

**ORIGINAL**

Decision No. 64434

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

SUNNY HOMES, INC., a California corporation,	)
	)
Complainant,	)
v.	)
DYKE WATER COMPANY, a corporation,	)
	)
Defendant.	)

Case No. 7347  
(Filed May 9, 1962)  
(Amended August 22, 1962)

OPINION AND ORDER

Complainant is the assignee of certain percentage interests in 20 agreements entered into with Dyke Water Company, which agreements provide, among other things, for the refunding of advance payments made for construction of water mains in 19 subdivision tracts in Orange County, on the basis of revenues collected by Dyke from the water consumers in said tracts. Refund payments are made annually in July and cover the immediately preceding 12-month period. Defendant admits that both the 1960-1961 and 1961-1962 period payments are due and are as yet unpaid. These agreements, together with amounts due thereunder, are identified as follows:

<u>TRACT</u>	<u>PARTIES</u>	<u>AGREEMENT DATED</u>	<u>REFUND BASIS*</u>	<u>PERCENT ASSIGNED</u>	<u>REFUND 1961</u>	<u>DUE 1962</u>
1946	Henry C. Cox	3-27-53	A, Lots 39-77	66 2/3	\$417.92	\$402.08
1946	Henry C. Cox	3-27-53	A, Lots 1-38	50	281.25	267.19
1749	Henry C. Cox	3-27-53	A	50	238.13	236.25
1619	Henry C. Cox	3-27-53	A	50	231.88	230.62
1835	Henry C. Cox	3-27-53	A	50	552.50	550.62
2097	Trask Terrace Homes	4-14-55	B	40	433.44	430.34
2309	Waverly Homes #3 Inc.	5- 9-55	B	67 1/2	1,191.16	1,189.67
2309	Waverly Homes #4 Inc.					
2309	Waverly Homes #5 Inc.					
2309	Sunny Homes Inc.					
1695	Catalina Homes Inc.	2-28-53	B	50	317.63	317.11
1662	Chapman Manor Inc.	2-28-53	B	50	928.26	934.45
2455	Chapman Terrace, Inc.	2-28-55	B	67 1/2	517.04	515.42
1692	Henry C. Cox	3-27-53	A	25	210.94	244.06
2410	Harbor Park Estates	3-25-55	B	79.5	807.62	805.37
2470	Harbor Park Estates #2	3-25-55	B	79.5	830.23	830.23
2148	Harbor Park Homes	6- 2-54	B	40	625.33	624.52
1715	Henry C. Cox	3-27-53	A, 71 Units	34	358.53	355.73
2076	Henry C. Cox	3-27-53	A, 45 Units	34	228.87	227.38
2076	Henry C. Cox	3-27-53	A, 44 Units	2	13.16	13.00
3178	Harbor Homes	3-27-53	C	75	107.17	104.44
2520	Harbor Homes	10-25-56	C	75	879.38	868.30
3010	Grove Terrace	4-19-57	C	75	301.46	300.85
3043	Grove Terrace	4-19-57	C	75	369.53	367.05
Total					9,841.43	9,814.68

- \* A \$1.25/domestic customer/month
- B 35 percent of gross revenues
- C 22 percent of gross revenues

Complainant and Dyke Water Company entered into an agreement on September 10, 1957, which agreement provides, among other things, for the refunding of an advance payment made for construction of water mains in Tract 3147, Orange County, on the basis of 22 percent of the gross revenues collected by Dyke from the water consumers in said tract. The refund payment is made annually in July and covers the immediately preceding 12-month period. With respect to this

agreement, gross revenues of \$1,494.02 were collected by Dyke during the 1960-1961 period and \$1,493.25 were collected during the 1961-1962 period. Refunds on such amounts are \$328.63 and \$328.52 for the respective periods. Defendant admits that these amounts are due and are unpaid.

The contracts which give rise to the 21 causes of action herein are of two general types; those which are in conformity with the provisions of defendant's filed main extension rule in effect at the times of their execution and those which constitute deviations from said rule, the rule being a part of defendant's tariffs on file with this Commission. Defendant has heretofore been authorized to deviate from said rule by this Commission's Decision No. 61642. Further, by said Decision No. 61642, this Commission has directed Dyke Water Company to carry out the terms and conditions of each of the hereinabove identified agreements.

The Commission finds as a fact that Dyke Water Company is obligated by contract and by the aforesaid decision to make refunds to complainant of the amounts hereinabove set forth, to a total of \$20,313.31, on duly executed refund contracts of which complainant is the assignee or principal as above stated.

In view of the pleadings, and the stipulations of counsel entered at a prehearing conference held before Examiner F. Everett Emerson on September 12, 1962, at Los Angeles, acknowledging the indebtedness hereinabove described, the Commission finds that public hearing in the matter is not necessary.

Good cause appearing therefor,

IT IS ORDERED that Dyke Water Company, a California corporation, be and it is hereby directed to comply with its contract obligations and the aforesaid Decision No. 61642 and to make refund payment forthwith to Sunny Homes, Inc., in the amount of \$20,313.31.

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

Dated at San Francisco, California, this 23rd day of OCTOBER, 1962.

George G. Hoover  
 President

[Signature]

[Signature]

[Signature]

Fredrick B. Holbrook  
 Commissioners