

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

Staff of the Missouri Public Service Commission)
)
)
Complainant,)
v.)
)
Cedar Green Land Acquisition, LLC,)
and Gary F. Myers, Owner)
)
Respondents.)
)
Service:)
Gary F. Myers)
Registered Agent)
55 Cedar Green Lane)
Camdenton, MO 65020)

Case No. WC-2013-

COMPLAINT

COMES NOW the Staff of the Missouri Public Service Commission, by and through counsel, pursuant to Section 386.390 RSMo (2000)¹, and for its Complaint respectfully states as follows:

Introduction

1. This Complaint arises from Respondents' unlawful provision of water and sewer services. Respondents operate in a manner that makes them subject to regulation by the Missouri Public Service Commission (Commission). Respondents have not received the permission or approval of the Commission to exercise any right or privilege of operation.

¹ All statutory references are to the Missouri Revised Statutes (2000) as currently supplemented.

Complainant

2. Complainant is the Staff of the Missouri Public Service Commission (Staff), acting through the Commission's Chief Staff Counsel's Office as authorized by Commission Rule 4 CSR 240-2.070(1). Section 386.390.1 RSMo (2000) provides a "[c]omplaint may be made by the commission of its own motion....in writing, setting forth any act or thing done or omitted to be done by any corporation, [or] person....in violation, or claimed to be in violation, of any provision of law, or of any rule or order or decision of the commission...." 4 CSR 240- 2.070(1) provides that the Commission's Staff through the Chief Staff Counsel's Office may file a complaint.

Respondents

3. Respondent Gary F. Myers is a natural person owning, operating, controlling and managing water and sewer systems in Camdenton, Missouri, County of Camden, with a principal place of business at 55 Cedar Green, Camdenton, Missouri 65020.

4. Respondent Cedar Green Land Acquisition, LLC, is a limited liability company created in December 2003, owning, operating, controlling and managing a water and sewer system in Camdenton, Missouri, County of Camden, and listed as active with the Missouri Secretary of State's Office. (See Attachment A).

5. Cedar Green Land Acquisition, LLC's registered agent listed on the Missouri Secretary of State's webpage is Gary F. Myers, 55 Cedar Green, P.O. Box 815, Camdenton, MO 65020. (See Attachment A).

6. For the purposes of this Complaint, Respondents Gary F. Myers and Cedar Green Land Acquisition, LLC, will be known together as Respondents.

COUNT I
RESPONDENT CEDAR GREEN LAND ACQUISITION, LLC, FAILS TO MEET THE
REQUIREMENTS OF CHAPTER 393 WATER AND SEWER CORPORATIONS

7. Complainant re-alleges allegations 1 through 6 as though the same were set here in full.

8. Respondent Cedar Greens Land Acquisition, LLC, owns, operates, controls or manages a sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage anywhere within the state of Missouri for gain and therefore is a sewer corporation as defined in Section 386.020(49).

9. Respondent Cedar Greens Land Acquisition, LLC, owns, operates, controls or manages a plant or property, dam or water supply, canal, or power station, distributes or sells for distribution, or sells or supplies water for gain, and therefore is a water corporation as defined in Section 386.020 (59).

10. Pursuant to Section 393.170, no sewer corporation or water corporation shall provide service to customers without first having obtained the permission and approval of the Commission.

11. Respondent Cedar Greens Land Acquisition, LLC, is supplying wastewater disposal and treatment services within the state of Missouri. (See Attachment B).

12. Respondent Cedar Greens Land Acquisition, LLC, is supplying water services within the state of Missouri.

13. Respondent Cedar Greens Land Acquisition, LLC, has failed to obtain appropriate approval from the Commission and has not filed with the Commission a

certified copy of the charter of such corporation, together with a verified statement of the president and secretary of the water and/or sewer corporation, showing that it has received the required consent of the proper municipal authorities to provide utility service, and therefore is in violation of Section 393.170.2.

