

April 19, 2006

**FILED**

APR 24 2006

Missouri Public  
Service Commissioner

The Honorable Colleen M. Dale  
Secretary/Chief Regulatory Law Judge  
Missouri Public Service Commission  
P. O. Box 360  
Jefferson City, MO. 65102-0360

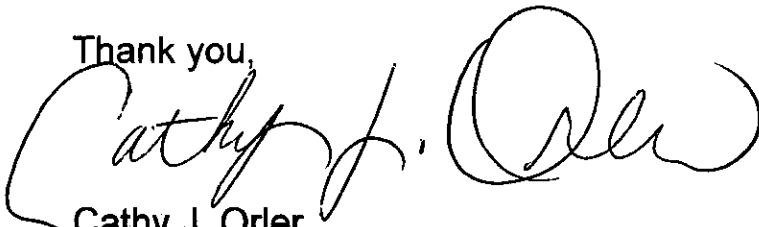
Re: Case Nos. WC-2006-0082, WC-2006-0090, WC-2006-0107,  
WC-2006-0122, WC-2006-0121, WC-2006-0120, WC-2006-0129,  
WC-2006-0139, WC-2006-0138

The Honorable Judge Dale:

Please find enclosed for filing, the eight, "Complainant's Response to Data Requests." Five additional copies are also enclosed for the appropriate Commission personnel; if you would be so kind as to bring this filing to their attention.

Please contact me, if you should have any questions regarding this filing.

Thank you,

A handwritten signature in cursive script, appearing to read "Cathy J. Orlor".

Cathy J. Orlor  
3252 Big Island Drive  
Roach, MO. 65787  
(573)317-1490

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE  
OF MISSOURI

Cathy Orlor, et al.

Complainant,

v.

Folsom Ridge, LLC. (Owning and  
Controlling the BIHOA)

Respondent.

Case No. WC-2006-0082, et al.

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**COMPLAINANT'S RESPONSE TO RESPONDENT'S DATA  
REQUESTS**

Comes now Cathy Orlor on her own behalf, objecting to the Respondents' "Data Request," for the following reasons:

- a. Some information being requested is personal and irrelevant to the case.
- b. Some information considered relevant in nature is being requested in a manner that Complainant feels is open-ended and subjective. Complainant feels that any answer to this information could be used by the Respondents' to dispute the credibility of the Formal Complaint(s) against them, and/or the credibility of the Complainant(s) themselves. Therefore, it is believed not to be in the Complainant's best interest(s) to respond.
- c. At this time, the Complainant does not possess sufficient knowledge of the procedural process and the rules, regulations and laws that govern such, to allow Complainant to respond to the questions regarding testimony, witnesses, and evidence, in the appropriate manner, and with a complete understanding of how this information can and will be used.
- d. Some Questions are asking the Complainant to answer on behalf of the Commission, and/or render a subjective opinion of the Commission

- e. Any relevant questions regarding my Formal Complaint filed with the Commission, is a matter of public record, and has already been answered in the Complaint itself, with the supporting documented evidence.

The nine Formal Complaints that have been filed with the Public Service Commission against Folsom Ridge, (Owning and Controlling the Big Island Homeowners' Association), included documentation as evidence to support and undeniably confirm the claims stated therein. Additional and subsequent documented evidence, was submitted as exhibits with Pleadings filed with the Commission. Examples include:

- a. Amended and Restated Covenants and Conditions and Amended and Restated By-Laws of the Big Island Homeowners' Association
- b. Big Island Homeowners' Association letterhead, signed by Mr. Reggie Golden representing BIHOA, and specifying water/sewer "NON-MEMBER FEES."
- c. Letters to Folsom Ridge and/or the Big Island Homeowners' Association, from attorneys representing homeowners, stating that BIHOA is operating as an unlicensed public utility.
- f. Copies of cancelled checks made payable to the BIHOA and cashed by BIHOA, clearly read: "Non-member;" "Not Connected;" "No Service Received."

Resulting from the evidence presented to date, and/or the investigative research done by the Commission staff, the following conclusive statements have been made by members of the Commission Staff, in its report dated February 09, 2006, and filed with the Commission::

- a. (Appendix A – 1<sup>st</sup> page – "Overview," 2<sup>ND</sup> paragraph: "...Folsom had apparently planned to transfer ownership to some type of an association, although BIHOA is an entity that is controlled not by the homeowners, but rather by the same people that control Folsom. (Appendix A – 2<sup>nd</sup> page – last paragraph:

“...Based on the above criteria, the Staff does not believe that the BIHOA is a “legitimate” homeowners association, since not all of its customers are members and, also since the developer has control of the association, not the customers.

Considering the foregoing conclusions; and Folsom Ridge, (Owning and Controlling the BIHOA), and the Respondents’ interpretation that the association is within its rights to operate as a homeowners’ association utility, (Exhibit 1 – “Developers’ Propaganda”); although not “legitimate,” and, to this point, having done nothing to indicate that they will proceed with the certification process, and/or provide safe and adequate water/sewer service in the future, the Complainants chose to move forward in the procedural process to a “Formal Evidentiary Hearing.”

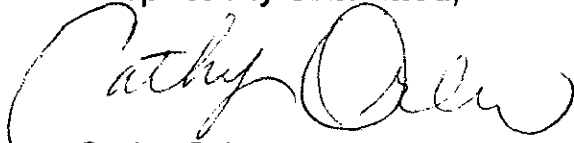
In a second prehearing Conference held on March 31, 2006, Presiding, Regulatory Law Judge Morris Woodruff, ruled at this hearing, that the cases would remain consolidated, but that each Complainant would be responsible for representing their own complaint at the Formal Evidentiary Hearing. This ruling has created confusion and questions among the Complainants, in how to reply to the: a. Respondents’ recent “Data Requests,” and, b. all future responses to both the Respondents and the Commission, as this procedural process continues. The Complainants are needing a clarification on this matter.

