

**BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MISSOURI**

The Staff of the Missouri Public Service Commission,)	
)	
Complainant,)	
)	
v.)	Case No. WC-2022-0295
)	SC-2022-0296
)	
I-70 Mobile City, Inc.)	
d/b/a I-70 Mobile City Park,)	
)	
Respondent.)	

**I-70 MOBILE CITY’S RESPONSE TO STAFF’S MOTION TO STAY
RESPONSE DEADLINE TO MOTION FOR SUMMARY
DETERMINATION PURSUANT TO 20 CSR 4240-2.117(1)(D)**

Respondent, I-70 Mobile City, Inc. d/b/a I-70 Mobile City Park (“I-70 Mobile City”), by and through counsel, and for its Response to Staff’s Motion to Stay Response Deadline to Motion for Summary Determination Pursuant to 20 CSR 4240-2.117(1)(D), states as follows:

The Commission should deny Staff’s Motion to Stay its Response Deadline. The only case cited by the Staff in support of its Motion to Stay is a case where the appellate court affirmed the trial court’s denial of a Motion to Stay summary judgment for further discovery. *Matysyuk v. Pantyukhin*, 595 S.W.3d 543, 545 (Mo. App. W.D. 2020). In that case, it was clear the Motion for Stay was only made for purposes of delay – and the Court of Appeals held it was properly denied by the trial court. *Id.* Likewise here, there is no legitimate justification for Staff’s Motion for Stay.

In order to succeed on a Motion for Stay, Staff must show that “additional discovery” will show “the existence of any genuine issue of material fact.” *Chouteau Auto Mart, Inc. v. First Bank of Mo.*, 91 S.W.3d 655,

660 (Mo. App. W.D. 2002). Where a bank's affidavit indicated a desire to depose an individual but failed to set for the any disputed facts that would be gleaned from her deposition, the trial court properly refused the bank's quest for a continuance to permit additional discovery pending a summary judgment motion. *Id.*

The Staff, in its motion claims "Physically examining the water and sewer systems at I-70 MCP will provide evidence relevant to whether and to what extent Respondent I-70 MCP is providing water and sewer service to the public, and whether that service is safe and adequate, which is evidence directly relevant to the summary determination motion."

First, Staff's Complaint in this case makes no allegations that any alleged service provided by I-70 is unsafe or inadequate. That question is not before the Commission.

Second, the Staff already knows that I-70 does not provide water or sewer service to the public – in response to Staff DR 16, I-70 explained when a tenant or guest of I-70 Mobile City (who meets specific criteria) inquiries about water or sewer service, they are presented with one of a number of agreements/contracts (depending on the tenant type). The agreements/contracts were provided to the Staff. On such agreement states that "private water and sewer connections" are offered "to certain tenants, who meet specific criteria, along with the execution of private I-70 Mobile City contracts." See Response to DR 16.1 (attached). Even if disputed, whether or not service is provided to the public cannot be gleaned from a physical inspection of the water and sewer systems. Staff has failed to identify any disputed facts that could be gleaned from a physical inspection.

In addition, I-70 has also already explained "whether and to what extent" it is providing water and sewer service to contracted guests.

Request No. 21: How many total mobile home lots are located in the I-70 MHP? Andrew Harris (Andrew.Harris@psc.mo.gov)

Supplemental Response:

Subject to and without waiving the objections in the letter dated June 16, 2022, I-70 Mobile City responds as follows:

We do not describe our rental areas as “mobile home lots.” Instead, they are “rental areas.” The lots are parking spaces for removable items with wheels, like cars, motorcycles, utility trailers, RVs, mobile homes, tiny homes, boats, etc. We utilize the entire land property of I-70 Mobile for rental needs – there are approximately 141 rental areas in I-70 Mobile City. Currently 45 of the rental areas are occupied by mobile homes, 23 are occupied by recreational vehicles, and 1 is occupied by a tiny home.

Request No. 23: Please describe I-70 MHP’s wastewater system? Does I-70 MHP have a lagoon, mechanical treatment plant, or is I-70 MHP’s wastewater sent to a public water district or municipality treatment facility? Andrew Harris (Andrew.Harris@psc.mo.gov)

Response: Subject to and without waiving the objections in the letter dated June 16, 2022, I-70 Mobile City responds as follows: I-70 has a two-cell waste stabilization lagoon.

Request No. 21.1: In your response to DR 21, you stated that there are “141 rental areas” in I-70 Mobile City, and of those areas, currently 45 are occupied by mobile homes, 23 are occupied by RVs, and 1 is occupied by a tiny home. Specifically, for each type of unit, how many have sewer hookups and how many have water meters attached to or servicing them? DR requested by Andrew Harris (Andrew.Harris@psc.mo.gov).

[See attached, I-70’s Confidential Response to DR 21.1].

Staff already knows “whether and to what extent” it is providing water and sewer service to contracted guests. Beyond the written responses, Staff also already has physical diagrams, maps, and photos of the facilities.

In response to DR 48, I-70 provided to Staff I-70's most recent permit applications and inspection reports from DNR. The DNR Permit and Application for Operating Permit (for Facilities that Receive Primarily Domestic Waste and Have a Design Flow Less than or Equal to 100,000 Gallons Per Day) contain a Description of the Facility which includes (1) a Process Flow Diagram or Schematic (2) an Aerial Property Photo from Google Maps. The most recent DNR Inspection Report, also provided to Staff, includes (1) photographs of the facilities and (2) an Aerial Map.

To date, I-70 Mobile City has already provided responses to more than 40 data requests from the Staff – answering questions and providing requested documents. The responses and requested documents provided by I-70 to Staff totals 245 pages. Staff has failed to identify any disputed facts that could be gleaned from a physical inspection necessary for this Commission to decide I-70's Motion for Summary Determination. The Commission should deny any additional attempt by Staff to delay these proceedings.

WHEREFORE, Respondent, I-70 Mobile City, respectfully requests this Commission deny Staff's Motion to Stay and grant such other and further relief as the Commission deems appropriate in the circumstances.

Respectfully submitted,

ELLINGER & ASSOCIATES, LLC

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing has been served on the following parties of record on this 13th day of December 2022:

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