

State of Florida



Public Service Commission
-M-E-M-O-R-A-N-D-U-M-

DATE: September 8, 2002
TO: Division of the Commission Clerk and Administrative Services
FROM: Office of the General Counsel (Gervasi) *RG*
RE: Docket No. 020640-SU - Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

Please file the attached faxed information from Bill Sundstrom, Esquire, dated August 27, 2002 and September 6, 2002, respectively, in the docket file for the above-referenced docket.

RG/dm

cc: Division of Economic Regulation (Brady, Redemann)

I\020640fm rg

DOCUMENT NUMBER-DATE

09519 SEP-98

FPSC-COMMISSION CLERK

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TELECOPY COVER SHEET

ROBERT M. C. ROSE
WAYNE L. SCHIEFELBEIN
OF COUNSEL

DATE: August 27, 2002 OUR FILE NO.: 20989.10 PAGES: 4

TO: Robert Burandt, Esq. TELECOPY NUMBER: ²³⁹(941) 542-9203

Fred Partin TELECOPY NUMBER: (941) 947-7460

Don Thomson TELECOPY NUMBER: (941) 498-6225

Roseanne Gervasi TELECOPY NUMBER: 413-6225

Martin Friedman TELECOPY NUMBER: (407) 830-8522

David M. Owen TELECOPY NUMBER: (941) 335-2606

FROM: Bill Sundstrom CONTACT PERSON: Jackie

SUBJECT: Bcnita Springs Utilities, Inc.

MESSAGE: _____

Please notify us immediately if not received properly:
(850) 877-6555

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August 27, 2002

ROBERT M. C. ROSE
WAYNE L. SCHIEFELBEIN
OF COUNSEL

Via Facsimile and Mail

Robert B. Burandt, Esq.
Roosa, Sutton, Burandt, Adamski & Roland, LLP
1714 Cape Coral Parkway
Cape Coral, Florida 33904

Re: Gistro, Inc. \Bonita Springs Utilities, Inc.

Dear Mr. Burandt:

I acknowledge receipt of your letter to me of August 15, a copy of which is attached for your ready reference. Unfortunately, your letter arrived in my office on the 19th, and I was out of the country until Sunday. Thus, my delay in responding.

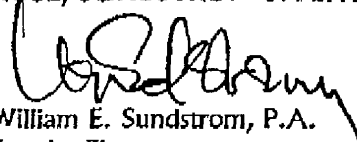
We are now advised that your client may have recently discontinued wastewater service to other homes located within the Forest Mere subdivision. What I would propose is this: As to persons seeking "availability" letters from BSU from and after this date, BSU will indicate in all availability letters the claim of Gistro, Inc. to compensation for utilization of the wastewater collection system, and will provide that it is Gistro's position that any service availability offered by BSU will require such property owners to also secure availability commitments from Gistro, Inc. In exchange, Gistro, Inc. will reconnect any homes that your client has currently discontinued service to, and will provide service to those customers who have construction in progress and who were not aware of your client's claim at the time of this issuance of availability letters from BSU in the past and/or building permits from Lee County.

This compromise would seem to allow a "cooling off" period while BSU determines the price that it is willing to offer your client in this regard.

I would appreciate hearing back from you in this regard.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP


William E. Sundstrom, P.A.
For the Firm

WES:jmt

Robert B. Burandt, Esq.
August 27, 2002
Page 2

cc: Fred Partin
Don Thomson
Martin Friedman
Roseanne Gervasi
David Owen
John Jenkins

Bonita\Burandt letter of August 27

Roosa, Sutton, Burandt, Adamski & Roland, L.L.P.

Attorneys and Counselors at Law

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Larry D. Sutton
Robert B. Burandt
Robert C. Adamski
Ty G. Roland

1714 Cape Coral Parkway East
Cape Coral, Florida 33904

Telephone: (239) 542-4733
Facsimile: (239) 542-9203

RECEIVED

August 15, 2002

AUG 19 2002

Rose Sundstrom & Bentley, LLP

William E. Sundstrom, P.A.
Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Dr.
Tallahassee, FL 32301

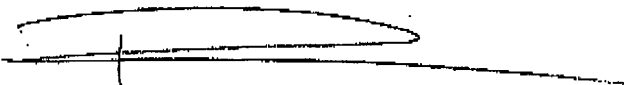
RE: Gistro, Inc./Bonita Springs Utilities, Inc.

Dear Mr. Sundstrom:

Please be advised that our client will agree to hold off on the discontinuance of wastewater service to the homes of Mr. Vanvo and Mr. and Mrs. Kyle provided your client will hold off on any further hookups to the system.

Please advise.

