

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

DERALD MORGAN, RICK AND CINDY)
GRAVER, WILLIAM AND GLORIA PHIPPS,)
and DAVID LOTT,)

Complainants,)

v.)

File No. WC-2017-0037

CARL RICHARD MILLS,)
CARRIAGE OAKS ESTATES,)
DISTINCTIVE DESIGNS, and)
CARING AMERICANS TRUST)
FOUNDATION, INC. (f/k/a Caring)
Americans Foundation, Inc.))

Respondents.)

**COMPLAINANTS’ MOTION TO ADD CARRIAGE OAKS NOT-FOR-PROFIT WATER
AND SEWER CORPORATION AS A PARTY**

COME NOW Complainants, by and through counsel, Schenewerk & Finkenbinder, Attorneys at Law, LLC, and pursuant to Mo. Sup. Ct. R. 52.04, moves to add Carriage Oaks Not-For-Profit Water and Sewer Corporation as a party. In support of said motion, Complainants state as follows:

1. Respondents claim the Caring Americans Trust Foundation, Inc. (the “Trust Foundation”) transferred the sewer and water assets to Carriage Oaks Not-for-Profit Water and Sewer Corporation (“Carriage Oaks NFP”).

2. A transfer of assets of a water or sewer corporation under the Commission’s jurisdiction without proper authorization is void. Section 393.190.1, RSMo.

3. The Commission has determined that “whether the water and sewer assets could have been transferred to the Trust Foundation and whether the Trust Foundation could have

transferred its assets to Carriage Oaks NFP without Commission approval is within the Commission's jurisdiction to decide." *Order Denying Motion to Dismiss*, p. 6.

4. Rule 52.04(a) states:

A person shall be joined in the action if: ...the person claims an interest relating to the subject of the action and is so situated that disposition of the action in the person's absence may: (i) as a practical matter impair or impede the person's ability to protect that interest or (ii) leave any of the persons already parties subject to a substantial risk of incurring double, multiple, or otherwise inconsistent obligations by reason of the claimed interest. If the person has not been joined, the court shall order that person be made a party. If the person has not been joined, the court shall order that person be made a party. If the person should join as a plaintiff but refuses to do so, the person may be made a defendant.

5. Since Respondents contend that the sewer and water assets have been transferred to Carriage Oaks NFP, Carriage Oaks NFP has an interest in the outcome of this litigation and is so situated that the disposition of this case could impair Carriage Oaks NFP's ability to protect that interest or leave Complainants subject to a substantial risk of incurring inconsistent obligations by reasons of Carriage Oaks NFP's interest in this litigation.

WHEREFORE, Complainants respectfully request that the Public Service Commission add Carriage Oaks Not-For-Profit Sewer and Water Corporation as a party to this litigation, and for such other relief as the Public Service Commission deems just and proper under the circumstances.

Respectfully submitted,

SCHENEWERK & FINKENBINDER,
ATTORNEYS AT LAW, LLC

By: /s/ Karl Finkenbinder
Karl Finkenbinder, Mo. Bar No. 59425
Jacqueline Bryant, Mo. Bar No. 64755
100 Prairie Dunes Drive, Ste. 200
Branson, Missouri 65616
[417] 334.7922;

[417] 334.7923 FAX
Email: karl@sfalawfirm.com
COUNSEL FOR COMPLAINANTS

CERTIFICATE OF SERVICE

The below signed counsel hereby certifies that a true and accurate copy of the foregoing was filed via PSC's electronic filing system which sent a copy to all parties of interest on September 14, 2017.

/s/ Karl Finkenbinder

Karl Finkenbinder