

Decision No. 26683

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

Joseph P. Nicora,

Complainant,

vs.

Water Works of Monta Vista, Ltd.,

Defendant.

Case No. 3669.

M.E. Mensor, for complainant.

A.A. Tiscornia, for defendant.

BY THE COMMISSION:

O P I N I O N

In this proceeding, Joseph P. Nicora asks the Commission for an order directing defendant Water Works of Monta Vista, Ltd., to install a service connection and furnish water to three lots owned by him in Inspiration Point Subdivision of Monta Vista Estates, Santa Clara County. Defendant has refused to supply water to these premises upon the grounds that the pipe line owned and operated by it in this vicinity is a temporary line only and insufficient in capacity to render service to any additional consumers.

A public hearing in this matter was held before Examiner MacKall at Cupertino.

According to the evidence, complainant Nicora in August of 1933 purchased Lots 8, 13 and 13A located on San Jose Avenue,

said lots being situate in Inspiration Point Subdivision of Monta Vista Estates. Shortly after the above purchase, application was made to Mr. Chester Damico, operator of defendant water system, requesting the installation of a service connection to supply the premises. Service to this property has been refused by defendant upon the contention that to supply said lots will require an extension of some twelve hundred feet, more or less, of new mains, the cost of which the utility demands be borne by the complainant. However, the testimony presented in this proceeding shows that there is at the present time, passing directly in front of Lots 8, 13 and 13A, a main owned and operated by this utility which continuously for a number of years last past has been and now is supplying water for compensation to approximately ten consumers. Under such circumstances, there is no reason or justification for the further refusal of this utility to install the necessary water service connection without the requirement of any advances for the construction of new and additional water mains. While it is undoubtedly true that the furnishing of adequate service in this vicinity should require the installation of larger and additional mains, the duty and obligation of paying therefor rests solely upon the defendant in this particular instance rather than upon the complainant.

The testimony shows that Wm. R. Staats Company has succeeded to the title, rights and interests in and to a large number of vacant, unsold lots throughout the Monta Vista Estates, which interests it is now attempting to liquidate through the selling of said lots to the general public. Mr. Damico contends that efforts on the part of said company are now being made to force him to supply water to each of the scattered parcels of land now being sold and states that he is wholly unable financially to install the

necessary pipe lines to serve said parcels and that in addition thereto his available water supply is wholly inadequate for such extensive operation. This phase of service extension is not now before us and is entirely different and not connected in any manner whatsoever with the right to water service demanded by complainant herein. In this connection it should be observed that the standard rules and regulations of this utility which heretofore have been accepted for filing by this Commission provide ample protection to defendant in so far as the extension of service to real estate subdivisions at the utility's expense is concerned.

O R D E R

Complaint having been filed with this Commission as above entitled, a public hearing having been held thereon, and based upon the findings of fact set out in the above Opinion,

IT IS HEREBY ORDERED that, within thirty (30) days from and after the date of this Order, Water Works of Monta Vista, Ltd., be and it is hereby directed to install the necessary service connection to supply water to Lots 8, 13 and 13A in Inspiration Point Subdivision of Monta Vista Estates in the County of Santa Clara, said lots being now owned or in the possession of Joseph P. Nicora, subject to the following terms and conditions:

1. Within twenty (20) days from and after the date of this Order, Joseph P. Nicora shall make written application for water service to Water Works of Monta Vista, Ltd., agreeing to comply with the regular rules and regulations of said utility as now on file with the Railroad Commission of the State of California.

2. On or before thirty (30) days from and after the date of this Order, said Water Works of Monta Vista, Ltd., shall file with this Commission a statement indicating the date upon which water service has been made available to said Lots 8, 13 and 13A as directed above.

For all other purposes, the effective date of this Order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 27th day of December, 1933.

C. C. Leavy
Leon Whiskey
W. J. Lee
M. B. Harris

Commissioners.