

ORIGINAL

Decision No. 70275

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

JOSEPHINE V. FLORES, Administratrix)
of the Estate of Eugenio Barba
Villalovos, Deceased,)
Complainant,)

vs.

HUGH MURRAY, CHARLES COOPER,
THOMAS M. CATHCART, LAKEVIEW HOT
SPRINGS WATER COMPANY, CHARLES M.
ROSS, HYDROSEN PROPERTIES, INC.,
RICHARD S. BRILL, DAVID H. ROSS,
DOE I, DOE II, DOE III, DOE IV,
DOE V.
Defendants.

Case No. 8090
(Filed December 18, 1964)
(Amended March 22, 1965)

M. L. Carnick, for complainant.
William H. Sullivan, for Hugh Murray,
Thomas M. Cathcart, Charles M. Ross,
Hydrosen Properties, Inc., Richard S.
Brill and David H. Ross, defendants.
Jerry J. Levander and R. H. Knaggs, for
the Commission staff.

O P I N I O N

Public hearings on the above complaint were held in Perris, California, before Examiner Rogers on April 20, June 8, July 27 and October 22, 1965. On the latter date, the matter was submitted, subject to the receipt of a late-filed exhibit. The exhibit has been filed and the matter is ready for decision.

By the complaint as amended, complainant alleges that:

1. Eugenio Barba Villalovos, deceased, before his death was the owner of Lots 50 and 64 of the Sholem Aleichem Dorf, said land being located in Riverside County, California.

2. Deceased owned Lot 50 since 1955 and Lot 64 since 1962; at all times during deceased's ownership of said land, said parcels were supplied with domestic water from wells located on the premises known as Lakeview Hot Springs, Lakeview, California, for which the deceased made regular payments.

3. For a period of time between January 7, 1955 and March 13, 1964, said properties were supplied with domestic water by defendant, Lakeview Hot Springs Water Company, and said Lakeview Hot Springs Water Company supplied domestic water to said parcels of real estate and to the public, and did so for profit.

4. Lakeview Hot Springs Water Company was sold to Charles Cooper, who continued to provide water service for profit and to the public; subsequently Charles Cooper transferred his interest, in whole or in part, to Thomas M. Cathcart, who, in turn, transferred his interest to Charles M. Ross, Hydrosen Properties, Inc., Richard S. Brill and David H. Ross, who are now the owners thereof.

5. In or about March, 1964, the water which was supplied to the real property of deceased was shut off and since said time no water has been supplied to said properties, although demand has been made.

Complainant prays that the Commission declare that defendants have conducted and are conducting a public utility and that they be ordered to resume the furnishing of water services to said premises of deceased.

An answer to the amended complaint was filed by Hugh Murray, Thomas M. Cathcart, Charles M. Ross, Hydrosen Properties, Inc. (sued as Hydrosen Properties, Inc.), Richard S. Brill and David H. Ross. In said answer, it is denied, inter alia, that any interest

in Lakeview Hot Springs Water Company was sold or transferred to Thomas M. Cathcart, Charles M. Ross, Hyrosen Properties, Inc., Richard S. Brill or David H. Ross.

Neither the original complaint nor the amended complaint was served on Charles Cooper or Lakeview Hot Springs Water Company and neither made an appearance at the hearings, except that Charles Cooper appeared on October 22, 1965 in response to a subpoena issued at the request of complainant.

The administratrix testified that she is the daughter of the deceased and the administratrix of his estate; that during his lifetime he owned the two lots listed in the complaint; that the estate still owns said lots; that there is no domestic water supply for the lots and that there has been no water supply for the lots since shortly after the deceased's death on March 13, 1964. She further testified that Charles Cooper furnished water to Lot 50 prior to the demise of the decedent; that the decedent was living on said lot and that there were pipes and running water on the lot.

