

**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.

Carl Richard Mills, Carriage Oaks Estates Homes  
Association, Distinctive Designs and Caring  
Americans Trust Foundation, Inc. (f/k/a Caring  
Americans Foundation, Inc.),

Respondents.

**File No. WC-2017-0037**

**STAFF REPORT AND MOTION FOR MEDIATION**

**COMES NOW** the Staff of the Missouri Public Service Commission (Staff), by and through counsel, and for its *Staff Report and Motion for Mediation* in these matters hereby state:

1. On August 4, 2016, the Complainants filed its *Complaint* with the Missouri Public Service Commission (Commission) requesting that the Commission return operations of a water and sewer system over to its home owner's association. On the same day, the Commission ordered Carl Richard Mills, Carriage Oaks Estates Homes Association (Association), Distinctive Designs Ltd., and Caring Americans Trust Foundation, Inc., f/k/a Caring Americans Foundation, Inc. (Trust Foundation) ("Respondents" refers to the Association and the Trust Foundation) to file a response to the allegations not later September 6, 2016, and directed Staff to investigate the complaint and file a report not later than September 20, 2016.

2. On August 11, 2016, the Complainants filed its *Amended Complaint*. On August 15, 2016, the Commission ordered parties to address only the contents of the *Amended Complaint within its original time frame*.

3. On September 6, 2016, the Respondents filed their response and motion to dismiss.

4. On September 14, 2016, the Commission ordered Staff to file its report, including a response to the motion to dismiss, not later than September 24, 2016.

5. On September 16, 2016, the Complainants filed its *Suggestions in Opposition to Respondents' Motion to Dismiss*.

6. On September 16, 2016, Staff filed its *Motion for Extension* requesting that its recommendation deadline be set not later than October 28, 2016.

7. On September 16, 2016, the Commission granted Staff's *Motion for Extension* and directed Staff to file a report not later than October 28, 2016. This filing is intended to comply with that order.

8. As stated in Staff's Recommendation, appended hereto as *Appendix A*, Staff believes that the Commission has grounds for jurisdiction of the Respondent's water and sewer utility services.

### **Non-Profit Jurisdiction**

9. The Complainants allege, and the Respondents affirm, that Mr. Mills caused to be transferred the ownership of the water and sewer systems from Carriage Oaks, LLC to the Trust Foundation, a non-profit Missouri corporation, and that assessments for water and sewer service are collected by the Association and paid to the Trust Foundation. *Amended Complaint*, pg. 2-3; *Respondents' Motion to Dismiss*

*Complainants' Amended Petition (Respondents' Motion)*, pg 1. Pursuant to statute and case law, the Commission has jurisdiction over non-profit entities that provide water and sewer service, except for those entities organized under Sections 393.825 et seq and 393.900 et seq for the sole purpose of providing wastewater and drinking water services, respectively. The Respondents do not assert that the Association or the Trust Foundation are formed in accordance to the requirements set forth in Sections 393.825 to 393.861, 393.900 to 393.951 and 393.175, and therefore are not exempt from Commission's jurisdiction.

10. According to the Respondents, Distinctive Designs Ltd., served as the developer of Carriage Oaks Estates, and along with Carriage Oaks, LLC and owned, operated and maintained the water and sewer systems at issue. *Respondents' Motion*, pg. 1. The Respondents have not specified what interest Distinctive Design, Ltd., currently holds. While the Respondents state that Carriage Oaks, LLC transferred its interest in water and sewer facilities to the Trust Foundation on April 13, 2016, the Respondents have not identified whether Distinctive Design, Ltd. transferred its interest in the water and sewer systems or if it still retains an interest in the systems. Distinctive Designs, Ltd. was registered as a fictitious name by Mills Properties Group, Ltd. in November 1997. On October 17, 2009, the Missouri Secretary of State's Office found that the fictitious name had expired for failure to comply with 417.320 RSMo. Mills Properties Group, Ltd., whose sole officer and director is Mr. Carl Mills, is still in good standing. On the facts alleged, it is unclear whether Distinctive Designs, Ltd., or Mills Properties Group, Ltd. possesses or claims ownership over the utility assets in question.

11. The Complainants have identified Mr. Carl Mills, in his individual capacity, as a respondent in this case. In his affidavit, Mr. Mills states that he “owned, operated and maintained” the water and sewer systems since the founding of Carriage Oaks Estates. *Respondents’ Motion*, pg 20. Since possession of the utility assets has transferred from Carriage Oaks, LLC to the Trust Foundation, on the facts alleged, it is unclear whether Mr. Carl Mills personally possesses or claims ownership of any utility asset or his present role in the operations and maintenance of utility assets in question.

### **Water & Sewer Jurisdiction**

12. The Commission has jurisdiction, pursuant to § 386.020(43) RSMo, over “every water corporation. . . and sewer corporation, as these terms are defined in this section, and each thereof is hereby declared to be a public utility and to be subject to the jurisdiction, control and regulation of the commission and the provisions of this chapter[.]” Sections 386.020(49) and 386.020(59) RSMo, defines regulated water and sewer utility corporations subject to the Commission’s jurisdiction as every corporation owning, operating, controlling or managing any plant or property engaged in distributing or selling or supplying for gain any water, or for the collection, carriage, treatment, or disposal of sewage for gain. Furthermore, pursuant to the standard set forth in *State ex rel. M.O. Danciger & Co. v. Pub. Serv. Comm’n*, 205 S.W. 36, 38 (Mo. 1918), water and sewer systems are subject to the Commission’s jurisdiction if they are operated “for public use,” meaning “service [i]s indiscriminately and reasonably made available to the general public.” *Osage Water Co. v. Miller County Water Auth., Inc.*, 950 S.W.2d 569, 574 (Mo. App. S.D. 1997) (internal citations omitted) (explaining the “devoted to public

use” standard set forth in *Danciger*). Finally, the system must be operated “for gain.” *Id.* at 574-575.

13. The Trust Foundation owns and operates its water and sewer systems for public use. The Missouri Court of Appeals has found that the provision of a utility service is for public use by considering (1) if water is sold to the public for compensation, and (2) whether the provider’s “actions suggest that it has undertaken the responsibility to provide water service to all members of the public within its capabilities.” *Id.* at 575 (finding the record void of evidence the company had refused service). See also, *Danciger*, at 40-41 (finding the company had refused service beyond its production capacity). In *Osage Water Co.*, the Court of Appeals held that a not-for-profit corporation that supplied water service exclusively to the residents of two subdivisions was serving the public. *Id.* Likewise, the Respondents are seeking compensation for the provision of utility service by serving all members of the public within its capabilities.

14. First, the Respondent admits that the Association collects an annual fee from homeowners, which it in turn pays to the Trust Foundation for the provision and operation of the water and sewer services. *Respondents Motion*, pg 1-2. In *Hurricane Deck*, the Missouri Court of Appeals held that a developer who sought compensation for the provision of water service by issuing assessments seeking recovery for the actual costs of operating the system was within the Commission’s jurisdiction, as the solicitation identified the developer as the party issuing the bill, and specified an amount to be paid for water service. *Hurricane Deck Holding Co. v. Pub. Serv. Comm’n of State*, 289 S.W.3d 260, 268 (Mo.App. W.D. 2009). On August 1, 2011, in a letter sent from the

Association to homeowners, the Respondents state a “need to raise money” and announced the imposition of water and sewer rates for provision of the utility services allegedly based on an average of the rates of systems in Branson West, Forsyth, and Kimberling City. See *Appendix B*, pg. 1-2. The Respondents’ contention that the system has been operated at a loss is immaterial to the analysis as it does not contest the Respondents solicitation and collection of monies for the provision of water and sewer services, nor address the statement that the rates imposed on homeowners were based on averages of rate designs from other regional systems. *Cirese*, at 790 (finding the “indiscriminate distribution of customers’ bills” as a profession of public service), see *Hurricane Deck*, at 267 (finding that the sending of a letter requesting payment for past services met the “for gain” requirement). As the record establishes that the Respondents solicited and received of payment for the provision of water and sewer services, Staff believes the Respondents are operating its systems for gain.

15. Second, the Respondents undertook the responsibility to provide water and sewer services to all homeowners by constructing and operating a water and sewer systems. In *Hurricane Deck*, the Court of Appeals found that where a water provider had provided service indiscriminately to all homeowners within the territory of several blocks, it followed. . . that the company engaged in the business as a public utility.” *Id.* at 266 *quoting Cirese*, at 791. In its response to Staff Data Requests 5 and 10, the Respondent states that the current water and sewer systems were designed to meet the full capacity of both Phase I and Phase II of its development. See *Appendix C* and *D*. Furthermore, pursuant to Section II, Paragraph 3, of the *Declaration of Restrictive Covenants and Easements, Carriage Oakes Estates R-1*, (Covenants) “[n]o private well

shall be drilled on any lot and used for drinking water, and no method of obtaining drinking water shall be allowed” except connection to a state approved water supply well. In addition, pursuant to Section II, Paragraph 14 of the Covenants, the Respondents maintain easements “for the purposes of erecting, maintaining and operating...water lines...” on any lot sold or conveyed. By restricting the homeowners’ ability to obtain potable water elsewhere, retaining easements for the purpose of providing water utility service and constructing a state approved well, the Respondent assumes the responsibility of providing service to all present and future homeowners of the development.

16. In *Oler v. Folsom Ridge*, the Commission found that a homeowners association was not providing utility service indiscriminately within its capabilities by “offer[ing] services to a discrete group of people who become members of the Association[.]” WC-2006-0082, EFIS No. 343, *Report and Order*, p. 60 (June 14, 2007). The case identifies several homeowners within the Folsom Ridge subdivision that opted out of the homeowners association’s service and maintained personal private wells and sanitary septic systems. *Id.* at pgs. 10, 21, 29, 32. Unlike *Folsom Ridge*, the Respondents compel homeowners within its subdivision to join the Association, and prohibit homeowners from drilling wells. See *Covenants* at §§ II ¶ 3, II ¶ 14, IV ¶ 1. The Association in this case is factually distinguishable from the association discussed in *Folsom Ridge*, and the Respondents should be determined to be offering service indiscriminately within its capabilities, as the terms of the Covenant both explicitly and implicitly prohibit the homeowners from opting out of its services.