14. Respondent Cedar Greens Land Acquisition, LLC, has not obtained the permission and approval of the Commission to provide service to customers.

15. Respondent Cedar Greens Land Acquisition, LLC, is subject to penalties under Section 386.570.

WHEREFORE, Staff prays that the Commission will (1) find that Respondent operates as a sewer facility subject to regulation by this Commission, (2) find that Respondent operates a water facility subject to regulation by this Commission, and (3) order Respondent to file with the Commission an Application for a Certificate of Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT II
RESPONDENT GARY F. MYERS OPERATES CEDAR GREENS LAND
ACQUISITION, LLC, IN THE MANNER OF A REGULATED SEWER UTILITY

16. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 15 above.

17. Cedar Greens Land Acquisition, LLC, is owned and operated by Gary F. Myers. (See Attachments B and C).

18. Respondent Gary F. Myers owns, operates, controls or manages a sewer system, plant or property, for the collection, carriage, treatment, or disposal of sewage

anywhere within the state for gain and is acting as a sewer corporation as defined in Section 386.020 (40).

19. Respondent Gary F. Myers, owns, operates, controls or manages a plant or property, dam or water supply, canal, or power station, distributes or sells for distribution, or sells or supplies water for gain, and therefore is a water corporation as defined in Section 386.020 (59).

20. Respondent Cedar Greens Land Acquisition, LLC, has failed to obtain appropriate approval from the Commission and has not filed with the Commission a certified copy of the charter of such corporation, together with a verified statement of the president and secretary of the water and/or sewer corporation, showing that it has received the required consent of the proper municipal authorities to provide utility service, and therefore is in violation of Section 393.170.

21. Respondent Cedar Greens Land Acquisition, LLC, is subject to penalties under Section 386.570.

WHEREFORE, Staff prays that the Commission will (1) find that Respondent operates as a sewer facility subject to regulation by this Commission, (2) find that Respondent operates a water facility subject to regulation by this Commission, and (3) order Respondent to file with the Commission an Application for a Certificate of Convenience and Necessity; and grant any other and further relief deemed necessary and appropriate.

COUNT III
FAILURE TO PROVIDE SAFE AND ADEQUATE SERVICE

22. Complainant hereby adopts by reference and re-alleges the allegations set out in Paragraphs 1 through 21 above.

23. Section 386.310.1 RSMo (2000) states, Commission shall have power “to require every person, corporation, municipal gas system and public utility to maintain and operate its line, plant, system, equipment, apparatus, and premises in such manner as to promote and safeguard the health and safety of its employees, customers and the public...”

24. Section 393.130.1 RSMo (Supp. 2009) states, “...every water corporation, and every sewer corporation shall furnish and provide such service instrumentalities and facilities as shall be safe and adequate and in all respects just and reasonable.”

25. On or before February 21, 2012, employees of Laclede Electric Cooperative arrived at the Cedar Green Luxury Condominium complex to shut off service to the three meters that supply electricity to the water and sewer facilities.

26. The Laclede Electric Cooperative employees stated the electric bills had not been paid.

27. A condominium resident, paid \$560.24 to Laclede so that the electricity would not be shut off.

28. Respondents failed to notify and inform affected customers of the situation.

29. Respondents placed the health and safety of their customers and the public at risk and failed to safeguard against those risks in violation of Missouri law.

30. Respondents failed to provide safe and adequate service to their customers in violation of Missouri law.

31. Respondents are subject to penalties under Section 386.570.

WHEREFORE, Staff prays the Commission will give such notice to Respondents as is required by law, and after hearing, determine that the conduct herein described is in violation of the laws of the State of Missouri, including but not limited to §393.130 and §386.310, RSMo, (2000) and grant any other relief as deemed appropriate by the Commission.

Respectfully submitted,

/s/ Meghan McClowry

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CERTIFICATE OF SERVICE

I hereby certify that copies of the foregoing have been mailed, hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record this 24th day of August, 2012.

/s/ Meghan McClowry