



KELSKY LAW, P.A.
1250 SOUTH PINE ISLAND ROAD
SUITE 250 PLANTATION, FL 33324
954.449.1400 | 305.749.8100 | 866.343.7888 | FAX: 954.449.8986
www.kelskylaw.com

January 12, 2020

Via UPS

Commission Clerk
Office of the Commission Clerk
Florida Public Service Commission
2540 Shumard Oak Blvd.
Tallahassee, FL 32399-0850

RECEIVED-FPSC
2021 JAN 13 PM 12:22
COMMISSION CLERK

RE: OBJECTION AND REQUEST FOR ADMINISTRATIVE HEARING PURSUANT TO §§ 120.569 AND 120.70, FLA. STAT. APPLICATION FOR ORIGINAL WASTEWATER CERTIFICATE IN CHARLOTTE COUNTY BY ENVIRONMENTAL UTILITIES (DOCKET NO. 20200226-SU)

Dear Clerk:

The undersigned represents Cape Haze Property Owners Association, Inc., a Florida not-for-profit corporation (“Petitioner”), who is a consumer that would be substantially affected by the requested Certificate of Authorization sought in Docket No. 20200226-SU (Environmental Utilities, LLC). More specifically, Cape Haze Property Owners Association, Inc., is the homeowner’s association for the Cape Haze community in western Charlotte County for whom the applicant intends to obtain a Certificate of Authorization to install a wastewater system to the individual residents of the community.

Pursuant to § 367.045(4), Fla. Stat., and F.A.C. § 25-30.031, Cape Haze Property Owners Association, Inc., files this objection and request for an administrative hearing pursuant to §§ 120.569 and 120.70, Fla. Stat.

The basis for the objection is as follows:

1. The applicant, Environmental Utilities, LLC, has not demonstrated that it possesses sufficient financial resources to be able to capitalize the project;
2. The applicant, Environmental Utilities, LLC, has not demonstrated that the current septic systems utilized by the Cape Haze development is the proximate cause of any pollution;
3. The applicant, Environmental Utilities, LLC, has not demonstrated that it possesses the necessary experience or ability to construct and/or manage the proposed utility;
4. The applicant, Environmental Utilities, LLC, has not demonstrated that it has the financial resources to hire, staff and handle the business of a public utility on the order of magnitude to that which would be governed by the Certificate of Authorization;
5. The applicant has not provided any information as to the cost of installation be borne by the residents of Cape Haze or the barrier islands nor have they provided any provision to pay over time for those residents who are unable to pay immediately upon completion.

Further, no provision is made to provide grants to defray the costs for those affected residents.

6. Cape Haze has a low population density and there is no evidence of any effluent affecting water systems such that there is no need for service in the particular area;
7. The applicant has failed to comply with F.A.C. 25-30.033 (1)(h) as it relates to the financial ability of the applicant to provide service to the proposed service area;
8. The applicant has failed to comply with F.A.C. 25-30.033(1)(i); and
9. The applicant has failed to comply with F.A.C. 25-30.033(1)(k).

As a result of the objection, there are disputed issues of material fact and Cape Haze Property Owners Association, Inc., requests a hearing in accordance with § 120.569(1), Fla. Stat.

Pursuant to F.A.C. § 28-106.201(2):

1. The name of the Agency is the Florida Public Service Commission, 2540 Shumard Oak Blvd., Tallahassee, FL 32399-0850. Docket No. **20200226-SU**;
2. Counsel for Petitioner: Brad E. Kelsky, Esq., Kelsky Law, P.A., 1250 S. Pine Island Road, Suite 250, Plantation, FL 33324. Phone: 954.449.1400; Fax: 954.449.8986; Email address: bradkelsky@kelskylaw.com. The petitioner, as set forth above, is the homeowners association for the Cape Haze community for whom the applicant seeks to install and service a wastewater facility thereby rendering it to have its substantial interests affected by the Public Service Commissions' determination on the application for the Certificate of Authorization;
3. Petitioner received notice of the agency action pursuant to publication for the timing of an objection submitted by the applicant on December 18, 2020;
4. The disputed issues of material fact are identified above in Paragraphs 1-9;
5. The ultimate facts alleged are set forth in Paragraphs 1-9 above.
6. Paragraphs 1-6 above require a denial of the application as not being consistent with § 367.045, Fla. Stat., and F.A.C. § 25-30.033. Paragraphs 1-9, above, explain how the specific rules or statutes render the application deficient and/or demonstrate the applicant's non-compliance with the agency's minimum requirements in order to obtain a Certificate of Authorization; and
7. The relief sought by Petitioner is the denial of the application for the Certificate of Authorization.

If there are any questions or concerns, please feel free to contact me.

Thank you.

Sincerely,


BRAD E. KELSKY, ESQ.

cc: Bill Dahms
Martin S. Friedman, Dean Mead, 420 S. Orange Avenue, Suite 700, Orlando, FL 32801