17. The Association and the Trust Foundation operate its water and sewer systems for gain. The Court of Appeals has interpreted “for gain” to mean “for compensation”. *Osage Water* at 574. In *Summer Set Property*, the Commission inferred compensation where a service provider “state[s] that they render regular water and sewer service bills to their customers[.]” WD-2006-0157, EFIS No. 4, *Order Directing Filing*, p. 2 (Nov. 23, 2005). The Respondents admit that they issue and collect an annual assessment for the provision of water and sewer utility services is evidence of providing service for compensation. *Respondents Motion*, pg. 1. In the course of Staff’s investigation, the Complainants provided a document entitled “Profit & Loss Budget Performance” for calendar year 2015 of the Association, stating the total income is \$21,060 and total costs are \$16,654.22, leaving an annual net income of \$4,405.78. See *Appendix B*, p.7. While an annual net profit would satisfy the “gain” requirement, Staff believes that the Commission may infer compensation through the Respondents issuance of annual assessments, regardless of profit. See, *Hurricane Deck*, at 267, 268 (affirming the Public Service Commission’s finding that “sending a bill to customers for the provision of water and sewer service meets the definition of operating a system for gain, regardless of whether any customer actually pays the bill”).

#### **Sewer Jurisdiction Outlet Exemption Analysis**

18. The Respondent does not meet the statutory outlet exemption from the definition of sewer corporation. Section 386.020(49) RSMo, provides an exemption to the definition of a sewer corporation, so that the term “shall not include sewer systems with fewer than twenty-five outlets.” Commission Rule 4 CSR 240-60.010(3)(K) defines “outlet” as a “service sewer connection to the collecting sewer[.]” The term “service

sewers” is not independently defined by rule, but is used in conjunction with service to customers in Commission Rule 4 CSR 240-60.010(3)(E), defining “service sewers to customers” as “[a]ny sewer pipe extending from the customer’s residence or other structure to the utility’s collecting sewer, but excluding service wyes.” 4 CSR 240-60.020(7) further informs the context of the term “service sewer” as being a distinct subset of the sewer system, apart the collecting sewers, that serves as the infrastructure between the utility company and the customer, by applying engineering standards and construction requirements for both collecting sewers and service sewers. Connection is not a term defined in the rule or by statute. BLACK’S LAW DICTIONARY 302 (6<sup>th</sup> ed. 1990), defines “connection” as “[t]he state of being connected or joined; union by junction, by an intervening substance or medium, by dependence or relation, or by order in a series.” Commission Rule 4 CSR 240-60.010(3)(D) defines “collecting sewer” as “[s]ewers, including force lines, gravity sewers, interceptors, laterals, trunk sewers, manholes, lampholes and necessary appurtenances, including service wyes.” To that end, should the construction of twenty-five (25) outlets occur, the joining of service sewer pipes with the collecting sewer, the Commission has jurisdiction over the sewer system. In response to Staff Data Request 9, attached hereto as Appendix E, the Respondent states, in part, “[a]ll lots in Phase I and Phase II, a total of Thirty-Three (33) lots, could be connected to the sewer system **with no further construction.**” (Emphasis added). In accordance with Staff’s analysis, Staff believes that the Respondent’s sewer system maintains an amount of outlets in excess of the threshold identified by statute.

19. The Respondents argue, in part, that it is only serving five outlets, and therefore are exempt from the Commission's sewer jurisdiction. *Respondents*, pg 3. The consequence of the Respondent's argument would see the Commission apply the plain language of § 386.020(49) "sewer systems with fewer than twenty-five outlets" as 'sewer systems serving fewer than twenty-five customers.' The Respondents' 'present customer' argument is immaterial as the plain language of the statute seeks a quantitative evaluation of the infrastructure of a sewer system.

### **Rocky Ridge Exemption Analysis**

20. The Commission may determine not to exert jurisdiction over a Missouri non-profit corporation, as a result of the public interest analysis in *Danciger*, where the non-profit entity meets the following criteria:

(1) All of the utility customers are members of the non-profit entity, and the utility is operated only for the benefit of those customers.

(2) Any voting rights regarding utility matters are arranged as one vote per customer served by the system.

(3) The non-profit entity must have complete operational control over the utility.

*See, In re: Application of Rocky Ridge Ranch Property Owners Association for an order of the Public Service Commission authorizing cessation of PSC jurisdiction and regulation over its operations; Order Denying Request for Public Hearing and Cancelling Certificate of Convenience and Necessity, (Case No. WD-93-307, July 7, 1993). See also, Orlor v. Folsom Ridge, LLC, 2007 WL 2066385 (2007); (Report and Order, Case No. WO-2007-0277, June 14, 2007).*

21. For the Trust Foundation on membership, only Mr. Mills has an interest in the Trust Foundation as Trustee, and no other home owner has been identified or claimed an interest. As the Trust Foundation is not inclusive of all utility recipients, it fails the first criteria. On voting rights, as there is no membership beyond Mr. Mills, there are likewise no voting rights held by the utility recipients; consequently the Trust Foundation fails the second criteria. On operational control, the Trust Foundation exercises control over the physical assets utilized in the provision of water and sewer service; however, the Association is designated as the operating authority. As the Trust Foundation does not directly bill the end users, rather allowing the Association to collect dues and soliciting the Association for remittance, there may be a question as to whether the Trust Foundation exercises complete operational control in light of its billing and payment practices.

22. The Association is comprised of all utility customers, and succeeds at the first criteria. However, the Association's voting structure provides Mr. Mills with voting authority in excess of one vote, therefore failing the second criteria. Finally, the Association does not possess the water and sewer system assets, and cannot satisfy the third criteria.

23. Neither the Association nor the Trust Foundation, pursuant to the facts asserted by the Respondents, meet the criteria put forward in *Rocky Ridge*, and therefore, are not eligible for exemption from Commission jurisdiction.

24. For the foregoing reasons, the Commission has jurisdiction over the Respondents' water and sewer systems.

25. Should the Respondents maintain their position that the Commission lacks jurisdiction over its water and sewer systems, the Commission is compelled to deny the Respondents' *Motion to Dismiss* pursuant to Commission Rule 4 CSR 240-2.070(13), with the question of Commission's jurisdiction over the Respondents' water and sewer systems serving as the basis of Staff's allegation. Should the Respondents adhere to the Commission's jurisdiction by adopting Staff's resolution identified as 26.1 below, the *Motion to Dismiss* may be considered by the Commission.

26. In Staff's Report, Staff identified that "any resolution of this formal complaint will require a decision by Mr. Mills regarding how utility service will be provided, going forward." Options for resolution of Staff's concern are 1) The Caring Americans Trust, Inc., or Carriage Oaks Home Owners Association, LLC, file for a Certificate of Convenience and Necessity as a Commission regulated water and sewer utility; or 2) turn over control of the water and sewer systems to an appropriately organized nonprofit water and sewer entity; or 3) turn over the water and sewer systems and operation to an existing unrelated utility capable of providing such utility service. Staff requests a mediation with the parties under 4 CSR 240-2.125(2), as Staff believes that resolving the jurisdictional issues may resolve the Complainants' concerns. While either of these options may not provide the redress sought by the Complainants, it may substantively resolve the issue to their satisfaction.

**WHEREFORE**, Staff submits its Staff Report for the Commission's information and consideration, and prays that the Commission will grant this request for a mediation to consider Staff's suggestions identified in Paragraph 26.

Respectfully submitted,

**/s/ Hampton Williams**

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**CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing have been mailed or hand-delivered, transmitted by facsimile or electronically mailed to all counsel of record on this 28<sup>th</sup> day of October, 2016.

**/s/ Hampton Williams**

## **MEMORANDUM**

TO: Missouri Public Service Commission Official Case File  
File No. WC-2017-0037  
Carriage Oaks Estates

FROM: James A. Merciel, Jr. – Water and Sewer Department

|                                  |                 |                             |                 |
|----------------------------------|-----------------|-----------------------------|-----------------|
| <u>/s/ James A. Merciel, Jr.</u> | <u>10/28/16</u> | <u>/s/ Hampton Williams</u> | <u>10/28/16</u> |
| Case Coordinator                 | Date            | Staff Counsel's Office      | Date            |

SUBJECT: Staff Report

DATE: October 28, 2016

### **CASE INTRODUCTION**

On August 4, 2016<sup>1</sup> Derald Morgan, Rick and Cindy Graver, William and Gloria Phipps and David Lott, all referred to as “Complainants,” filed this formal complaint against Carl Richard Mills (Mr. Mills), Carriage Oaks Estates Homeowners Association (Association), Distinctive Designs, Ltd., and Caring Americans Trust Foundation, Inc. (the Trust), all referred to as “Respondents.”

The Complainants are residents of a subdivision known as Carriage Oaks Estates. They have water and sewer service by the use of the water and sewer utility systems that were constructed as a part of the subdivision development. Currently Mr. Mills has apparent control of the utility operations<sup>2</sup>, through the Association and Trust entities, but neither he nor any entities involved with the water and sewer utility systems hold a Certificate of Convenience and Necessity (CCN) issued by the Commission authorizing the provision of public utility service.

The Complainants state that Mr. Mills caused the ownership of the utility systems to be transferred to the Trust. They also state that the Trust is a non-profit corporation organized for charitable and educational purposes, and was not formed to be a water and sewer utility; and, that the Complainants are not members, shareholders, or owners of the Trust. Therefore, Complainants argue, they have no control or input with regard to the utility operation, nor money charged to the Complainants to pay for utility operations; and also that Respondents do not have authority from the Commission to operate as a public utility. Complainants have requested relief that could include requiring Respondents to transfer ownership of the water and sewer utility

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<sup>1</sup> A formal complaint regarding the water utility system was submitted on this date; a separate but similar formal complaint regarding the sewer system was submitted at a later date, and the complaints were later amended.

WC-2017-0037 is a consolidated case that includes both the water and sewer system.

<sup>2</sup> “Utility” as used herein are generic references to the water and sewer service provided by the Respondents. It is not intended as a legal conclusion as to whether the systems are regulated public utilities.

systems that serve their residences, along with utility operations, to an entity that is controlled by the customers.

Staff's view of this formal complaint, and Staff's focus in this report, is primarily that of the Commission's jurisdiction over the service provided to the public by this water and sewer utility operation.

## **BACKGROUND OF THE DEVELOPMENT AND THE UTILITY SYSTEMS**

Mr. Mills, through entities he owns or controls<sup>3</sup>, is the developer of the Carriage Oaks Estates subdivision. Carriage Oaks Estates is located near Kimberling City, MO, near Table Rock Lake in southwest Missouri. According to information provided to Staff by Respondents, the developed area of Carriage Oaks Estates consists of Phase I with eight lots and Phase II with twenty-four (24) lots, for a total of thirty-two (32) lots. These lots are and have been offered for sale to the public. Of these 32 existing lots in the developed area of the subdivision, at present there are seven lots upon which homes have been constructed and are taking water and sewer service. One of the lots with a residence is owned by Mr. Mills. A few other lots have been sold but do not have residences constructed upon them. Lots that are as-yet unsold are available to the public for purchase.

There are also approximately twenty-three (23) acres of additional unplatted land available that could be developed in the future. A proposed Phase III would be included within this undeveloped area and could add approximately twenty-three (23) more lots.

