

ORIGINAL

Decision No. 49439

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Fred L. Williams, Owner of house
and lot 3½ miles east of Palm
Springs tract is north of Ramon
Road known as Palm Springs
Outpost Estates, County of
Riverside, California,

Case No. 5470

Complainant

vs.

Palm Springs Outpost Estates, Inc.
Maurice J. Silman, Pres.

Fred L. Williams, in propria persona.
James F. Wilson, for the Public Utilities
Commission.

O P I N I O N

The complaint alleges that the complainant is the owner of a house and lot located approximately three and one-half miles east of Palm Springs on the north side of Ramon Road, which property was purchased by complainant from an auctioneer representing the defendant company. The complainant contends that the property was sold to him with a guarantee of water supply at a rate of \$5 per month. The complaint further contends that the Palm Springs Outpost Estates, Inc., is the owner and operator of a water system serving a subdivision of approximately 40 lots and that it is conducting operations as a public utility without authority from this Commission.

Public hearings were held before Examiner Syphers at Palm Springs on December 2, 1953, and at Los Angeles on December 7, 1953, at which times evidence was adduced, and on the last named date the matter was submitted.

At the hearing the complainant testified that he owns a house and one acre of land which he purchased on December 9, 1951, at an auction conducted for the Palm Springs Outpost Estates, Inc. At the present time there are three houses in this area, the complainant's house, one belonging to a William B. Hockley, and a third belonging to the Palm Springs Outpost Estates, Inc. There is a pump on the property of the Palm Springs Outpost Estates, Inc., near Mr. Hockley's lot, which pump furnishes water to all three houses. The complainant has never lived in the property and on January 15, 1953, he received a letter from the Palm Springs Outpost Estates, Inc., Maurice J. Silman, President, demanding payment for the water on the basis of \$30 for each six months or, in lieu thereof, the water would be shut off. He did not pay and presumably the water has been shut off. There is no written agreement between complainant and defendant as to water service. The complainant further pointed out that the road entering his property has been barricaded by the defendant.

Testimony presented by Mr. Hockley confirmed the fact that there are three houses on the property, and a well. He stated that he gets water from the pump and pays for the water at a rate of \$30 each six months. Although he has no specific agreement with defendant, he has received water under this arrangement since the date of his purchase, December 9,

1951, which is the same day that complainant purchased his property.

An accountant who keeps the records for both defendant company and the Palm Springs Outpost Water Company testified as to the corporate setup of the two corporations. There is nothing in the records to indicate any connection between the two corporations other than the fact that Maurice J. Silman is the president of both of them. However, the books are kept on a separate basis and the business of the two companies is in no way connected.

Upon this record we find that the Palm Springs Outpost Estates, Inc., is not part of the Palm Springs Outpost Water Company, which latter company is a public utility under the jurisdiction of this Commission. We further find that Palm Springs Outpost Estates, Inc., is not a public utility subject to the jurisdiction of this Commission. There is no evidence that this company meets the requirements of a water company as defined in Section 2701 of the Public Utilities Code. This statutory definition "must be construed as applying only to such properties as have in fact been devoted to a public use and not as an effort to impress with the public use properties which have not been devoted thereto" (Allen v. Railroad Commission, 179 Cal. 68, 89). In the instant case there is no evidence of any dedication of water service to a public use. This record does not establish that the Palm Springs Outpost Estates, Inc., is the owner and operator of a water system serving a subdivision of about 40 lots as alleged in the

complaint. On the contrary, the evidence discloses that there is no subdivision and that the only three houses on the property are those heretofore described.

In the light of the foregoing record, the complaint will be dismissed.

O R D E R

Complaint as above entitled having been filed, public hearings having been held thereon, the Commission being fully advised in the premises,

IT IS ORDERED that the complaint of Fred L. Williams against the Palm Springs Outpost Estates, Inc., be, and it hereby is, dismissed.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 15th day of December, 1953.

[Signature]
President

[Signature]
Commissioner

[Signature]
Commissioner

[Signature]
Commissioner