

Decision No. 14039.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

EDWARD BEIERLEIN, WALTER MERSEME,
JOHN WEBBER, J. R. LANE, J. G.
KEEHALY, GEO. HARRIS, G. R. CAMP,
WALTER W. WOODBURY, RAY ASTON,
AGNES HARRIS, CORA M. WOODBURY,
MARY E. LANE, MRS. LUCY WEBBER,
DELL BEIERLEIN, FRANK VARLEY, W.
LOGAN and LEWIS FAULK,

Complainants,

vs.

GREEK CANTEBURY, W. BRADFIELD,
M. E. BRADFIELD, FRANK CARFRAY,
MRS. FRANK CARFRAY and F. R. SETTLE,

Defendants.

ORIGINAL

Case No. 2021.

Homer Johnstone, by R. V. McGrew, for complainants.

Edward Everett, for W. Bradfield, M. E. Bradfield
and Greek Canterbury.

BY THE COMMISSION:

O P I N I O N

In the above entitled proceeding Edward Beierlein and sixteen other individuals make complaint against the water service furnished by Greek Canterbury and other defendants to residents of Canterbury Park and other subdivisions in Los Angeles County. The complaint alleges in effect that defendants are operating a public utility water system which is subject to the control and jurisdiction of the Railroad Commission, and that through neglect and improper maintenance of the system complainants have been without water service. The Commission is therefore asked for an order requiring defendants to continue the operation of the water system and to furnish an adequate supply of water to complainants.

The answer filed by Greek Canterbury consists of a general denial of the allegations of complainants, and in addition it is alleged that the Long Beach National Bank is the owner of the water system involved in this proceeding, excepting such portions thereof as may have been conveyed to other parties, and that defendant has no right or title to the water system except as a beneficiary under a declaration of trust. The other defendants have filed separate answers in which the allegations of complainants are generally denied.

A public hearing in this proceeding was held before Examiner Williams at Los Angeles after due notice thereof had been given so that all interested parties might be present and be heard,

Canterbury Park, which is Tract No. 6554, Los Angeles County, is located near Compton and was in 1923 subdivided into lots which were thereafter placed on the market. The Long Beach National Bank held legal title to the property, W. Bradfield acted as sales agent, and Greek Canterbury was the equitable owner of the property and the beneficiary under the terms of a trust agreement covering the sales of lots in the tract. The form of "agreement of sale of real estate" under which the lots were transferred to complainants and others, gives no indication that it was the intention or desire of defendants or of Long Beach National Bank to enter into the service of water either as a public utility or otherwise. The agreements state that the seller will construct sidewalks and curbs, that water and gas mains will be provided, and pole lines erected for the distribution of electric energy. The buyers agree to pay all charges or assessments levied against the property, including any which might be made for supplying water, gas or electric current.

Long Beach National Bank through Sales Agent W. Bradfield constructed a distribution pipe system and a pumping plant on this tract. Two fifths interest in the water system was subsequently conveyed to the owners of two adjoining subdivisions in which the defendants herein were not interested.

Approximately fourteen of the residents of Canterbury Park are receiving service from this water system and each user constructed his own service pipe to the distribution mains. There is no record that any of these water users have received a bill for or paid any charges for water service supplied by this plant, although the testimony shows that at one time a representative of Long Beach National Bank presented a bill for the electric energy used in pumping water on the tract of complainant Beierlein, with the request that he make payment therefor. The evidence shows that complainant refused to pay the bill.

Careful consideration of the evidence presented indicates that no compensation has ever been received by defendants herein for water service furnished to complainants, and that no intention or desire was shown at any time by defendants to operate the water system as a public utility or to dedicate it to the public use. Under the circumstances the complaint should be dismissed.

O R D E R

Edward Beierlein and sixteen other individuals having made complaint against Greek Canterbury and others as entitled above, a public hearing having been held thereon, the matter having been submitted, and the Commission being now fully informed therein,

IT IS HEREBY ORDERED for the reasons set out in the preceding opinion that the above entitled proceeding be and the same is hereby dismissed.

Dated at San Francisco, California, this 10th day of September, 1924.

C. Leary
H. B. ...
James Martin
Robert ...
J. M. ...
Commissioners.