For both the water system and the sewer system, Staff has only studied some basic capacity data as provided by Respondents via data requests. Staff has not investigated actual capacity available for future customers, customer demand including outdoor water use demand such as lawn sprinkling, condition of utility plant, or day-to-day plant operations and recordkeeping.

The water system consists of a single well with current production capacity of fifty-five (55) gallons per minute (gpm), five bladder type pressure tanks (volume unknown to Staff) to normalize distribution system pressure, and a distribution system that is available to all of the existing 32 lots in the developed area. The system includes meters for six of the seven customers although it appears to Staff that meters are not used for billing at present because individual customers are not directly billed.

The Missouri Department of Natural Resources (DNR) has not yet issued a drinking water permit to dispense drinking water. DNR stated to Staff that there is a question as to whether the Trust is a proper entity to be a Public Water Supply under DNR rules, and to be authorized by DNR to provide drinking water. Staff notes that DNR rules regarding drinking water permitting,

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<sup>3</sup> The "Declaration of Restrictive Covenants and Easements" (Covenants) is a recorded document applying to Carriage Oaks Estates; in which "Developer/Owner...refer[s] to and mean[s] Distinctive Designs Ltd. Div. Mills Properties Group Ltd, a Missouri Corporation, or any managing member of Carriage Oaks LLC, Owner of Record of the Subdivision Property, designated to act, vote, or make decisions for or on issues or matters relating to the Carriage Oaks Estates Development."

and PSC rules regarding authority to act as a public utility, are separate and unrelated rules. Thus, the Commission need not rely on whether DNR has issued a permit to determine whether or not any of the entities owning and/or operating the utilities are within PSC jurisdiction.

The sewer system consists of a recirculating sand filter sewage treatment facility with a design capacity of 7,800 gallons per day, and a collection system that is constructed and available for all of the existing 32 lots in the developed area of the subdivision. Each customer is required to install an on-site “pump unit” that collects sewage discharged from the residence and pumps it into the utility-owned collection system. Based on the information provided by the Respondents, the treatment facility has a design capacity for the existing 32 lots. According to Respondents, a second phase of the waste water treatment facility is planned for Phase III of the subdivision. The wastewater treatment facility has a valid operating permit from DNR, issued on August 1, 2013 and expiring on July 31, 2018. The permit lists the Trust as owner, and lists the Association as the “continuing authority.” Continuing Authority, under DNR rules, means that the entity is permanent and is responsible for “operation, maintenance, and modernization” of a sewage treatment facility.

Depending upon the outcome of this matter and if a subsequent CCN case becomes necessary, Staff would undertake additional investigation with regard to actual and planned system capacities and adequacy of operations. Additionally, Staff would make recommendations regarding rates, rules and all aspects of customer service required of regulated water and sewer utilities. However, for purposes of this report, based on its electronic and verbal communication with the Complainants, the Respondents, and DNR, Staff has no indication that there are any plant operations issues or related customer service issues at present, other than the specific matters addressed in this formal complaint.

### **UTILITY BUSINESS OVERVIEW**

A fundamental issue that is outlined in this formal complaint is that water and sewer services are not controlled by the customers. Rather, water and sewer service is controlled by Mr. Mills by virtue of his controlling the Trust, which is the owner of the systems; and, also his control of the operating entity, the Association. The role of these two entities is outlined further herein. During a telephone conversation between Staff and Mr. Mills while this current matter was an informal inquiry and before this formal complaint was filed, Mr. Mills indicated that for the present time he wishes for ownership to remain with the Trust, and for it to maintain the responsibility to oversee operation of the water and sewer systems, for continuity. He stated that someday the property owners will likely have complete control over the water and sewer systems, but he is not ready to turn over such control yet.

Monthly bills for water and sewer service are not issued to individual customers, as is typically done by utilities. Expenses related to water and sewer service are paid from annual assessments upon the property owners, sought and collected by the Association. The assessments pay for various subdivision expenses, including water and sewer service, but it is unknown to Staff how much of the assessments cover water and sewer costs. For purposes of this report, Staff has not analyzed the utilities’ cost of service. If a CCN case is filed in response to this Complaint, Staff

will conduct the corresponding analysis of expenses, and make a recommendation regarding rates for water and sewer service.

There exists a “Declaration of Restrictive Covenants and Easements,” (Covenants), which is included with RESPONDENTS’ MOTION TO DISMISS COMPLAINANTS’ AMENDED PETITION as Exhibit A (EFIS item 10), and which is a recorded document applying to Carriage Oaks Estates. Among other things, the Covenants document provides for the creation of the Association in “1X (sic) HOMEOWNERS ASSOCIATION Section 1. Membership.”

Staff notes, after studying the Covenants, that persons who buy subdivision lots, which would include the Complainants, are Class A members of the Association; they are entitled to one (1) vote per member but no more than one (1) vote per lot owned; as per the Covenants in IX Section 2.

Also, the “Developer/Owner,” defined in the Covenants as described in a footnote above, herein, is a Class B member of the Association, and is entitled to ten (10) votes per lot “...as shown on the preliminary and final plat for Phase 1, and any successive Phases...;” also as per the Covenants in IX Section 2.

This same verbiage about Class A and Class B membership appears in the “Articles of Incorporation” of the Association, in the “Membership” section. The Association’s Articles of Incorporation are posted on the Missouri Secretary of State website, among other documents filed by the Association.

The verbiage does not say that the Developer/Owner as a Class B member relinquishes any votes as lots are sold; but whether this point is true or not, it is clear that Mr. Mills at present has far greater voting power than the customers, and that power could continue for the foreseeable future.

### **STAFF’S OBSERVATIONS**

The Covenants and the Association’s Articles of Incorporation address utility service provided to the public. An analysis of the Commission’s jurisdiction, generally, is being addressed by Staff Counsel.

Staff frequently deals with subdivisions developers, and homeowners’ or property owners’ associations, including whether associations are indeed controlled by the customer-members, or if a developer retains control of an association. Customer control is outlined by the Commission and in state statutes.

In its order in a past case involving the sale of a system owned by a regulated water utility, WD-93-307, the Commission issued its ORDER DENYING REQUEST FOR PUBLIC HEARING AND CANCELLING CERTIFICATE OF CONVENIENCE AND NECESSITY, a copy included as Attachment A and incorporated herein by reference. In this order, the Commission recognized what Staff sometimes refers to as the “Rocky Ridge Ranch points.” The

Rocky Ridge Ranch points outline basically how associations should operate in order for regulatory oversight to be unnecessary. The 2nd of the three (3) Rocky Ridge Ranch points provides for one (1) vote per customer and no extra votes based on lot ownership.

State statutes provide for the creation and operation of non-regulated “nonprofit” water utilities at §393.900 - .954, and sewer utilities at §393.825 - .861. Nonprofit water or sewer utilities are entities that are set up and operated much like homeowners associations; and, which is a type of utility entity many homeowner associations create for handling utility matters. Staff uses the principles outlined in the statutes as a guide if a homeowner association itself will be the utility. For such non-regulated utilities, there should be 1 vote per member as per §393.921.7. for nonprofit water utilities, and §393.839. 7. for nonprofit sewer utilities.

The Complainants, for all practical purposes, have little or no involvement with the Association because they have one vote per lot but the developer has ten votes per lot owned.

There are other factors in the Covenants that indicate customers have little or no control over their water and sewer utility service:

II, section 3 - prohibits individual wells on lots, and requires connection to the public water supply.

III, section 14 – the Developer/Owner retains right-of-way for utility systems including electric, telephone, water, sewer, and gas.

III, section 16 – requires lot owners to pay a “proportional share of the cost” of operating the water and sewer systems.

III, section 21 – provides that “Any right, power or authority reserved herein the Developer/Owner ... may be sold ... to a property owners association, private or public utility, or private corporation.” This provision appears to have been exercised, without any requirement of approval of Class A and Class B members, when the water and sewer utility assets were transferred to the Trust on April 13, 2016.

IV, section 1 – Developer/Owner is obligated to provide the water and sewer systems; property owners are required to connect to the systems along with a requirement for lot owners to construct, own and maintain sewer “pump units;” and the Association will be “assessed quarterly” for maintenance or improvements to subdivision amenities that include the water and sewer systems.

V, sections 1 through 3 - require the Association to set charges or assessments for subdivision items that include the water and sewer systems.

VI, sections 1 through 3 - provide for enforcement of the Covenants by the Association through liens.

IX, section 4 – provides that the Association operates, maintains, improve repair water and sewer systems.

X, section 1- provides for the Developer/Owner to “...have the option of retaining direct control over all matters which might otherwise, be the duty, obligation or entitlement of the Association for a period of fifteen (15) years from the date of recording ... or until such time as two thirds (2/3) of the lots in the subject tract have been transferred...” Notably, of the 32 existing lots, approximately ten (10) have been sold, presumably leaving approximately 22 lots remaining as owned or controlled by the Developer/Owner, according to information provided to Staff by the Respondents.

Staff concludes that the Association does not meet the Rocky Ridge Ranch points, and does not meet all of the provisions of state statutes for nonprofit utilities. As such, the Association, as it exists at present, would very likely be subject to regulation if it were the utility. The Trust does not have members, and also is not set up consistent with the state statutes for nonprofit utilities. Distinctive Designs Ltd is an expired fictitious name. These latter two entities clearly have no customer involvement.

#### **STAFF’S SUMMARY AND POSSIBLE RESOLUTION OF THE COMPLAINT**

Based on the above, and also based on Staff Counsel’s analysis of jurisdiction, Staff takes the position that water and sewer utility service, as provided at present, is being sold to the public, and does not meet criteria of being controlled by the customers as specified in the “Rocky Ridge Ranch points” from WD-93-307, nor in the statutes for nonprofit water or sewer utilities. Therefore, Staff concludes that Carriage Oaks’ provision of water and sewer service is subject to the Commission’s jurisdiction. Because there appear to be at least two entities directly involved with the water and sewer utility service that is being provided at present, Staff does not wish to make any conclusion as to exactly what entity should be the regulated utility, whether it be the Trust because it appears to be the owner and ultimately responsible, or the Association because it is undertaking operation and management. Additionally, the manner in which service is being provided to customers, particularly customer billing, is not conducive to what might be called normal regulated utility service. In consideration of Mr. Mills’ present control of the water and sewer utility systems by the terms of the Covenants with respect to “Developer/Owner,” and the involvement of both the Trust and the Association, Staff takes the position that any resolution of this formal complaint will require a decision by Mr. Mills regarding how utility service will be provided going forward. If Mr. Mills decides to turn over ownership, control and responsibility of the water and sewer systems to the customers, then Complainants (customers) must agree to accept such ownership, control and responsibility.

Options for resolution could include any of the following:

1. An entity owned and/or controlled by Mr. Mills file for a CCN; Staff takes no position what entity controlled by Mr. Mills should be the utility.

