

IN THE CIRCUIT COURT OF CAMDEN COUNTY, MISSOURI

Benjamin D. Pugh and Karen Pugh, Husband and)
Wife, Cindy Fortney, Jerry Steinhour and Mary)
Steinhour, Husband and Wife, Arthur Nelson)
and Sara Nelson, Husband and Wife, and)
Cathy Orler and Stan Temares, and Bruce)
Caston and Valerie Kasten, Husband and)
Wife, Bill Foley and Elaine Foley, Husband and)
Wife, Tom Thorpe and Sally Thorpe, Husband and)
Wife, Geary Mahr and Mary Mahr, Husband and)
Wife, Gary Brown,)

Plaintiffs)

v.)

Folsom Ridge Development, Inc., Big Island)
Water and Sewer Association, Inc. fka Big Island)
Homeowners' Association, Inc., Big Island Water)
and Sewer Company, Inc., Big Island Water)
Company and Big Island Sewer Company,)

Defendants.)

FILED²

APR 02 2007

Missouri Public
Service Commission

Case Number: 07CM-CC00040

ALLEGATIONS COMMON TO ALL COUNTS

COME NOW Plaintiffs, by and through their attorney, Lewis Z. Bridges, and for their allegations common to all counts of this Petition state and allege as follows:

- 1) That Plaintiffs are owners of real property located in Camden County, Missouri.
- 2) That Defendant, Folsom Ridge Development, Inc. is a Colorado corporation authorized to do business within the State of Missouri, which owns property located Camden County, Missouri.
- 3) That Big Island Water and Sewer Association, Inc. f/k/a Big Island Homeowners' Association, Inc. is a Missouri not for profit corporation formed by Folsom Ridge Development, Inc. whose principal place of business is located in Camden County, Missouri.

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- 4) That Defendant Big Island Water and Sewer Company, Inc., is a Missouri corporation organized and authorized to do business and with its primary place of business located in Camden County, Missouri.
- 5) That Defendant Big Island Water Company is a Missouri not for profit corporation formed pursuant to Chapter 393RSMo with its principal place of business and service area within Camden County, Missouri.
- 6) That Defendant Big Island Sewer Company is a Missouri not for profit corporation formed pursuant to Chapter 393RSMo with its primary service area located within Camden County, Missouri.
- 7) That Defendant, Folsom Ridge Development, Inc. entered into agreements with Plaintiffs that contained the followings provisions:
 - a) That said Defendant Folsom Ridge Development, Inc. would construct facilities to provide water and sewer services to Plaintiffs property located in Camden County Missouri.
 - b) That Plaintiffs would pay to Folsom Ridge Development, Inc. various sums for water and sewer connections.
 - c) That Plaintiffs would thereafter would pay a reasonable usage fee for said services.
- 8) Thereafter Defendant Folsom Ridge Development, Inc. or its officers formed Defendant Big Island Water and Sewer Association, Inc. f/k/a Big Island Homeowners' Association, Inc., as a homeowners association and imposed restrictive covenants on property owned by said Defendant Folsom Ridge Development, Inc. adjacent to real property owned by the Plaintiffs.

9) That Plaintiffs herein paid the following sums to the Defendant Folsom Ridge Development, Inc. pursuant to the agreement described in paragraph 7 above.

- a. Benjamin and Karen Pugh \$4,800.00 for a sewer tap.
- b. Cindy Fortney, 4800.00 for a sewer tap.
- c. Jeff and May Steinhour \$4,800.00 for sewer tap.
- d. Arthur and Sara Nelson \$4,800.00 for sewer tap.
- e. Cathy Orlor \$4800.00 for sewer tap and \$2000.00 for water tap.
- f. Stan Tamares \$4,800.00 for sewer tap and \$2,000.00 for water tap.
- g. Bruce and Valerie Kasten \$4800.00 for sewer tap.
- h. Tom and Sally Thorp \$4,800.00 for sewer tap.
- i. Gary and May Mahr \$4,800.00 for sewer tap.
- j. Gary Brown \$4,800.00 for sewer tap and \$2,000.00for water tap.

10) That thereafter Defendant Folsom Ridge Development, Inc. required Defendant to submit their real property to the new restrictive covenants and to membership in said Defendant Big Island Water and Sewer Association, Inc. f/k/a Big Island Homeowners' Association, Inc. as a condition precedent to receiving the services previously contracted for. Further, said Defendant continued to so refuse until at least June 6, 2006.

