

ORIGINAL

Decision No. 71678

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

George Rankov,

Complainant,

vs.

Armstrong Valley Water Company,

Defendant.

Case No. 8368
(Filed March 16, 1966)

Kenneth W. Larson, for complainant.
Phillip E. Guidotti, for defendant.
W. B. Seradley, for the Commission
staff.

O P I N I O N

The complaint alleges that Rankov owns Lot 37 on Watson Road, also known as Strode Lane, in Guerneville, California; that defendant supplies the area with water and has a water line running parallel with Watson Road across the street from complainant's lot; that complainant has asked the defendant to provide water service from the main on Watson Road to his lot but the defendant has refused, unless the complainant pays for the construction of a water line through an easement on the western edge of Lot 37 and southerly a sufficient distance to provide a water main suitable to supply three other lots (Nos. 26, 28 and 36) with water service; that defendant has recently furnished Lot 23 with water service without imposing any prior restrictions or conditions, and that Lot 23 is the next lot to the west of Lot 37, on the far side of the 25-foot easement previously mentioned. Complainant then requests that water service equivalent to that supplied Lot 23 be furnished to Lot 37.

The answer replies that Lots 23, 26, 28, 36 and 37 were originally a single tract owned by the same individual; that Lot 23 was the first lot sold on December 15, 1958 and at the time it was sold it was understood that the remaining land in the original parcel was not to be divided or sold; defendant promised to furnish Lot 23 with a water service under the main extension rule in effect in 1958, on the understanding that there would be no further parcels or lots sold from the original land; Lot 23 was subsequently sold again and the defendant furnished water service to the lot on November 15, 1964 pursuant to its original promise, after the fourth owner of the lot constructed a home on the lot in which he and his family permanently reside.

It is further alleged that there are no buildings or improvements on any of the other lots and none of the other owners plan to reside in the area; defendant further alleges that the complainant is not a "bona fide customer" and that Lot 37 is part of a "real estate development" under the terms of the water main extension rules and service cannot be lawfully provided unless the complainant advances to the utility the cost of a water main of sufficient length and diameter to serve the remaining lots in the parcel.

Public hearing was held in Guerneville, California, on June 1, 1966, before Examiner Fraser. Both parties presented evidence and the matter was submitted.

The basic facts are not in dispute. The record shows the five numbered lots originally constituted a single plot owned by a local doctor. Lot 23 and the 25-foot easement to the east of it were surveyed in December of 1958. Lot 23 was sold and the easement was designated Lot 35. Subsequently, the remaining four

lots were formed. Lot 37 is east of the easement and was first sold in July 1960. The purchaser defaulted on a contract of sale and it was sold again in 1962 and later was acquired by the present complainant. Lot 36 was formed south of Lot 23; it was transferred to the owner's daughter and son-in-law in 1960 or 1961. Lots 26 and 28 are located south of Lot 37 and east of Lot 36. Lot 26 was sold in 1961 and Lot 28 was sold under a contract of sale, then repossessed and deeded to the owner's daughter and son-in-law. The doctor who owned the original plot testified that the five lots were sold at different times from 1958 to 1962 and that no subdivision was intended. He stated it was his understanding that a subdivision required that all lots be formed and offered for sale at the same time.

The complainant testified as follows: He works and lives in San Francisco; he purchased Lot 37 last year and was informed that adjoining Lot 23 had water; he contacted the defendant and was advised that he and the owners of Lots 26, 28 and 36 would have to pay for a 4-inch water main 300 feet long to serve all four lots; he was further advised that water service would be provided as soon as the main is extended; the cost was estimated by the defendant at from \$3.90 to \$4.90 a foot; and the money received was to be gradually returned to the payors over a 20-year period by the defendant; the complainant did not discuss water service prior to purchasing his lot and he has not contacted the other lot owners; he knew that the defendant provided water service to homes on all sides of his lot; he purchased the lot to provide a summer home now and a retirement home in about 20 years.

The manager of the defendant corporation testified as follows: The defendant utility started operating in 1948 and provided water service to everyone who asked for it; and defendant now serves 201 customers, with an annual gross income of \$8,500; water rates have not been changed since 1953, although 60 percent of defendant's customers are seasonal or weekend users who pay the minimum service charge of \$24 a year with an allowance of 400 cubic feet of water per month; defendant also supplies water to two resorts, several schools and a county installation; defendant considers the complainant's lot to be part of a subdivision created by a real estate developer, under the provisions of the main extension rule presently applicable to water utilities and that the lot owner, or owners, should therefore be required to advance sufficient money to the utility to pay for the water main required to serve the complainant's lot and others; bona fide purchasers are exempted from advancing the cost of extending water mains, but complainant does not qualify as a bona fide purchaser because there are no buildings or improvements on his lot and he does not intend to live on the lot; defendant is not required to extend a main more than 65 feet under its tariff and it now supplies water to six other subdivisions and is paying them for monies advanced, over a 20-year period. If the complainant prevails herein, the other six subdivisions will feel prejudiced and will undoubtedly seek redress from the defendant thereby subjecting the water system to a serious financial loss; Lot 23 had a family living in a permanent home when it was provided with service; the witness had also promised in 1958 that service would be extended to this lot, since he believed at the time there would be no further division of the property.

The Revised Water Main Extension Rules define a real estate developer or subdivider as one who "divides a parcel of land into two or more portions" (Water Main Extension Rules (November 8, 1962) 60 Cal. P.U.C. 318, 327). This definition is repeated in Rule 15, Section A.3.b. of defendant's tariff. Complainant is not a developer of real estate. He is the purchaser of a single lot and therefore fails to qualify as a subdivider. In addition, the complainant herein has merely asked that a service line be extended to his property from a water main on Watson Road that is already installed and in use. The Revised Water Main Extension Rule mentioned above is applicable only where water mains are to be constructed or extended and not to situations which involve only water service pipes and connections.

After consideration the Commission finds that:

1. Complainant is not a real estate developer or subdivider and Lot 37 is not part of a subdivision.
2. The Revised Water Main Extension Rules are not applicable where no real estate subdivision or development is involved, and where service can be provided without the necessity of constructing or extending a water main.
3. The lack of permanent buildings or improvements on a lot is not a sufficient reason in itself to justify a water utility in refusing to provide service.
4. Complainant is entitled to an individual water service connection from defendant's existing main in Watson Road, also known as Strode Lane, without charge.

It is concluded that defendant should be ordered to provide complainant with water service as outlined above.

O R D E R

IT IS ORDERED that Armstrong Valley Water Company shall install a service connection to the property of George Rankov from its main in Watson Road (also known as Strode Lane); such installation shall be made at no charge to the customer; and defendant shall, within ten days after the effective date of this order, report in writing to the Commission its compliance herewith.

The Secretary of the Commission is directed to cause personal service of this order to be made upon defendant. The effective date of this order shall be twenty days after the completion of such service.

Dated at San Francisco, California, this 13th day of DECEMBER, 1966.

[Signature]
President

George G. Grover

Fredrick B. Holchiff

Angus

William W. Baird
Commissioners