2. Turn over the utility systems ownership and operations to an entity legitimately and equitably controlled by utility customers. Complainants request this option as relief; however, Staff takes the position that this should be undertaken by an agreement between Mr. Mills along with associated involved entities, and the customers along with an entity legitimately controlled by customers, and not undertaken simply by an order issued by the Commission. Staff also takes the position that the Association, as it exists at present, is not an entity that is controlled by utility customers because of the Class A and Class B voting provisions, as described in this report. A yet-to-be formed nonprofit utility that is set up as outlined by state statutes, as addressed in this report, could be a legitimate customer-controlled entity.
3. Turn over the utility systems and operation to an existing unrelated utility that is capable of providing water and sewer utility service. There are several such utilities that operate within reasonable proximity of Carriage Oaks Estates.

Attachments:

A - Rocky Ridge Ranch order from WD-93-307

STATE OF MISSOURI  
PUBLIC SERVICE COMMISSION

At a Session of the Public Service  
Commission held at its office  
in Jefferson City on the 7th  
day of July, 1993.

In the matter of the application of Rocky Ridge )  
Ranch Property Owners Association for an order )  
of the Public Service Commission authorizing ) Case No. WD-93-307  
cessation of PSC jurisdiction and regulation )  
over its operations. )

ORDER DENYING REQUEST FOR PUBLIC HEARING AND  
CANCELLING CERTIFICATE OF CONVENIENCE AND NECESSITY

On May 10, 1993, Rocky Ridge Ranch Property Owners Association  
(Applicant or POA) filed an Application requesting an order cancelling its  
certificate of convenience and necessity pursuant to Section 393.190 RSMo. POA  
is a provider of water service to property owners in Rocky Ridge Ranch, a  
subdivision of Ste. Genevieve County, Missouri. POA was a co-applicant in Case  
No. WM-93-136 involving the transfer of the assets and the certificate from the  
previous water company to the Property Owners Association. In that case, the  
Commission approved the sale of the assets, and transfer of the certificate to  
the POA but declined to release the POA from the jurisdiction of the Commission  
based upon a finding that the POA would continue to serve customers who were not  
members of the Association.

POA has now submitted an Application with documentation which reflects  
changes in the bylaws of the POA such that all Rocky Ridge Ranch lot owners are  
now eligible for membership in the Association without any requirement for  
membership dues. The provisions now state that any property owner who is a water  
customer is entitled to vote on matters pertaining to the water department of the  
Rocky Ridge Ranch Property Owners Association. POA is a not-for-profit  
corporation and as such does not distribute or sell water "for gain."

On May 18, 1993, the Commission issued an Order and Notice and an Order for Staff Investigation. This Order established an intervention date of June 14, 1993 and also established a deadline for the filing of a Staff investigation on June 16, 1993. The Commission received no applications for intervention.

On June 16, 1993, the Missouri Public Service Commission Staff (Staff) filed its Memorandum in which it recommended the cancellation of the certificate of convenience and necessity. The Staff Memorandum set out the criteria for a legitimate association as follows:

Rocky Ridge Ranch points

- 1) It must have as membership all of its utility customers, and operate the utility only for the benefit of its members;
- 2) It must base the voting rights regarding utility matters on whether or not a person is a customer, as opposed to, allowing one (1) vote per lot which would not be an equitable situation if one (1) person owned a majority of lots irrespective of whether each of those lots subscribed to the utility service; and
- 3) It must own or lease the utility system so that it has complete control over it.

The Staff Memorandum went on to state that the POA is an association which meets all of the Staff criteria for recognition as a legitimate association operating a utility strictly for the use of its own members. The Staff Memorandum did note that a number of individuals had signed a petition which arrived at the Commission offices on June 14, 1993 and in which the signatories requested a public hearing in this case. Pursuant to an evaluation of the evidence and testimony which was offered at the local public hearing in Case No. WM-93-136, the Staff has taken the position that the majority of the members of the Property Owners Association did indeed favor the proposal for the Property Owners Association to operate as a legitimate unregulated utility.

On June 21, 1993, the Office of Public Counsel (OPC) filed a Request for Local Public Hearing and in support of this request recited the receipt of the aforementioned petition. OPC further stated in its motion that if a local public hearing were scheduled in this case it would, inter alia, "hopefully serve the purpose of educating interested customers about the nature of Commission

jurisdiction and the specific changes made to the Property Owners Association bylaws."

On June 22, 1993, POA filed its Response to the Motion for Public Hearing in which it objected to the setting of a public hearing and stated that ordering a public hearing "to serve the purpose of educating interested customers about the nature of Commission jurisdiction and the specific changes made to the POA bylaws . . .", as asserted by OPC, was not justification to support an order for a public hearing. POA stated that it has complied with the requirements set out in the Order from WM-93-136. POA also stated that it had examined the petition and identified only thirty-five (35) signatories who might be water customers of POA. The Applicant stated that it had arrived at this number by the elimination of husband/wife duplicate signatures and signatures of non-customers. POA went on to state that these thirty-five (35) customers may well be among the same number who unsuccessfully voted against changing the bylaws so that POA would qualify for the cancellation of its certificate. Lastly, POA has indicated that the cover letter to the petition suggests that it is offered from the City of Rocky Ridge and reflects the date of June 9, 1993. However, it has been brought to the attention of the Commission that one (1) day earlier, on June 8, 1993, the voters of the City of Rocky Ridge voted to disincorporate the city and for that reason a trustee has been appointed to wind up the affairs of the city and dispose of its assets. This may raise some question about the continuing authority of the city clerk of a city which has ceased to exist. However, this issue is not dispositive of the motion before the Commission.

The Commission, having considered all of the competent and substantial evidence upon the whole record, finds that the POA has met its burden by qualifying as an association which does not require regulation under the rules and statutes of the state of Missouri. In Case No. WM-93-136, the Commission found it necessary to continue to retain jurisdiction over the Property Owners

Association based upon the finding that the Association would continue to serve customers who were not members of the Association. The Commission now finds changed circumstances due to the changes in the bylaws of the Property Owners Association. Pursuant to those changes, the Commission finds that the Property Owners Association does and will only provide water service to members of the Association. As such, POA does not qualify as a "water corporation" as defined by 386.020(51) RSMo 1992. For this reason, the Commission finds that it may no longer exercise jurisdiction over the POA. In the Report and Order which was issued in WM-93-136, the Commission stated that it exercises jurisdiction over entities which provide water to persons other than their members even if the entity provides the water "not for gain." The Commission retained jurisdiction on that basis and it was implicit in that order that the Commission would entertain a motion to cancel the Certificate for Convenience and Necessity once the POA could establish that it was only serving its members. The Commission now finds that the POA has satisfied that requirement. Having found that the POA no longer qualifies as a "water corporation" under the Missouri Statute(s) and having further found that the Commission no longer has jurisdiction over the POA water system, the Commission will cancel the certificate as requested. The Commission further makes the finding that it would not be detrimental to the public interest for the Certificate of Public Convenience and Necessity herein to be cancelled. The Commission will deny the Motion for Local Public Hearing and will order the Rocky Ridge Ranch Property Owners Association's Certificate of Public Convenience and Necessity, along with its accompanying tariff, to be cancelled.

**IT IS THEREFORE ORDERED:**

1. That the Motion of the Office of Public Counsel for a public hearing is hereby denied.

2. That the Certificate of Public Convenience and Necessity previously granted to Rocky Ridge Ranch Property Owners Association in Case No. WM-93-136, and the accompanying tariff, is hereby cancelled.

3. That, included in its next billing, Rocky Ridge Ranch Property Owners Association shall advise all of its customers affected thereby that Rocky Ridge Ranch Property Owners Association is no longer regulated by the Missouri Public Service Commission. Such notice shall state that "beginning (date), our rates and charges for water and other services will no longer be regulated by the Missouri Public Service Commission."

4. That this order shall become effective on the July 20, 1993.

BY THE COMMISSION

*Brent Stewart*

Brent Stewart  
Executive Secretary

(S E A L)

Mueller, Chm., McClure, Perkins,  
Kincheloe and Crumpton, CC., Concur.

# Carriage Oaks Estates

HOME OWNERS ASSOCIATION

*Est. October 20, 1999*

Carriage Oaks Estates HOA  
Home Owners only

August 1, 2011

Sub: Water & Sewer

For the Last eleven years there has been no charge for water or sewer for Carriage Oaks Estates development. And there has been no reserve for money, to maintain any of the equipment, repair or replace any of it, or any expansion of either, water or sewer. We are about at the limit for water without a substantial expansion. We will soon need a water tank in order to keep the pressure up. And the DNR, or Dept. of Natural Resources was given a 16,000 Gallon tank as the first size required by the development engineer, to step up to this level. It will also require booster pumps, to maintain the pressure we need. I have not priced any of these things for a very long time, and we will be needing an update by next year.

Now the development is owned by myself, under the name of Carriage Oaks LLC. The utilities have not been sold to another utility company, to manage and operate them, so far, I have managed it myself. If I continue in this mode I will need to raise money for the storage tank and booster pumps, and reserve for repairs.

So I have gone to three small towns, Branson West, Forsyth, and Kimberling City, to get there water and sewer costs, and averaged them to get an idea of what I should charge for these facilities. And I am going to give it a try before I throw in the towel, to someone like White River Electric, who tried to purchase it when I first finished the Phase I, and I declined at the time.

So I have recorded everyone's meter number and the meter reading for the month of August, except one who has not put in a meter yet. Which an incentive will be given for them to catch up with the others.

Any way the average of the three cities look like this:

Water: Is \$11.03 for the 1st K (1000 Gallons) then \$2.87 per K after, with the minimum usage being 3 K, or \$16.77 then \$2.87 per K after.

Sewer: Is \$16.85 for the 1st K (1000 Gallons) then \$4.13 per K after, with the minimum usage being 3 K, or \$28.94 then \$4.13 Per K after.

I know, your first question is, the same as mine was, what about sprinklers being counted as sewer costs. I got a verity of answers, such as:

- (A) Well they can get a second meter, that only goes for watering?
- (B) Or in the summer you could cut the water usage in half if they use Sprinklers, versus to normal usage, for the Sewer portion.
- (C) Do a test run on each house per "day" or "week" or "month" using or not using the Sprinklers.

Any way if someone comes up with a better idea, let me know.

I will start billing in September and building some revenues for next summer when I would like to put the tank in, although I think it will take several years to pay for it.

By the way you have probably noticed the exit gate now works, I Think, about 100% of the time, that's because a new actuator was installed, after the gate was pulled off and all the oak leaves broke off. This kind of stuff is expensive, we were lucky it was not a whole new gate.

One last thing we will not allow any heavy trucks in the main gate after this, including Garbage Trucks, which is strongly suspected of pulling off the gate the last time. Not to mention the temperature this time of year, could do some serious damage to the new paved roads, like ruts etc. We will take all trash carts up to the construction gate for pick up on the appropriate day.

