

ORIGINAL

Decision No. 3920

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

BEVERLY HILLS CORPORATION,
a corporation,
Complainant

-vs-

BEVERLY HILLS UTILITIES COMPANY,
a corporation,
Defendant.

Case No. 1003

Cassius D. Blair for complainant
Gibson, Dunn & Crutcher by S.M. Haskins for
defendant.
O'Melveny, Stevens & Milliken by Sayre Macneil
for intervenor Henry J. Stevens.

LOVELAND, Commissioner.

O P I N I O N

This case being at issue upon complaint and answer regularly filed and a hearing having been held at Los Angeles, November 27, 1916, at which time testimony in support of the pleadings was submitted, and the Commission having carefully considered the matters and things involved, it is now ready for decision.

Beverly Hills Corporation, complainant in this proceeding, owns approximately 100 acres of undeveloped residence property, within the City of Beverly Hills, in the County of Los Angeles. In order to make this land attractive as villa sites to purchasers or members of the complainant corporation, water is absolutely necessary. The defendant utility has refused water service to complainant, although defendant is the only public utility delivering water for pay within the City of Beverly Hills.

Defendant, the Beverly Hills Utilities Company contended and supported said contention by testimony that it

had limited its service of water to the lands placed upon the market by its predecessor, the Rodeo Land and Water Company, and had never proposed to serve any other lands. It also alleged that said lands of the Rodeo Land and Water Company would require all of its available water, for which reason it could not serve complainant or others. A study and test of defendant's water supply was made by defendant's engineers in August, 1916, and based upon that study and test the testimony at the hearing of the case was that the use of the water in said month was within 5% of the yield and that it had found it necessary to and had notified one large user, a truck gardener, that the company could not furnish him with water after the termination of his lease, which would expire this year. All water used is metered and with a proper test of the supply it was easy to apply aggregate sales against such supply.

On February 10, 1916, defendant filed with the Railroad Commission a description of the lands it proposed to serve, such filing being in connection with the file of defendant's rates, etc. This description so filed by defendant included the lands upon which complainant now asks for the service of water, but when defendant's attention was called to this it claimed that the inclusion of complainant's lands in such filing was an error and that it had never intended to assume the obligation of serving water to lands other than the lands of its predecessor, the Rodeo Land and Water Company.

The Commission does not feel it necessary at this time to determine whether such inclusion of complainant's lands in its filing with the Commission constitutes a profession by defendant that it intended to serve such lands for the reason that the testimony as to defendant's inability to serve lands other

than those which it is now serving and which it has obligated itself to serve by reason of an insufficient supply of water, is uncontroverted.

The intervener in this proceeding, Mr. Henry J. Stevens, supported the testimony of defendant, and a protest signed by forty property owners in Beverly Hills was filed, claiming that rights, guaranteed to them when they purchased their lots, would be seriously jeopardized if defendant was ordered to supply territory other than the lands of the Rodeo Land and Water Company.

Upon the testimony presented I find it unreasonable to require Beverly Hills Utilities Company to furnish water to the land of the complainant.

O R D E R

Beverly Hills Corporation having filed its complaint against Beverly Hills Utilities Company alleging refusal to extend water service, and a hearing having been held and being fully apprized in the premises,

IT IS HEREBY ORDERED that the complaint be dismissed without prejudice.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 11th day of December, 1916.

H. H. Gilman
Alex. Gordon

Frank R. Davis
Commissioners