AQUA PENNSYLVANIA :
 WASTEWATER, INC., :
 AQUA PENNSYLVANIA, INC., and :
 AQUA AMERICA, INC. :

COMPLAINANT’S PREHEARING CONFERENCE MEMORANDUM

I. Possible Settlement

Because the Respondents blocked anyone from obtaining building permits before the ban went into effect, Complainant cannot even start construction on any of the subject properties in Masthope. If Complainant had been able to obtain building permits, these applications would have fallen under the active permit ban exceptions. Complainant has eight (8) applications remaining, all of which were submitted in November of 2020, before the ban went into effect in December of 2020. Complainant proposes that the Respondents permit its applications now to allow it to obtain building permits. It will take eight (8) months for the actual connection once construction commences. Complainant thus requests that it receive water and sewer connections to the following properties in May of 2022:

- (1) 231 Eagle Rock
- (2) 902 Lantern Court
- (3) 149 Minuteman Lane

Complainant requests that it receive water and sewer connections to the following remaining properties in August of 2022:

- (1) Constitution Drive
- (2) 105 Upper Independence
- (3) 117 Red Breast
- (4) 117 Pebble Rock Road
- (5) 132 East Lakeview Road

II. Discovery Schedule

Complainant has served written discovery requests upon Respondents, the responses to which will be due on or about August 16, 2018. Depending on the Respondents' responses, Complainant may have limited additional discovery requests to serve on Respondents to follow up these initial requests.

III. Other Proposed Orders with Respect to Discovery

Complainant does not anticipate any other proposed Orders with respect to discovery, provided that Respondents timely comply in answering Complainant's discovery requests.

IV. Site View

N/A.

V. Proposed Litigation Schedule

Complainant suggests that a telephonic hearing be held on or before September 30, 2021, that the parties be given thirty (30) days thereafter to file Briefs, and that the parties be given an additional fifteen (15) days thereafter to file Reply Briefs.

VI. Witnesses and Scope of Testimony

Complainant intends to offer the testimony of the following witnesses:

- (1) Grace Anderson – the owner and President of G.A. Homes, Inc. She filed the subject Amended Complaint on behalf of G.A. Homes, Inc., and will testify to all allegations in the Amended Complaint and Reply, including but not limited to her purchases of properties in Masthope, her prior experience with having permits for sewer and water connections approved in Masthope by the Aqua respondents, her conversation with Paul Brindle on October 29, 2020, the Aqua respondents' abruptly changing the requirements for submitting permits on or about November 2, 2020, the permit applications she submitted to the Aqua respondents at the beginning of November of 2020, her attempts to have the Aqua respondents act on her permit applications, and the damages G.A. Homes sustained due to the Aqua respondents' refusal to approve her permit applications prior to the ban that went into effect on December 11, 2020.
- (2) Paul Brindle – the Honesdale Field Office Supervisor of the Respondents. He is expected to testify to an over-one-hour-long conversation he had with Grace

Anderson on October 29, 2020, in which he advised her, *inter alia*, that the ban was coming, that the Aqua respondents knew that the ban was coming for a long time, and that she should get all of her properties under construction and immediately submit applications so that they would be approved prior to the ban going into effect. He is also expected to testify to additional conversations he had with Grace Anderson in which he told her, *inter alia*, that the Aqua respondents were going to approve applications for houses that were far along in construction first because the lawsuits against the Aqua respondents for these properties would request more money, and that the Aqua respondents were working on applications made for undeveloped properties in the order in which they were submitted (which never happened). He is further expected to testify that the Aqua respondents took all of the sewer and water permit applications submitted prior to the ban (on December 11, 2020) and pulled out those already connected by the Aqua respondents themselves to permit, even though all of these applications would have fallen under the active permit exception to the ban. He is additionally expected to testify to the letter sent by the Aqua respondents to Lackawaxen Township to stop the Township from accepting any further building permits without a sewer and water permit approved by the Aqua respondents.

- (3) Randy Schmalze – the property manager at Masthope. He is expected to testify to his conversation with Grace Anderson on October 29, 2020 in which he told her that Masthope just found out from Aqua that a ban was coming.
- (4) Christopher S. Kimler, Esq. – the real estate attorney for G.A. Homes, Inc. He is expected to testify to G.A. Homes’s Inc.’s purchases of property in Masthope, as well as his witnessing the October 29, 2020 conversation between Grace Anderson, Paul Brindle, and Randy Schmalze.
- (5) Alicia Kowalik – the realtor for G.A. Homes. Inc. She is expected to testify to G.A. Homes’s Inc.’s purchases of property in Masthope, as well as her witnessing the October 29, 2020 conversation between Grace Anderson, Paul Brindle, and Randy Schmalze, and the value lost by G.A. Homes, Inc. in sales of homes.
- (6) Ray Ortiz – another contractor who builds home in Masthope. He is expected to testify that he had applications submitted after G.A. Homes’s that were approved by the Aqua respondents, as well as what he was told regarding the ban.
- (7) Rich Tussel – the building inspector for Lackawaxen Township. He is expected to testify to communications he had with the Aqua respondents regarding permit applications and the ban on new connections in Masthope

(including the December 4, 2020 email from Paul Brindle stating that all other applications are currently on hold), to other builders submitting water and sewer permit applications to the Aqua respondents after G.A. Homes submitted its applications which applications were then granted while G.A. Homes's were not, and to G.A. Homes, Inc.'s inability to get active permits due to correspondence from the Aqua respondents.

In the event that Respondents are willing to stipulate to certain facts/documents regarding certain of these witnesses, it may be possible to eliminate or streamline their testimony.

VII. Issues to be Addressed

Whether the Respondents acted properly in blocking Complainant from obtaining building permits before the ban went into effect, and then selectively approving applications for sewer and water connections in Masthope that were submitted after Complainant's applications (which were submitted before the ban went into effect).

VIII. Proposed Evidence

G.A. Homes, Inc. will present testimony and evidence regarding Respondents' actions in preventing it from obtaining building permits before the ban went into effect, Respondents' knowledge that the ban was coming for some time, Complainant's submission of applications for sewer and water connections to Respondents on or about November 2, 2020 (more than a month before the ban went into effect), and Respondents' selectively approving other applications for sewer and water connections that were submitted after Complainant's.

Respectfully submitted,

/s/ Ronnie J. Fischer, Esq.

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