Thanks for your cooperation every one. Any questions just call me.

Dick Mills

Mr. Morgan

In your case, I will combine the usage of all the other houses that people live in permanently, and average them out for your usage of both water and sewer for this month, and there will be a \$50.00 extra fee, for each month that you do not have a meter.

# Carriage Oaks LLC

## Water and Sewer Usage

Water Usage: \$11.03 for 1st K (1000 Gallons) then  
\$2.87 per K after, with minimum usage 3K or \$16.77 min.  
then \$2.87 per K after min.

| Name   | Meter No. | Last<br>08-03-11 | Current<br>09-03-11 | Usage     | Amount |
|--------|-----------|------------------|---------------------|-----------|--------|
| Morgan | -NONE-    | None             | None                | 8059 Avg. | 31.12  |

Each month there is a No Meter Charge of \$50.00 added.  
Please let me know when you have it installed, I will read it.

Sewer Usage: \$16.85 for 1st K (1000 Gallons) then \$4.13 per K  
after, with Min. usage 3K or \$28.94 min. then \$4.13 per K after  
minimum, rates for now, will be for winter water usage.

| Last<br>08-03-11 | Current<br>09-03-11 | Usage<br>Min. | Amount<br>28.94 |
|------------------|---------------------|---------------|-----------------|
|------------------|---------------------|---------------|-----------------|

Total Water & Sewer: \$ 110.06

Please Remit TO:

Carriage Oaks LLC.  
209 Falling Leaf Ct.  
Branson West, Mo. 65737

11:56 AM

01/07/16

Accrual Basis

**Carriage Oaks Estates HOA, INC**  
**General Ledger**  
**As of December 31, 2015**

| Type    | Date       | Num  | Name                      | Memo                  | Split                           | Amount    | Balance   |
|---------|------------|------|---------------------------|-----------------------|---------------------------------|-----------|-----------|
| US Bank |            |      |                           |                       |                                 |           | 649.69    |
| Check   | 1/28/2015  | 1451 | Noel Mills                |                       | Maintenance                     | -90.00    | 559.69    |
| Check   | 1/30/2015  | 1452 | Century Tel               |                       | Utilities                       | -37.15    | 522.54    |
| Deposit | 1/30/2015  | Dep  | Phipps                    | Deposit               | Assessment                      | 1,250.00  | 1,772.54  |
| Deposit | 1/30/2015  | Dep  | Funk                      | Deposit               | Assessment                      | 1,250.00  | 3,022.54  |
| Deposit | 1/30/2015  | Dep  | Mills                     | Deposit               | Assessment                      | 1,250.00  | 4,272.54  |
| Deposit | 1/30/2015  | Dep  | Morgan                    | Deposit               | Assessment                      | 1,250.00  | 5,522.54  |
| Check   | 2/4/2015   | 1453 | White River Electric      |                       | Water & Sewer U...              | -166.91   | 5,355.63  |
| Check   | 2/17/2015  | 1454 | Century Tel               |                       | Utilities                       | -43.15    | 5,312.48  |
| Deposit | 2/19/2015  | Dep  | Graner                    | Deposit               | Assessment                      | 1,250.00  | 6,562.48  |
| Deposit | 2/19/2015  | Dep  | Sykes                     | Deposit               | Assessment                      | 1,250.00  | 7,812.48  |
| Deposit | 2/19/2015  | Dep  | Lott                      | Deposit               | Assessment                      | 1,250.00  | 9,062.48  |
| Check   | 3/2/2015   | 1455 | White River Electric      |                       | Water & Sewer U...              | -135.26   | 8,927.22  |
| Check   | 3/5/2015   | 1456 | BBP Lab                   |                       | Sewer Treatment...              | -125.00   | 8,802.22  |
| Check   | 3/17/2015  | 1457 | Century Tel               |                       | Utilities                       | -37.15    | 8,765.07  |
| Check   | 4/1/2015   | 1458 | Steve holiday             |                       | sewer Plant Serv...             | -65.00    | 8,700.07  |
| Check   | 4/8/2015   | 1459 | White River Electric      |                       | Water & Sewer U...              | -142.36   | 8,557.71  |
| Check   | 4/16/2015  | 1460 | Nipps Fritz & Assoc       |                       | Tax Return                      | -255.00   | 8,302.71  |
| Check   | 5/2/2015   | 1461 | BBP Lab                   |                       | Sewer Treatment...              | -125.00   | 8,177.71  |
| Check   | 5/10/2015  | 1462 | White River Electric      |                       | Water & Sewer U...              | -194.06   | 7,983.65  |
| Check   | 5/18/2015  | 1463 | C R Mills                 | light bulbs front ... | Supplies                        | -50.25    | 7,933.40  |
| Check   | 5/18/2015  | 1464 | Century Tel               |                       | Utilities                       | -37.20    | 7,896.20  |
| Check   | 5/18/2015  | ACH  | US BANK                   |                       | order new checks                | -105.59   | 7,790.61  |
| Check   | 5/22/2015  | 1465 | Scott Mathas              |                       | Maintenance                     | -287.00   | 7,503.61  |
| Check   | 6/2/2015   | 1466 | White River Electric      |                       | Water & Sewer U...              | -220.04   | 7,283.57  |
| Check   | 6/2/2015   | 1467 | Richard Anderson          |                       | Legal Fees                      | -2,000.00 | 5,283.57  |
| Check   | 7/3/2015   | 1468 | Richard Anderson          |                       | Legal Fees                      | -8,773.15 | -3,489.58 |
| Deposit | 7/3/2015   | Dep  | C R Mills                 | Deposit               | Loan from C R M...              | 6,000.00  | 2,510.42  |
| Check   | 7/3/2015   | 1469 | White River Electric      |                       | Water & Sewer U...              | -221.24   | 2,289.18  |
| Check   | 7/10/2015  | 1470 | S & L Enterprises         | new pump              | sewer Plant Serv...             | -499.55   | 1,789.63  |
| Check   | 7/16/2015  | 1471 | Brenn Tag Mid South       |                       | Supplies                        | -406.73   | 1,382.90  |
| Check   | 7/22/2015  | 1472 | Century Tel               |                       | Utilities                       | -37.77    | 1,345.13  |
| Check   | 8/6/2015   | 1473 | White River Electric      |                       | Water & Sewer U...              | -329.94   | 1,015.19  |
| Check   | 8/18/2015  | 1474 | Century Tel               |                       | Utilities                       | -37.76    | 977.43    |
| Check   | 8/25/2015  | 1475 | Alan Grim                 |                       | Maintenance                     | -112.00   | 865.43    |
| Check   | 8/26/2015  | 1476 | Steve holiday             |                       | sewer Plant Serv...             | -1,695.28 | -829.85   |
| Deposit | 8/26/2015  | dep  | C R Mills                 | Deposit               | Loan from C R M...              | 2,000.00  | 1,170.15  |
| Check   | 9/8/2015   | 1477 | White River Electric      |                       | Water & Sewer U...              | -355.86   | 814.29    |
| Check   | 9/13/2015  | 1478 | BBP Lab                   |                       | Sewer Treatment...              | -125.00   | 689.29    |
| Check   | 9/25/2015  | 1479 | Mo Dept of Natural Res... |                       | State Operating ...             | -300.00   | 389.29    |
| Deposit | 9/28/2015  | dep  | C R Mills                 | Deposit               | Loan from C R M...              | 2,000.00  | 2,389.29  |
| Check   | 9/28/2015  | 1480 | Mike Stalzer Eng          |                       | water System Ev...              | -300.00   | 2,089.29  |
| Check   | 10/15/2015 | 1481 | Century Tel               |                       | Utilities                       | -37.76    | 2,051.53  |
| Check   | 10/15/2015 | 1482 | White River Electric      |                       | Water & Sewer U...              | -310.30   | 1,741.23  |
| Check   | 10/20/2015 | 1483 | Century Tel               |                       | Utilities                       | -82.72    | 1,658.51  |
| Deposit | 10/25/2015 | dep  | Carriage Oaks LLC         | lots 6A 7-9A 10A      | Assessment                      | 12,310.00 | 13,968.51 |
| Check   | 10/28/2015 | 1484 | Distinctive Designs       | invoice 61347...      | Re Pay Loan for 5. Holiday Park | 2,105.52  | 11,862.99 |
| Check   | 10/28/2015 | 1485 | Distinctive Designs       | water and sewe...     | Maintenance                     | -6,250.00 | 5,612.99  |
| Check   | 11/2/2015  | 1486 | BBP Lab                   |                       | Sewer Treatment...              | -125.00   | 5,487.99  |

11:56 AM

01/07/16

Accrual Basis

**Carriage Oaks Estates HOA, INC**  
**General Ledger**  
**As of December 31, 2015**

| Type                               | Date       | Num  | Name                 | Memo       | Split              | Amount   | Balance  |
|------------------------------------|------------|------|----------------------|------------|--------------------|----------|----------|
| Check                              | 11/2/2015  | 1487 | White River Electric |            | Water & Sewer U... | -232.84  | 5,255.15 |
| Check                              | 11/28/2015 | 1488 | White River Electric |            | Water & Sewer U... | -160.30  | 5,094.85 |
| Check                              | 12/19/2015 | 1489 | Century Tel          | phone gate | Utilities          | -39.38   | 5,055.47 |
| Total US Bank                      |            |      |                      |            |                    | 4,405.78 | 5,055.47 |
| <b>Accounts Receivable</b>         |            |      |                      |            |                    |          | 0.00     |
| Total Accounts Receivable          |            |      |                      |            |                    |          | 0.00     |
| <b>Undeposited Funds</b>           |            |      |                      |            |                    |          | 0.00     |
| Total Undeposited Funds            |            |      |                      |            |                    |          | 0.00     |
| <b>Furniture and Equipment</b>     |            |      |                      |            |                    |          | 0.00     |
| Total Furniture and Equipment      |            |      |                      |            |                    |          | 0.00     |
| <b>Marketable Securities</b>       |            |      |                      |            |                    |          | 0.00     |
| Total Marketable Securities        |            |      |                      |            |                    |          | 0.00     |
| <b>Other Assets</b>                |            |      |                      |            |                    |          | 0.00     |
| Total Other Assets                 |            |      |                      |            |                    |          | 0.00     |
| <b>Security Deposits Asset</b>     |            |      |                      |            |                    |          | 0.00     |
| Total Security Deposits Asset      |            |      |                      |            |                    |          | 0.00     |
| <b>Accounts Payable</b>            |            |      |                      |            |                    |          | 0.00     |
| Total Accounts Payable             |            |      |                      |            |                    |          | 0.00     |
| <b>Payroll Liabilities</b>         |            |      |                      |            |                    |          | 0.00     |
| Total Payroll Liabilities          |            |      |                      |            |                    |          | 0.00     |
| <b>Other Liabilities</b>           |            |      |                      |            |                    |          | 0.00     |
| Total Other Liabilities            |            |      |                      |            |                    |          | 0.00     |
| <b>Opening Balance Equity</b>      |            |      |                      |            |                    |          | -458.45  |
| Total Opening Balance Equity       |            |      |                      |            |                    |          | -458.45  |
| <b>Perm. Restricted Net Assets</b> |            |      |                      |            |                    |          | 0.00     |
| Total Perm. Restricted Net Assets  |            |      |                      |            |                    |          | 0.00     |
| <b>Temp. Restricted Net Assets</b> |            |      |                      |            |                    |          | 0.00     |
| Total Temp. Restricted Net Assets  |            |      |                      |            |                    |          | 0.00     |
| <b>Unrestricted Net Assets</b>     |            |      |                      |            |                    |          | -191.24  |
| Total Unrestricted Net Assets      |            |      |                      |            |                    |          | -191.24  |