Additionally, Case No. WC-2006-0129 – Duane Stoyer, now deceased; the Complainants need to be advised as to the status of this case and its representation.

Moreover, since the Complainants are moving forward in the procedural process to a Formal Evidentiary Hearing, the Complainants are awaiting information to enable them to prepare, and allow them to comply with the regulations and laws that will apply in the formal proceedings to come.

Therefore, in summary, the Complainant is objecting to the request for data from the respondents.

Respectfully submitted,



Cathy Orlor

**Certificate of Service**

I hereby certify that a true and correct copy of the above and foregoing document was sent this 20th day of April, 2006, to the General Counsel's Office, and the Office of Public Counsel, and via U.S. mail, postage prepaid to Mark W. Comley, 601 Monroe Street, Suite 301, P.O. Box 537, Jefferson City, MO. 65102

# Exhibit 1



April 13, 2006

This is the next installment in our ongoing effort to keep Big Island Residents informed. There has been lots of activity through the fall and winter and we want to update you on our progress. As always, if you have any questions don't hesitate to call us at (303) 702- 0708.

## ***Big Island Villas***

We are pleased to announce that the model homes are ready and will soon be open Monday through Saturday from 10:00 to 2:00. The first triplex is complete with the first duplex soon to follow. The sales office is now located in the triplex. Construction on the foundation for the third building is underway. Please stop by and see the beautiful interiors, designed by Betsy Snyder. The villas will also be featured in the Parade of Homes at the end of April.



The plans for the pool, restroom, picnic area and playground are in process. They will be located across the street from the model homes. We are preparing to submit plans to the County for review and will schedule a community open house to go over the information prior to submittal. We will begin work on the improvements once the County reviews the plans. The first series of community docks is in place and construction of the restroom will be underway soon. We will also be paving the parking lot and phase one roads this summer.



## ***Island View Estates***

We are getting the large lots to the west on the mainland ready to sell. Dry utilities are installed and the road base construction is complete. The lots will be served by individual wells and septic systems. We will be installing the common docks for the lots across from the old sales office and paving the roads later this summer. You will notice the new signs at the entrance to the subdivision. There are 35 lots that range in size from 3 to 12 acres. They are available for sale to anyone wishing to build a custom home.

## ***Water System***

There was some trouble with water pressure over the weekend of April 9. The cause of the problem was a faulty float in one of the water tanks. The float has been replaced.

Just a reminder, emergency numbers for the water and sewer system are as follows:

Mike McDuffy:	(573) 346-2092
Kenny Carroll:	(573) 346 0464

## ***Sewer System***

Construction of the expansion for the sand filter is nearing completion. We will be adding the capacity to the system once it is inspected and signed off by DNR. Pumping of individual septic systems was completed in the fall.

## ***Public Service Commission Complaints***

On March 31, 2006 the Missouri Public Service Commission conducted the second pre-hearing conference on this matter, Regulatory Law Judge Morris Woodruff, presiding. The Judge ruled on a few technical issues on the record and closed the pre-hearing. Commission staff and attorneys, the complainants (Ms. Orler, Mr. Pugh, Mr. Schrader, Mr. Tamares, Mrs. Kenter, Ms. Fortney, Mr. Stoyer\*, Mr. Fortney\*, Mr. Wier\*) and the respondents (Folsom Ridge, LLC and Big Island Water and Sewer Association) took some additional time to discuss other subjects.

At the first pre-hearing it was Folsom's understanding that the complainants were insisting on a regulated water and sewer system on Big Island and the Commission Staff were also in favor of that outcome. Folsom and the Association brought a proposal to the meeting that would require them to file for the certification process to be a licensed and regulated utility within 30 days. We asked the complainants to put on a stay on the complaint proceedings until the certification process was either approved or denied. If approved, the complainants' intent of having a publicly regulated utility would be accomplished. If denied, the complaints would proceed through the normal hearing process.

The certification process is conducted by the Commission staff and involves investigating the integrity of the system, the rate structure, the licensed operator and any related issues. In this process staff insures the complainants that their issues will be addressed and investigated. We understand this process takes 6-9 months.

The complainants, led by Ms. Orler asked for some time to determine if they would be agreeable to that scenario. It is our understanding from staff that the complainants decided they want to pursue their complaints and proceed with a hearing before the Public Service Commission irregardless of whether Folsom files for the certification process.

This hearing will unfold over the next several months. At the end of the hearing process, the Commission will make a decision. We understand that the outcome will be basically one of the following scenarios:

1. The judge will rule in favor of the complainants that Big Island Water and Sewer Association has been operating as a public utility and should be forced to file for certification.
2. The judge will rule in favor of the respondents and Big Island Water and Sewer Association is within its rights to operate as a homeowner's association utility.

Either way, the process will be costly to Folsom Ridge and Big Island Water and Sewer Association because we have to defend our case at the Commission.

We were hoping that by agreeing to file for certification in the next 30 days we would save both time and money and accomplish the goal of the Commission and the complainants. Based on the decision of the complainants, the hearing process will go forward. If the judge rules in favor of the complainants, the certification process will begin along with its associated costs. We will do our best to keep you apprised of the situation.



\* In attendance at the hearing by telephone