11) On June 6, 2006, Defendant Folsom Ridge Development, Inc. or its officers caused Defendant Big Island Water and Sewer Company, Inc. to be formed for the purpose of providing water and sewer services to the areas described in this Petition and for the purpose of obtaining certification from the Missouri Public Service Commission for said services. Said action was in response to complaints filed by some of the Plaintiffs or other similarly situated concerning the actions Defendant Folsom Ridge Development, Inc.

- 12) Thereafter, Defendant Folsom Ridge Development, Inc. or its officers and/or agents caused or encouraged Defendant Big Island Water Company and Big Island Sewer Company to be formed pursuant to Chapter 393RSMo.
- 13) That Defendant Folsom Ridge Development, Inc. and Defendant Big Island Water and Sewer Association, Inc. f/k/a Big Island Homeowners' Association, Inc., now propose to transfer all assets and obligations described hereinto to Big Island Water Company and Big Island Sewer Company pursuant to an application filed with Missouri Public Service Commission in Case No. W0-20002007-0277.
- 14) That of this said transfer occurs Plaintiffs would be required to become members of Defendant Big Island Water Company and Big Island Sewer Company and subject to their Bylaws and rules and regulations including paying the connection fees as a condition precedent to receiving the services the Defendant Folsom Ridge Development, Inc. for services for which their had previously agreed to provide.
- 15) That the facilities to be transferred include pumps, lines treatment plants and equipment utilized in the provisions of water and sewer services by Defendant Folsom Ridge and Big Island Water and Sewer Association, Inc. f/k/a Big Island Homeowners' Association, Inc. to its current real estate development adjacent to the property owner by Plaintiff herein.
- 16) That the funds and deposits paid by the Plaintiffs herein as described herein above were utilized by Defendant Folsom Ridge Development, Inc. to purchase and construct the facilities described hereinabove which said facilities are now proposed to Defendants Big Island Water Company and Big Island Sewer Company, Inc.

COUNT I

BREACH OF CONTRACT

COME NOW Plaintiffs, by and through its attorney, Lewis Z. Bridges, and for their cause of action to Count 1 against Defendant Folsom Ridge Development, Inc. state and allege as follows:

1. That they hereby incorporate by this reference all allegations contained in Paragraphs 1 through 16 of the Allegations Common to All Counts.
2. The Plaintiff have fully performed all obligations required of them under the contract above described and they have paid the sums as described herein above.
3. The Defendant Folsom Ridge Development, Inc.'s actions in this matter as described constitute a default under the contract and agreement entered into with the Plaintiffs.
4. That Plaintiff have been damaged in the following manner:
 - a) A loss of the deposits described herein above
 - b) The loss of value by the real property owned by the Plaintiff in an amount as yet to be determined.
5. That said damages were within the reasonable contemplation of the parties at the time they entered into this agreement.

WHEREFORE, Plaintiffs pray judgment against Defendant Folsom Ridge Development, Inc in an amount equal to the deposits made by them as described herein above plus an additional sum for loss of value of property caused by failure of the Defendant to provide the water and sewer services as previously agreed for the costs herein expended, for such other and further relief as the Court may deem just in the premises.

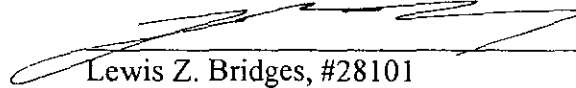
COUNT II
IMPOSITION OF CONSTRUCTIVE TRUST

COME NOW Plaintiffs, by and through its attorney of record, Lewis Z. Bridges, and further cause of action against all defendants in this Count 2 state and allege as follows:

6. That Plaintiffs hereby incorporate all allegations contained in Paragraphs 1-16 of the of the Allegations Common to All Counts and Paragraphs 1 through 5 of Count I of this Petition.
7. That the funds described above and deposited by the Plaintiffs with the Defendant Folsom Ridge Development, Inc were deposited for the specific purpose of funding the construction and development of the sewage treatment and water service facilities described hereinabove.
8. That said funds were actually used in the construction of said facilities.
9. That the proposed transfer by the facility as presently proposed to the Public Service Commission would transfer the assets partially paid for by the Plaintiffs to Defendants Big Island Water Company and Big Island Sewer Company free of liens. By virtue of the above made Defendant Folsom Ridge Development, Inc development hold the said facilities in constructive trust for the benefit of the Plaintiffs named herein to the extent of their contributions as described hereinabove.
10. That Plaintiffs have no adequate remedy at law.

WHEREFORE, Plaintiffs pray that this Court declare that the assets described noted above to be transferred to Defendant Big Island Water Company and Big Island Sewer Company are in fact held in trust for the benefit of the Plaintiff to the extent of the contributions made by them to

Defendant Folsom Ridge Development, Inc as described above, for their costs herein expended,
for such other and further relief as the Court may deem just in the premises.



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