10:01 AM  
03/29/16  
Accrual Basis

**Carriage Oaks Estates HOA, INC**  
**Profit & Loss Budget Performance**  
January through December 2015

|                                 | Jan - Dec 15 | Budget     | Jan - Dec 15 | YTD Budget | Annual Budget |
|---------------------------------|--------------|------------|--------------|------------|---------------|
| Ordinary Income/Expense         |              |            |              |            |               |
| Income                          |              |            |              |            |               |
| Assessment                      | 21,060.00    | 21,060.00  | 21,060.00    | 21,060.00  | 21,060.00     |
| Total Income                    | 21,060.00    | 21,060.00  | 21,060.00    | 21,060.00  | 21,060.00     |
| Expense                         |              |            |              |            |               |
| Contract Services               |              |            |              |            |               |
| Legal Fees                      | 10,773.15    | 10,773.15  | 10,773.15    | 10,773.15  | 10,773.15     |
| Total Contract Services         | 10,773.15    | 10,773.15  | 10,773.15    | 10,773.15  | 10,773.15     |
| Loan from C R Mills To HOA      | -10,000.00   | -10,000.00 | -10,000.00   | -10,000.00 | -10,000.00    |
| Maintenance                     | 6,739.00     | 6,739.00   | 6,739.00     | 6,739.00   | 6,739.00      |
| Operations                      |              |            |              |            |               |
| Supplies                        | 456.98       | 456.98     | 456.98       | 456.98     | 456.98        |
| Total Operations                | 456.98       | 456.98     | 456.98       | 456.98     | 456.98        |
| order new checks                | 105.59       | 105.59     | 105.59       | 105.59     | 105.59        |
| Re Pay Loan                     | 2,105.52     | 2,105.52   | 2,105.52     | 2,105.52   | 2,105.52      |
| sewer Plant Service Call        | 2,259.83     | 2,259.83   | 2,259.83     | 2,259.83   | 2,259.83      |
| Sewer Treatment Testing for DNR | 500.00       | 500.00     | 500.00       | 500.00     | 500.00        |
| State Operating Permit          | 300.00       | 300.00     | 300.00       | 300.00     | 300.00        |
| Tax Return                      | 255.00       | 255.00     | 255.00       | 255.00     | 255.00        |
| Utilities                       | 390.04       | 390.04     | 390.04       | 390.04     | 390.04        |
| Water & Sewer Utilities         | 2,469.11     | 2,469.11   | 2,469.11     | 2,469.11   | 2,469.11      |
| water System Evaluation         | 300.00       | 300.00     | 300.00       | 300.00     | 300.00        |
| Total Expense                   | 16,654.22    | 16,654.22  | 16,654.22    | 16,654.22  | 16,654.22     |
| Net Ordinary Income             | 4,405.78     | 4,405.78   | 4,405.78     | 4,405.78   | 4,405.78      |
| Net Income                      | 4,405.78     | 4,405.78   | 4,405.78     | 4,405.78   | 4,405.78      |

# Distinctive Designs Ltd.

Div. Mills Properties Group Ltd.

209 Falling Leaf Court  
Branson West, MO 65737  
(417) 338-8870  
Fax (417) 338-0521

Jan. 30, 2015

*Paied 10-28-15*

Invoice for 2014 Services

*CK # 1485*

Carriage Oaks Estates Subdivision  
209 Falling Leaf Court  
Branson West, MO. 75737

Management for calendar year 2014 of, Carriage Oaks Estates Subdivision, Sewer Treatment Plant & Water Well, Facilities. Operating and Maintaining these facilities includes: A weekly check of operating equipment, for functioning ability of motors, monitors and signaling devices, inspection of grounds for fallen trees, overgrown vegetations, including filter bed, and checking chemical levels. Collecting water samples from the Water Well annually, until at least ten homes, or twenty five persons reside in the subdivision. Collect samples of sewer treatment plant quarterly, and prepare a test report as required for the MDNR. The monthly cost is \$350.00, and does not include grounds maintenance work on or around the Well or Wastewater Treatment Facility. Chemicals used at the facilities, and testing are separate including Chlorine Tablets, De-Chlorination Tablets, Prestofloc C-100 55 gallon drums. And are determined by the commercial suppliers are subject to change, will be supplied at cost.

Cost for 2014 year above described services.      \$4,200.00

Maintenance costs being separate from above, include: Sewer Treatment Plant facility, Brush-hogging, as needed for large growth, regular mowing for small grass areas, weed-eating for steep inclines and outside Filter Bed fenced area, removal of overgrown brush, cut up and/or remove fallen trees near filter bed. Remove vegetation from filter bed in Spring and Fall, or as required by MDNR. Accompany MDNR on any inspections requested. Clean Recirculation Pumps/Motors and Filter Baskets in Recirculation Tank annually for fecal material. Check each year, and Pump out Flocculation Tank as needed. Renew Operating Permit with MDNR when required, and keep permit current annually. Schedule all Carriage Oaks property owners to pump out Septic tanks, and clean Pump/motor and filter baskets every three (3) years in August starting 2014 year.

Cost for 2014 year above described services.      \$2,250.00

All other outside service costs such as, vendors supplying repairs of/new equipment, electricians, repairmen, new requirements from the MDNR, engineers or skilled labor for repairs or all pearls, and pumping outservices, are not included in the above invoice.

Steven D. Holliday  
 697 Friendship Lane  
 Reeds Spring, MO 65737  
 Phone (417) 334-4184

| CUSTOMER ORDER NO.                        |                            | PHONE        |       | DATE    |          |
|-------------------------------------------|----------------------------|--------------|-------|---------|----------|
|                                           |                            | 417-338-8870 |       | 8-26-15 |          |
| NAME Carriage Oaks Estates (Dick Mills)   |                            |              |       |         |          |
| ADDRESS 821 NW 74                         |                            |              |       |         |          |
| CITY Reeds Spring STATE MO ZIP CODE 65737 |                            |              |       |         |          |
| SOLD BY                                   | CASH                       | C.O.D.       | CHECK | ON ACCT | PAID OUT |
|                                           |                            | X            |       |         |          |
| QTY.                                      | DESCRIPTION                |              |       | PRICE   | AMOUNT   |
|                                           | Install 2 floats in mixing |              |       | FLT     | 276.00   |
|                                           | Chamber, also mixing pump  |              |       | pmp     | 556.00   |
|                                           | Install Timer              |              |       | Timer   | 36.00    |
|                                           | Labor                      |              |       |         | 130.00   |
|                                           | Clean filter & install     |              |       | new     |          |
|                                           | recirc pump                |              |       | pmp     | 680.00   |
|                                           | Labor                      |              |       |         | 130.00   |
|                                           | Paid 8-26-15               |              |       |         | 1,608.00 |
|                                           | CHK # 1476                 |              |       |         |          |
| RECEIVED BY                               |                            |              |       | TAX     | 87.28    |
|                                           |                            |              |       | TOTAL   | 1,695.28 |

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL

2495

Thank You

Total for Reimburse  
to Dist. Des. to  
Buy Invoices as  
part of Sewer PH  
lightening strike  
CR# 1484 10-28-15  
\$ 2105.52

Steven D. Holliday  
 697 Friendship Lane  
 Reeds Spring, MO 65737  
 Phone (417) 334-4184

|                                         |                            |              |       |          |           |
|-----------------------------------------|----------------------------|--------------|-------|----------|-----------|
| CUSTOMER ORDER NO.                      |                            | PHONE        |       | DATE     |           |
|                                         |                            | 417-338-8870 |       | 8-26-15  |           |
| NAME Carriage Oaks Estates (Dick Mills) |                            |              |       |          |           |
| ADDRESS 800 NW 7                        |                            |              |       |          |           |
| CITY                                    |                            | STATE        |       | ZIP CODE |           |
| Reeds Spring                            |                            | MO           |       | 65737    |           |
| SOLD BY                                 | CASH                       | C.O.D.       | CHECK | ON ACCT  | MOSE. RET |
|                                         |                            | X            |       |          |           |
| PAID OUT                                |                            |              |       |          |           |
| QTY.                                    | DESCRIPTION                |              |       | PRICE    | AMOUNT    |
|                                         | Install 2 floats in mixing |              |       | FLTS     | 76.00     |
|                                         | Chamber, also mixing pump  |              |       | pmp      | 556.00    |
|                                         | Install Timer              |              |       | Timer    | 36.00     |
|                                         | labor                      |              |       |          | 130.00    |
|                                         | Clean filter & install new |              |       |          |           |
|                                         | recirc pump                |              |       | pmp      | 680.00    |
|                                         | labor                      |              |       |          | 130.00    |
|                                         | Paid 8-26-15               |              |       | #        | 1,608.00  |
|                                         | CK# 17476                  |              |       |          |           |
|                                         |                            |              |       | TAX      | 87.28     |
| RECEIVED BY                             |                            |              |       | TOTAL #  | 1,695.28  |

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.