Three witnesses testified they each own improved property in Sholem Aleichem Dorf; that they had purchased the properties in or about the years 1950 to 1955; that they made monthly payments for water to various persons, including Charles Cooper, and that in 1962 the water started disappearing and thereafter Charles Cooper did not want to accept any money for water, but he did accept money for water until November, 1963. One of the witnesses testified water was delivered until February, 1964. This last witness testified that she purchased her lot in 1950 and that the A & G Water Company was owned by Mr. Ginsberg and Mr. Aronoff, who were the subdividers of the Sholem Aleichem Dorf, and the deed included water service.

One of the witnesses testified that there are seven homes which had been occupied in the tract, but that only two families still lived there in 1963, inasmuch as the water service had failed.

Hugh E. Murray testified that title to a 450-acre parcel of land, which includes the Sholem Aleichem Dorf, was acquired by Raymond J. Higgins, a Minnesota citizen, in March, 1965; that at that time the witness and two others acquired from Raymond J. Higgins an option to purchase the said parcel; that Higgins acquired his title from Charles M. Ross, Hyrosen Properties, Inc., Richard S. Brill, and David H. Ross who had acquired their title in March, 1964, from Pacific Coast Finance Company, Ltd., which is owned by Charles Cooper; and that Pacific Coast Finance Company, Ltd., is the beneficiary and Raymond J. Higgins is the trustor of a deed of trust on the said 450-acre parcel. The witness further stated that while Charles Cooper owned the water company, he had drilled a well to replace the failing well in Lot 54 of Sholem Aleichem Dorf; that he rented pipe and piped water approximately one-half mile to serve the subdivision; that Charles Cooper became ill and decided to sell the property, including the unsold lots in the subdivision; that the Ross group purchased the 450-acre parcel including the subdivision and attempted to rehabilitate the well, but found the well equipment worn out; that the Ross group had not purchased the water company and ordered the closing of the water supply from Charles Cooper's well; that the water supply was shut off in March, 1964; and that the Ross group at no time purchased the water system, nor did they intend to furnish water to the subdivision.

Charles Cooper testified that he is the owner of the Pacific Coast Finance Company, Ltd., which owned the Sholem Aleichem Dorf and the well on Lot 54 thereof; that the well failed; that he dug a new well; that a man living in a home in the Sholem tract connected the new well to the tract system and served some homes therein on an accommodation basis only; that the people in the subdivision would not pay the electricity bill to run the pump in the Lot 54 well; and that he never did sell any water to anyone.

Late-filed Exhibit No. 7 herein shows that for the period from January 11, 1962 to November 10, 1963, the witness received \$230 in revenues from the tract and expended over \$3,000 in upkeep and expenses, including electricity, and that in 1961 and 1962 he tried to form a water company, but a water supply permit was refused by the County of Riverside because of the excess of fluoride in the water from the new well.

Findings

On the record herein, the Commission finds that:

1. Between 1950 and 1955 there was a subdivision formed in Riverside County known as Sholem Aleichem Dorf which contained approximately 25 lots; approximately seven of these lots were sold and improved; the subdivider installed a water system with a water supply from a well on one lot in the subdivision; the water supply was a part of the consideration for the sales of the lots.

2. The property owners lived on the premises in the subdivision and received water from the subdividers and various transferees, including Charles Cooper; the said owners paid a monthly charge for the water.

3. In 1963 or 1964, the water supply from the subdivision well failed and Charles Cooper attempted to furnish water from another well on his property; this water was held to be unfit by the Riverside County Health Department.

4. Charles Cooper sold the subdivision, including the water system, in 1964; during the years 1962 and 1963 the income from the system was greatly exceeded by the expenses.

5. The property was transferred in 1965 to an out-of-state individual; the water has been shut off; the pumps in the subdivision well have been removed; there is no feasible water supply available for the subdivision; the cost of providing a water supply would be prohibitive.

Conclusion

Upon the findings herein, the Commission concludes that the complaint should be dismissed. (See E.L. Jellenc, Decision No. 54422, in Application No. 38550, Jan. 22, 1957, 17 P.U.R. 3d 198.)

O R D E R

IT IS ORDERED that the complaint herein be, and the same hereby is, dismissed.

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

Dated at San Francisco, California, this 27th day of JANUARY, 1966.

Fredrick B. Hallock
President
George H. Trover
Auguston
William L. Bennett
Commissioners