Sincerely yours,



Robert B. Burandt

RBB/bh
cc: client

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DATE: September 6, 2002 OUR FILE NO.: 20989.10 PAGES: _____

TO: Roseanne Gervasi TELECOPY NUMBER: 413-6225

Fred Partin TELECOPY NUMBER: (941) 947-7460

Don Thomson TELECOPY NUMBER: (941) 498-6225

Martin Friedman TELECOPY NUMBER: (407) 830-8522

FROM: Bill Sundstrom CONTACT PERSON: Jackie

SUBJECT: Bonita Springs Utilities, Inc.

MESSAGE: _____

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ROBERT M. C. ROSE
WAYNE L. SCHEFFELBEIN
OF COUNSEL

September 6, 2002

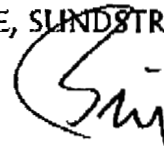
Rosanne Gervasi, Esq.
Florida Public Service Commission
Legal Department
2540 Shumard Oak Boulevard
Tallahassee, Florida 32399-0850Re: Gistro, Inc.\Bonita Springs Utilities, Inc.;
Our File No. 20989.08

Dear Rosanne:

In an effort to keep you advised in the premises, I am attaching a copy of attorney Robert Burandt's letter of September 5 to me concerning the claim of Gistro, Inc. to the wastewater collection system within the Forest Mere subdivision in Bonita Springs. I am also attaching a copy of Mr. Burandt's letter of August 16, 2001 to Don Thomson, wherein Gistro claimed the right to compensation for service from the lines in question.

Sincerely,

ROSE, SUNDSTROM & BENTLEY, LLP

William E. Sundstrom, P.A.
For the Firm

WES:jmt

Attachments

cc: (With attachments)
Fred Partin
Don Thomson
Marty Friedman

Roosa, Sutton, Burandt, Adamski & Roland, LLP*Attorneys and Counselors at Law*

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September 5, 2002

William E. Sundstrom, P.A.
Rose, Sundstrom & Bentley, LLP
P.O. Box 1567
Tallahassee, FL 32302-1567

RE: Gistro, Inc.\Bonita Springs Utilities, Inc.

Dear Mr. Sundstrom:

This will acknowledge and thank you for your correspondence of August 27, 2002. Please be advised that all of our discussions pertaining to Gistro's sewer lines and lift stations were premised under the assumption that only five permits had been obtained for the construction of new homes in Forest Mere. As you know, the county has continued and apparently will continue to issue building permits if Bonita Springs Utilities continues to issue letters of availability. My client wants to make it perfectly clear that he considers any connections to his sewer lines to be a trespass and anyone that promotes or in any way assists in that trespass will ultimately be held liable for their actions.

Having said that, my client is interested in resolving this matter and not in creating additional problems, however, your offer is not going to be acceptable and my client will continue to disconnect anyone that attempts to trespass into his system. He is still willing to continue with a 30-day extension for Mr. Kyle and Mr. Vanvo in order to work out a resolution to this matter. However, he is demanding that you stop issuing availability letters. That is the only way the county will stop issuing building permits. I must also advise you that we are also in the process of preparing a complaint against the County to obtain an injunction prohibiting them from issuing any more permits.

With regard to your comment regarding reconnecting customers who have construction in progress and who were not aware of my client's claim at the time of the issuance of the availability letters from BSU or building permits from Lee County, please provide my office with the building permits and availability letters that you are referring to so that I may compare them to letters that were written to BSU and the County in order to ascertain whether or not these people should have been aware of my client's claims. Please respond as soon as possible.

Sincerely yours,

Robert B. Burandt
RBB/bh/cc: client

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Telephone: 941-542-4733

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August 16, 2001

G. Donald Thomson, Esquire
Bonita Bay Executive Center II
3461 Bonita Bay Boulevard, Suite 220
Bonita Springs, FL 34134

RE: Gistro, Inc. v. Bonita Springs Utility, Inc. (BSU)

Dear Mr. Thomson:

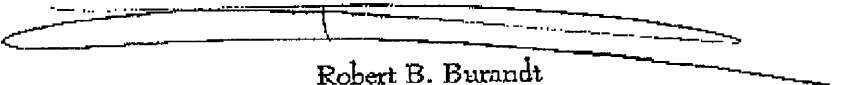
I have not had a response to my July 13, 2001 correspondence therefore, I will assume that you are in agreement with my clients position.

At this time, my client is demanding that you cease and desist from billing his customers directly. Gistro, Inc. as assignee of Forest Mere Joint Venture is your customer and should be billed accordingly at the bulk rate, there after, Gistro, Inc. will turn around and bill its customers upon receipt of your invoice.

Your letter to the Assistant County Attorney, David M. Owen, dated May 23, 2001, you suggest that the agreement between the parties allows BSU to directly bill Forest Merc Joint Venture customers. Please articulate with specificity where you believe that right is contained in the Sewer Capacity Presale Agreement.

If this billing does not cease and desist immediately we will be instituting litigation, at which time we will seek additional damages for interference with the business relationship, attorneys fees and costs. Please advise your client and contact my office as soon as possible.

Sincerely yours,


Robert B. Burandt

RBB:lda