2495

Thank You

BRENTAG MID-SOUTH  
2235 WEST BATTLEFIELD RD.  
SPRINGFIELD, MO 65807

PHONE: 417-887-3663  
FAX:

Page 1 of 1  
7/16/15 10:57:50



Ship To:  
CARRIAGE OAKS LLC  
DO NOT SKIP - WILL CALL  
SPRINGFIELD, MO 65807

Sold To:  
CARRIAGE OAKS LLC  
209 FALLING LEAF COURT  
BRANSON WEST, MO 65737-0000

BOL# : 1107503-00  
Customer: 589674 Ship To: 1  
Attn:  
FOB: : CUSTOMER PICKUP  
Ship Via: CUSTOMER PICKUP  
Recv Hrs: 8:00 AM- 4:00 PM  
Terms: : COD

Delv Date: 7/16/15  
Ship Date: 7/16/15 0 Ship From: 63  
Frt Terms: COLLECT Frt Code :  
Taken By : BM63SCW Sls Per : 631  
Placed By: DICK MILLS  
Phone#: : 417-338-8870  
Cust PO# : VERBAL-DICK MILLS

Phone: 417-887-3663

Ext:

Phone: 417-338-8870

Ext:

| QUANTITY<br>SHIPPED | PACKAGING | HM | DESCRIPTION | M | QUANTITY<br>ORDERED | QUANTITY<br>BACK ORDERED | PRODUCT<br>CODE | CONTAINER<br>DEPOSIT | GROSS<br>WEIGHT |
|---------------------|-----------|----|-------------|---|---------------------|--------------------------|-----------------|----------------------|-----------------|
|---------------------|-----------|----|-------------|---|---------------------|--------------------------|-----------------|----------------------|-----------------|

IF LEAK OR SPILL OCCURS DURING TRANSPORTATION:

CONS170 EMERGENCY CONTACT: CALL CHEMTREC TOLL FREE AT 1-800-424-9300  
24 HOURS / 7 DAYS

WEIGHT  
IN LBS

Placards offered: \_\_\_\_\_

\*\*\*\*\*  
\*\*\* DRIVER PLEASE PICK UP A CHECK \*\*\*  
\*\*\* FOR \$405.73 \*\*\*  
\*\*\* UPON \*\*\*  
\*\*\* DELIVERY \*\*\*  
\*\*\*\*\*

1.0000 600.0000 LB DRUM

PRESTOFLOC C-100 NSF  
PRESTOFLOC C-100 TECH GRD  
Loc: NR3  
Qty: 7.0000

>A PBL M

1.0000

957950

625

Product picked from:

Lot: 957950295134

Loc: NR3

Qty:

1.0000

Freight Class...: 70

Weight Per Gallon: 11.160 Net Weight: 600.000 -PDRM

Amount this item: 378.00 (1.6300)

Total Pallet Weight: 40

Total Net Weight:

600 Total Gross Weight:

665

\*\*\* Continued on Next Page \*\*\*

This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled, and are in proper condition for transportation according to the applicable regulations of the Department of Transportation.

Signature of Shipper: [Signature]

PURCHASER'S ACCEPTANCE OF THE GOODS COVERED BY THIS DOCUMENT SHALL CONSTITUTE ACCEPTANCE BY THE PURCHASER OF ALL TERMS AND CONDITIONS OF SALE STATED ON THE REVERSE SIDE HEREOF. MOREOVER, PURCHASER, HEREBY ACKNOWLEDGES RECEIPT OF ALL REQUIRED MSDS(S).

Received by: [Signature]

Date: \_\_\_\_\_

Loaded By: [Signature]

Vehicle: [Signature]

Miles: [Signature]

Wood Pallets Divd \_\_\_\_\_

Plastic Pallets Divd \_\_\_\_\_

Checked By: \_\_\_\_\_

Driver: \_\_\_\_\_

Time In/Time Out \_\_\_\_\_

Wood Pallets Rtn: \_\_\_\_\_

Plastic Pallets Rtn: \_\_\_\_\_

CUSTOMER COPY

Phone (417) 334-4184

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.

## Thank You

**S&L Enterprises**

50 Dollar Street  
Clever, MO 65631  
Phone (417) 334-4184

|                                       |                                          |                                 |                                 |                                  |                                    |
|---------------------------------------|------------------------------------------|---------------------------------|---------------------------------|----------------------------------|------------------------------------|
| CUSTOMER ORDER NO.                    |                                          | PHONE <b>338-8870</b>           |                                 | DATE <b>7-9-15</b>               |                                    |
| NAME <b>Dick Mills (Carrage Oaks)</b> |                                          |                                 |                                 |                                  |                                    |
| ADDRESS <b>D.D HWY</b>                |                                          |                                 |                                 |                                  |                                    |
| CITY <b>Reeder Spring</b>             |                                          | STATE <b>Mo</b>                 |                                 | ZIP CODE <b>65737</b>            |                                    |
| SOLO BY                               | CASH <input checked="" type="checkbox"/> | C.O.D. <input type="checkbox"/> | CHARGE <input type="checkbox"/> | ON ACCT <input type="checkbox"/> | MOSE. RET <input type="checkbox"/> |
| PAID OUT <input type="checkbox"/>     |                                          |                                 |                                 |                                  |                                    |
| QTY.                                  | DESCRIPTION                              |                                 |                                 | PRICE                            | AMOUNT                             |
| 1                                     | 40 GPM Effluent pump                     |                                 |                                 |                                  | 348.10                             |
| 2 hr                                  | service call                             |                                 |                                 | 65.00 Ph                         | 130.00                             |
| Paid 7-10-15                          |                                          |                                 |                                 |                                  |                                    |
| CK # 1470                             |                                          |                                 |                                 |                                  |                                    |
| Pump hit by<br>Lightening             |                                          |                                 |                                 |                                  |                                    |
| RECEIVED BY                           |                                          |                                 |                                 | TAX                              | 20.83                              |
|                                       |                                          |                                 |                                 | TOTAL \$                         | 499.53                             |

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL

2325

**Thank You**

Steven D. Holliday  
697 Friendship Lane  
Reeds Spring, MO 65737  
Phone (417) 334-4184

|                            |                               |          |        |              |            |
|----------------------------|-------------------------------|----------|--------|--------------|------------|
| CUSTOMER ORDER NO.         |                               | PHONE    |        | DATE 7-28-15 |            |
| NAME Carriage Oaks Estates |                               |          |        |              |            |
| ADDRESS D D HWY            |                               |          |        |              |            |
| CITY Reeds Spring          |                               | STATE MO |        | ZIP CODE     |            |
| SOLD BY                    | CASH                          | C.O.D.   | CHARGE | ON ACCT      | MOSE. RET  |
|                            |                               | X        |        |              |            |
| QTY                        | DESCRIPTION                   |          |        | PRICE        | AMOUNT     |
| 1                          | Control Panel<br>sewer plants |          |        |              | \$1,575.00 |
| Paid 7-28-15               |                               |          |        |              |            |
| CR 8543 By                 |                               |          |        |              |            |
| Dist. Des Ltd              |                               |          |        |              |            |
| Not Reimbursed             |                               |          |        |              |            |
|                            |                               |          |        |              |            |
| RECEIVED BY                |                               |          |        | TAX          |            |
|                            |                               |          |        | TOTAL        | 1575.00    |

ALL CLAIMS AND RETURNED GOODS MUST BE ACCOMPANIED BY THIS BILL.

2495

Thank You

Michael Stalzer, P.E.  
16210 2<sup>nd</sup> Street East  
Redington Beach, FL 33708

Date: September 21, 2015

**Bill To:**

Carraige Oaks Estates  
Homeowners Association  
C/o Dick Mills  
209 Falling Leaf Court  
Branson West, MO 65737

Engineering Services For:

Water system evaluation letter.

2 hours

Remaining Balance

**Total Due**

Terms: Due on Receipt

Invoice #

2015-0908

\$0

\$300

\$0

\$300

*Paid 9-28-15  
CK 1480*

# BBP LAB ANALYSIS

2125 E. WALNUT  
SPRINGFIELD, MO. 65802  
1-417- 818-0519

Date February Analysis 2015

1<sup>ST</sup> QUARTER 2015  
JAN, FEB, MAR

NPDES # MO-012698

DICK MILLS C/O  
CARRIAGE OAKS EST HOA  
209 FALLING LEAF COURT  
BRANSON WEST, MO. 65737

Raid 3-5-15  
CK 1456

| Tests | Details                   |
|-------|---------------------------|
| NH3-N | Ammonia as N              |
| BOD   | Biochemical Oxygen Demand |
| TSS   | Total Suspended Solids    |
| TP    | Total Phosphorus          |
| FC    | Fecal Coliform            |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |

Amount Due \$125.00

PLEASE MAKE CHECKS PAYABLE TO BBP LAB ANALYSIS. PAYMENT IS DUE UPON RECEIPT.  
THANK YOU

# BBP LAB ANALYSIS

2125 E. WALNUT  
SPRINGFIELD, MO. 65802  
1-417- 818-0519

Date April Analysis 2015

NPDES # MO-012698

DICK MILLS C/O  
CARRIAGE OAKS EST HOA  
209 FALLING LEAF COURT  
BRANSON WEST, MO. 65737

*Paid 5-2-15  
CX # 1461*

| Tests | Details                   |
|-------|---------------------------|
| NH3-N | Ammonia as N              |
| BOD   | Biochemical Oxygen Demand |
| TSS   | Total Suspended Solids    |
| TP    | Total Phosphorus          |
| FC    | Fecal Coliform            |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |

Amount Due \$125.00

PLEASE MAKE CHECKS PAYABLE TO BBP LAB ANALYSIS. PAYMENT IS DUE UPON RECEIPT.  
THANK YOU

# BBP LAB ANALYSIS

2125 E. WALNUT  
SPRINGFIELD, MO. 65802  
1-417- 818-0519

Date August Analysis 2015

NPDES # MO-012698

DICK MILLS C/O  
CARRIAGE OAKS EST HOA  
209 FALLING LEAF COURT  
BRANSON WEST, MO. 65737

*Paid 9-13-15*  
*CK# 1478*

| Tests | Details                   |
|-------|---------------------------|
| NH3-N | Ammonia as N              |
| BOD   | Biochemical Oxygen Demand |
| TSS   | Total Suspended Solids    |
| TP    | Total Phosphorus          |
| FC    | Fecal Coliform            |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |

Amount Due \$125.00

PLEASE MAKE CHECKS PAYABLE TO BBP LAB ANALYSIS. PAYMENT IS DUE UPON RECEIPT.  
THANK YOU

# BBP LAB ANALYSIS

2125 E. WALNUT  
SPRINGFIELD, MO. 65802  
1-417- 818-0519

*Paid 11-2-15  
ck 1486*

Date

NPDES #

DICK MILLS C/O  
CARRIAGE OAKS EST HOA  
209 FALLING LEAF COURT  
BRANSON WEST, MO. 65737

| Tests | Details                   |
|-------|---------------------------|
| NH3-N | Ammonia as N              |
| BOD   | Biochemical Oxygen Demand |
| TSS   | Total Suspended Solids    |
| TP    | Total Phosphorus          |
| FC    | Fecal Coliform            |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |
|       |                           |

Amount Due

PLEASE MAKE CHECKS PAYABLE TO BBP LAB ANALYSIS. PAYMENT IS DUE UPON RECEIPT.  
THANK YOU

# INVOICE



## MISSOURI DEPARTMENT OF NATURAL RESOURCES Division Of Environmental Quality / Water Protection Program

Jefferson City, MO 65102

Contact: BUDGET & FEES UNIT  
Phone: 573-751-1300  
Fax: 573-526-1146

Bill To: CARRIAGE OAKS ESTATES SUBDIVISION  
209 FALLING LEAF COURT  
BRANSON WEST, MO 65737

Invoice #: 34601603097  
Permit #: MO0126098  
Date: 09/09/2015  
Date Due: 11/30/2015

| ANNUAL NOTICE                                                                                         |        |          |          |          |
|-------------------------------------------------------------------------------------------------------|--------|----------|----------|----------|
| Description                                                                                           | Unit   | Quantity | Amount   | Total    |
| Carriage Oaks Estates Subdivision WWTF *<br>FOR FEE DATE OF: 11/2015<br>CURRENT INVOICE # 34601603097 | PERMIT | 1.00     | \$300.00 | \$300.00 |
| Current Balance Due                                                                                   |        |          |          | \$300.00 |
| Past Balance Due                                                                                      |        |          |          | \$0.00   |
| Less Payments Received                                                                                |        |          |          | \$0.00   |
| Plus Late Penalties                                                                                   |        |          |          | \$0.00   |
| Total Due                                                                                             |        |          |          | \$300.00 |

\*STATE OPERATING PERMIT UNDER THE MISSOURI CLEAN  
WATER LAW: 10 CSR 20-6.011.

