

ORIGINAL

Decision No. 73334

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Investigation on the Commission's own motion into the rates, rules, regulations, tariff schedules, service, facilities, equipment, contracts, and practices of JOHN S. and EVELYN CAVANAUGH, dba Hillview Water Company, and Samuel B. Weeks.

Case No. 8393
Filed April 19, 1966

COUNTY OF SANTA CRUZ, a political subdivision of the State of California,

Complainant,

vs.

JOHN S. CAVANAUGH and EVELYN CAVANAUGH, dba Hillview Water Company,

Case No. 8263
Filed September 7, 1965

Defendants.

Henry J. Faltz and Jerry W. Bartholow, Assistant County Counsel, for County of Santa Cruz, complainant.

Donald R. Haile, for Santa Cruz Land Title Company, respondent.

John S. Cavanaugh and Evelyn Cavanaugh, dba Hillview Water Company, in propria personae, respondents and defendants.

Samuel B. Weeks, in propria persona, respondent.

David R. Larrouy, Counsel, W. Ben Stradley and Bill Nagao, for the Commission staff.

O P I N I O N

On May 10, 1966 the Commission issued an interim opinion in the above two matters (Decision No. 70679) which opinion contained ordering paragraphs requiring the Hillview Water Company (Water Company) to make certain emergency repairs to its water

system. Other issues, concerning improvement of utility plant, supervision of operations, and title to utility lands, were deferred, to be determined in a final order.

On September 13, 1967 a stipulation between the staff, the Santa Cruz Land Title Company, Agnes Carney, and John S. Cavanaugh and Evelyn Cavanaugh, doing business as Hillview Water Company was filed in this proceeding (Exhibit No. 19). Briefly, the stipulation sets forth that the property on which Water Company has its wells, pumps, tank sites, easements, and rights of way was pledged as security under a deed of trust; upon default of Water Company the Title Company sold the property and became legal owner as trustee on behalf of Agnes Carney; the parties agree that the land upon which lie wells, tanks, pipes, and land necessary for access to said water system are necessary and useful to the public utility water system, and that the remainder of the land is not useful to the water system; the Title Company has prepared an instrument to deed back to Water Company the land necessary to operate the water system; said deed will be recorded within ten days after the effective date of the decision herein.

Based upon the evidence taken at the hearings of April 25 and 26, 1966 and the stipulation and exhibits filed in Case No. 8393 on September 13, 1967, the Commission affirms the findings of fact made in Decision No. 70679, and makes the following additional findings of fact:

1. The Santa Cruz Land Title Company and Agnes Carney consent to Commission jurisdiction over Title Company in Case No. 8393 and waive any and all objections to the failure of the Order Instituting Investigation to name Title Company as a respondent.

2. Title Company holds bare legal title under a Holding Agreement, as trustee of the 33 acres of real property more specifically described in Exhibit 13, Sub A, B, and C, being trustee on behalf of Agnes Carney; that Title Company is now the record holder of all of said real property; that the parties agree that the description of the 33 acres of the real property as described in Exhibit 13-A is a correct and accurate description of the 33 acres originally transferred from Water Company to Agnes Carney as security under that certain Deed of Trust dated July 29, 1964, recorded July 30, 1964, in Book 1634 at Page 499, Official Records Santa Cruz County.

3. Upon default of payment by Water Company, Title Company conducted a trustee sale upon said real property, which sale was held November 4, 1966 according to law, and that by Trustee's Deed dated November 4, 1966, recorded November 4, 1966, in Book 1792 at Page 266, Official Records Santa Cruz County, said Title Company became legal owner of said real property as trustee, and on behalf of Agnes Carney.

4. The following transfers of interest in said real property were made without authorization of the Public Utilities Commission, as required by Public Utilities Code Section 851:

- (a) Transfer of interest by Deed of Trust as set forth in Exhibit 13-A.
- (b) Transfer of interest by Deed of Trust as set forth in Exhibit 13-B.
- (c) Transfer on Trustee's Sale as set forth in Exhibit 13-C.
- (d) Transfer on Trustee's Sale as set forth in Exhibit 19-A.

5. Title Company has prepared a Quit Claim Deed (Exhibit 19B) which deed grants certain property as therein described to Water Company.

6. The real property described in said Exhibit 19-B is property that was included in the transfers set forth in Paragraph 4 above, and it is agreed by the parties to this Stipulation that said property is necessary and useful to the public utility water system in that it consists of the land upon which lie wells, tanks, pipes, and land necessary for access to said water system.

7. The land described in Exhibit 19-A, other than the land described in Exhibit 19-B, is not, and never has been necessary and useful to Water Company's public utility water system, and the removal of that land from the water system would work no detriment to the water system.

8. The deed set forth as Exhibit 19-B has been duly executed by Title Company under authority of Agnes Carney, and the effect of that deed will be to restore to the Water Company all property necessary and useful to the operation and maintenance of the water system. The deed has been placed in the hands of Donald R. Haile, who has authority to record said deed within ten days of the effective date of the decision in this matter.

9. Title Company was not a bona fide purchaser of that property described in Exhibit 19-B.

10. Fencing around the wells, pumps, storage tanks, and associated equipment is totally inadequate.

11. Additions or changes to piping from tanks to distribution system are needed to prevent air locks from occurring.
12. Protection is required at the automatic controls near the top of the redwood tank to prevent accidental or mischievous damage.
13. Neither the utility owners nor their representative are available for the day-to-day operation of Water Company and for receiving routine and emergency calls.
14. The utility should install meters at all unmetered services within a reasonable time.

Conclusions of Law

1. To the extent that the sale of real property on November 4, 1966 as evidenced by a Trustee's Deed recorded in Book 1792 at Page 266, Official Records Santa Cruz County purported to convey property of Water Company necessary and useful to the public utility water system, said sale was in violation of Public Utilities Code Section 851 and was void. In all other respects the transfer was valid.
2. The deed prepared by the Title Company now in the hands of Donald R. Haile, attorney at law, transferring certain real property to Water Company will restore to Water Company all property necessary and useful to the operation and maintenance of its system.

O R D E R

IT IS ORDERED that:

1. John S. Cavanaugh and Evelyn Cavanaugh, doing business as Hillview Water Company, shall within six months of the effective date of this order:

a) Construct adequate fencing around the wells, pumps, storage tanks, and associated equipment of the water system;

b) Make such additions and changes to piping from tanks to distribution system as are needed to prevent air locks from occurring;

c) Construct adequate protection at the automatic controls near the top of the redwood tank.

d) Have competent personnel available for the day-to-day operation of the water company and for receiving routine and emergency calls. Notify all consumers of the telephone number of this person; and, within a reasonable time,

e) Install meters at all unmetered services.

f) John S. Cavanaugh shall inform the Commission, in writing, within ten days after complying with each portion of this ordering paragraph.

2. Santa Cruz Land Title Company shall transfer to John S. Cavanaugh and Evelyn Cavanaugh, his wife, doing business as Hillview Water Company, all real property standing in its name upon which is located part of the water system of Hillview Water Company, which property is more particularly described in Exhibit 19-B in Case No. 8393. John S. Cavanaugh shall inform this Commission, in writing, within ten days after the transfer.

3. Samuel B. Weeks is dismissed as a respondent in Case No. 8393.

4. The restraining order heretofore entered in Case No. 8393 is dissolved.

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

The Secretary is directed to cause a certified copy of this order to be personally served upon each of the respondents forthwith.

Dated at San Francisco, California, this 12th day of NOVEMBER, 1967.

John E. Mitchell
President

William M. Bennett

Augusta

William Seymour J.

Frank P. Morosoff
Commissioners