

Decision No. 85949

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

LEVINE BROTHERS INVESTMENTS, a
partnership,

Complainants,

vs.

MESA CREST WATER COMPANY, a
California corporation,

Defendant.

Case No. 10052
(Filed February 23, 1976)

O P I N I O N

This is a complaint filed by a partnership consisting of Isadore Levine and Sid Levine of 404 North Roxbury Drive, Beverly Hills, California 90210, filed February 23, 1976 against Mesa Crest Water Company, a water corporation under the jurisdiction of this Commission. Defendant Mesa Crest Water Company filed its verified answer on March 23, 1976. The answer admits all the material allegations of the complaint. A public hearing is not necessary.

The facts alleged in the complaint and admitted by the answer are:

1. In 1957 and 1958 Mesa Crest Water Company entered into two main extension agreements with Godby Development Co. Complainants are presently the owners of these two main extension agreements (Exhibits A and B attached to the complaint).

2. Defendant has been continuously late in making payments under the contract, and there is due and owing a sum of \$4,238.19 (Exhibit C attached to the complaint). The last payment was made November 18, 1974 for the balance of the 1972 payment due to complainants under their contract rights.

3. Complainants were entitled to payments which became due and owing April 1, 1973 and April 1, 1974. (It appears that these two payments are more than sufficient to discharge the entire amount due and owing.)

The complainants allege that they doubt whether defendant is sufficiently capitalized to operate a utility in the State of California and request an order that the defendant deposit in escrow, for the benefit of complainant, on a monthly basis, 22 percent of monies on the contract pursuant to Exhibits A and B, that defendant notify complainants of the amounts on a monthly basis, and that annual payments on the contracts be made on or before February 15 of each year. Complainants also request that defendant be ordered to pay interest of 10 percent per annum from due date to date of payment.

Payments were due and unpaid as of April 1, 1973 and April 1, 1974. Defendant will be ordered to file a verified statement of the amounts due and unpaid under the contracts. Complainants are entitled to interest at the rate of 7/12 percent per month on amounts due and unpaid until the date of payment. (Cal. Const. Art. XX, Section 22.)

Complainants request that 22 percent of the monies under the contract provisions be deposited in escrow for the benefit of complainants on a monthly basis. Defendant, in its answer, alleges that it intends to begin payment of 22 percent of the income as provided in the contracts to complainants in the month of June 1976 and monthly thereafter until paid in full. Under the circumstances, we will order defendant to commence payment on July 1, 1976 at a rate of 22 percent of the monies collected pursuant to contract terms and computed on estimated monthly income until all sums due and owing complainants, including interest, are paid in full.

Findings

1. Complainants are the owners of two main extension agreements pertaining to Tract 24072 and attached to the application as Exhibits A and B.

2. Defendant is liable to the complainants for refunds due under the contracts and unpaid as of April 1, 1973 and April 1, 1974. The total sum due and owing is \$4,238.19, exclusive of interest.

3. Refunds due on April 1 and not paid are equivalent to involuntary interest-free loans to defendant.

Conclusions

1. Defendant should be ordered to pay interest on all sums due and unpaid as of April 1, 1973 and April 1, 1974 as set forth in our order herein.

2. Defendant should be ordered to file a verified accounting with this Commission, with a copy to complainants. The accounting shall set forth all sums due to complainants from defendant as of April 1, 1973 and April 1, 1974 and shall reflect interest computed at 7/12 percent per month on all unpaid sums, interest to continue accruing monthly on all unpaid amounts.

O R D E R

IT IS ORDERED that:

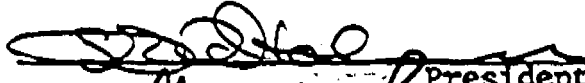
1. Defendant shall file with this Commission and mail to complainants a verified accounting of the payments due April 1, 1973 and April 1, 1974 pursuant to the terms and provisions of the two main extension agreements attached to the complaint as Exhibit A and Exhibit B. The accounting shall include a computation setting forth accrued interest at the rate of 7/12 percent per month on all sums due and unpaid under the main extension contracts.

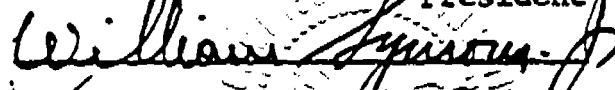

2. Defendant shall commence payment on July 1, 1976 to complainants of 22 percent of the income as set forth in Exhibits A and B attached to the complaint, the payments computed on estimated monthly income, and to continue monthly until all amounts due and owing under the main extension contracts are paid in full, including all interest accrued at the rate of 7/12 percent per month on unpaid amounts.

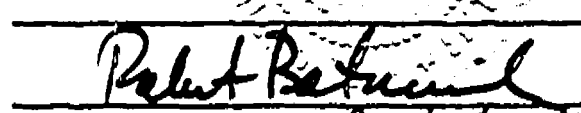
3. All other relief requested is denied.

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

Dated at San Francisco, California,
this 15th day of JUNE, 1976.



President





Commissioners

Commissioner Leonard Ross, being necessarily absent, did not participate in the disposition of this proceeding.