*Paid 9-25-15  
CX 1479*

Please note that your annual fee may have changed based on revisions to 10 CSR 20-6.011 which is effective January 1, 2015 pursuant to RSMo 644.054.

**Missouri Public Service Commission****Respond Data Request**

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Data Request No.</b>  | 0005                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Company Name</b>      | Caring Americans Trust Foundation, Inc.-(Water)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Case/Tracking No.</b> | WC-2017-0037                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Date Requested</b>    | 9/13/2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Issue</b>             | General Information & Miscellaneous - Other General Info & Misc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Requested From</b>    | Bryan Wade                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Requested By</b>      | Hampton Williams                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Brief Description</b> | Design Pumping Capacity                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
| <b>Description</b>       | What is the design pumping capacity of the well in gallons per minute, the design usable volume of water storage in gallons, and the design population intended to be served by the Carriage Oaks Estates water system as it exists at present? Also, what is the ultimate design population after proposed expansions if applicable, to be served by the Carriage Oaks Estates water system? DR requested by Hampton Williams (Hampton.Williams@psc.mo.gov)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Response</b>          | <p>The company which drilled the well for the property confirmed that the well will produce fifty-five (55) gallons per minute. The Developer carefully complied with Missouri Department of Natural Resources requirements. Such requirements stated that a total of 4.5 storage bladder tanks (holding approximately 145.28 gallons of storage water) would be required to service the full thirty-three (33) lots in Phase I and Phase II at normal flow demand. In accordance with this requirement, the Developer installed 5 storage bladder tanks. According to these Missouri Department of Natural Resources requirements, thirty-three (33) lots (the maximum amount of lots for Phase I and Phase II) with three (3) person on each lot would consume 7,920 gallons of potable and waste water per day and 3,960 gallons of irrigation water per day (assuming irrigation at 2 gallons per minute for only 1 hour per day). There are currently seven (7) lots which are developed and thus require water. In 2011, after reading water usage meters for over nine (9) months, it was discovered that the residents of Carriage Oaks were using seven to ten times the amount of estimated water for irrigation—some irrigating for two to four hours or twice a day during the summer months. Attached to this answer, you will find the opinion letter of Michael Stalzer, PE, which discusses the capacity of the water system and states that the current water system is more than sufficient to service the thirty-three (33) lots. The Developer also believes it is important to note that in 2007, the members of the HOA were given the option to pay for water usage on a per household basis, calculated using water meters. While this suggestion was accepted by most homeowners, it was met with strong resistance from one homeowner and as a result the flat fee per household continued. Additionally, in 2014 the homeowners verbally approved upgrades to the water and sewer systems, costing approximately \$40,000. In reliance on this verbal approval, the Developer ordered and installed the equipment. The Homeowners then refused to pay, forcing the Developer to foot the entire \$40,000 bill. A copy of the HOA meeting minutes</p> |

are also attached. The Phase III design out would add approximately twenty-three (23) more lots. This area has not been cleared of trees, nor has the water of sewer lines been laid or connected. The second phase of the waste water treatment facility has been drawn up and approved in the original plans, but aside from the excavation for the filter bed, no construction has begun.

**Objections**

NA

The attached information provided to **Missouri Public Service Commission** Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the **Missouri Public Service Commission** if, during the pendency of Case No. **WC-2017-0037** before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information. If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the **Caring Americans Trust Foundation, Inc.-(Water)** office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person(s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to **Caring Americans Trust Foundation, Inc.-(Water)** and its employees, contractors, agents or others employed by or acting in its behalf.

**Security :** Public**Rationale :** NA

**Missouri Public Service Commission****Data Request**

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                            |
|--------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Data Request No.</b>  | 0010                                                                                                                                                                                                                                                                                                                                                                                                                       |
| <b>Company Name</b>      | Caring Americans Trust Foundation, Inc.-(Water)                                                                                                                                                                                                                                                                                                                                                                            |
| <b>Case/Tracking No.</b> | WC-2017-0037                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Date Requested</b>    | 9/13/2016                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>Issue</b>             | General Information & Miscellaneous - Other General Info & Misc.                                                                                                                                                                                                                                                                                                                                                           |
| <b>Requested From</b>    | Bryan Wade                                                                                                                                                                                                                                                                                                                                                                                                                 |
| <b>Requested By</b>      | Hampton Williams                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Brief Description</b> | Sewer Design Capacity                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Description</b>       | What is the design treatment capacity of the sewage treatment facility in gallons per day, and the design population intended to be served by the Carriage Oaks Estates sewer system as it exists at present? Also, what is the ultimate design population after proposed expansions if applicable, to be served by the Carriage Oaks Estates sewer system? DR requested by Hampton Williams (Hampton.Williams@psc.mo.gov) |
| <b>Due Date</b>          | 10/3/2016                                                                                                                                                                                                                                                                                                                                                                                                                  |

The attached information provided to Missouri Public Service Commission Staff in response to the above data information request is accurate and complete, and contains no material misrepresentations or omissions, based upon present facts of which the undersigned has knowledge, information or belief. The undersigned agrees to immediately inform the Missouri Public Service Commission Staff if, during the pendency of Case No. WC-2017-0037 before the Commission, any matters are discovered which would materially affect the accuracy or completeness of the attached information.

If these data are voluminous, please (1) identify the relevant documents and their location (2) make arrangements with requestor to have documents available for inspection in the Caring Americans Trust Foundation, Inc.-(Water) office, or other location mutually agreeable. Where identification of a document is requested, briefly describe the document (e.g. book, letter, memorandum, report) and state the following information as applicable for the particular document: name, title number, author, date of publication and publisher, addresses, date written, and the name and address of the person (s) having possession of the document. As used in this data request the term "document(s)" includes publication of any format, workpapers, letters, memoranda, notes, reports, analyses, computer analyses, test results, studies or data, recordings, transcriptions and printed, typed or written materials of every kind in your possession, custody or control or within your knowledge. The pronoun "you" or "your" refers to Caring Americans Trust Foundation, Inc.-(Water) and its employees, contractors, agents or others employed by or acting in its behalf.

|                  |        |
|------------------|--------|
| <b>Security</b>  | Public |
| <b>Rationale</b> | NA     |

## Missouri Public Service Commission

### Respond Data Request

|                          |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|--------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Data Request No.</b>  | 0009                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| <b>Company Name</b>      | Caring Americans Trust Foundation, Inc.-(Water)                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| <b>Case/Tracking No.</b> | WC-2017-0037                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| <b>Date Requested</b>    | 9/13/2016                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| <b>Issue</b>             | General Information & Miscellaneous - Other General Info & Misc.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Requested From</b>    | Bryan Wade                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Requested By</b>      | Hampton Williams                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Brief Description</b> | Sewer Service Availability                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <b>Description</b>       | A. How many of the existing platted lots have an existing collecting sewer available, and could be connected to the sewer system with no further collecting sewer construction? B. How many of such lots with sewer availability have been sold and the owners considered to be Class A members of the Carriage Oaks Estates Homeowner Association, as per the Declaration of Restrictive Covenants and Easements on file in the Stone County Recorder's office for Carriage Oaks Estates, and how many are still owned by the developer or an associated entity that is considered to be a Class B member of the Association? Also, same question and count breakdown with regard to lots without collecting sewer availability? DR requested by Hampton Williams<br>(Hampton.Williams@psc.mo.gov) |
| <b>Response</b>          | A. All lots in Phase I and Phase II, a total of Thirty-Two (32) lots, could be connected to the sewer system with no further construction. B.A total of nine (9) Class A lots have been sold. A total of twenty-two (22) undeveloped Class B lots and one (1) developed Class B lot are held by the Developer. All of these lots have the capability of being connected to the sewer; however, only seven (7) lots currently use the sewer services.                                                                                                                                                                                                                                                                                                                                                |
| <b>Objections</b>        | NA                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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**Foundation, Inc.-(Water)** and its employees, contractors, agents or others employed by or acting in its behalf.

**Security :** Public

**Rationale :** NA

**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.

Carl Richard Mills, Carriage Oaks Estates Homes  
Association, Distinctive Designs and Caring  
Americans Trust Foundation, Inc. (f/k/a Caring  
Americans Foundation, Inc.),

Respondents.

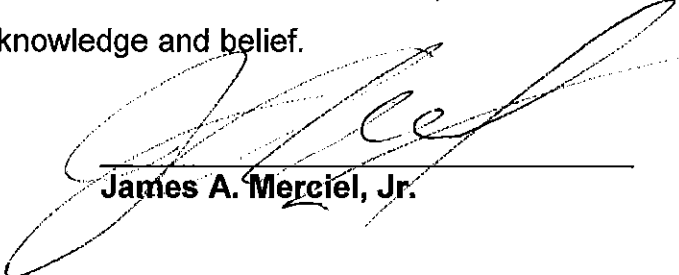
**File No. WC-2017-0037**

**AFFIDAVIT**

State of Missouri     )  
                                  ) ss.  
County of Cole        )

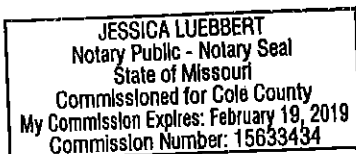
**COMES NOW** James A. Merciel, Jr. and on his oath declares that he is of sound mind and lawful age; that he contributed to the attached Memorandum; and that the same is true and correct according to his best knowledge and belief.

Further the Affiant sayeth not.

  
\_\_\_\_\_  
James A. Merciel, Jr.

**JURAT**

Subscribed and sworn before me, a duly constituted and authorized Notary Public, in and for the County of Cole, State of Missouri, at my office in Jefferson City, on this 28<sup>th</sup> day of October, 2016.



  
\_\_\_\_\_  
NOTARY PUBLIC