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Decision No. 89721 DEC 12 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the applications of )  
 NATIONAL GYPSUM COMPANY and ANDREW )  
 E. STEVENS and ELIZABETH STEVENS, )  
 husband and wife for authority to )  
 encumber the TRI-PALM ESTATES sewer )  
 system as part of the conveyance )  
 of the sewer system from NATIONAL )  
 GYPSUM COMPANY. )

Application No. 58448  
(Filed November 2, 1978)

O P I N I O N

Andrew E. Stevens and Elizabeth Stevens (Stevens) seek authority under Section 851 of the Public Utilities Code to encumber the public utility sewer system property to be acquired from National Gypsum Company (National Gypsum), dba Tri-Palm Estates.

By Decision No. 89455, dated October 3, 1978, in Application No. 58230, Stevens was granted authority to purchase, on or before December 31, 1978, from National Gypsum the assets of a mobile home subdivision known as Tri-Palm Estates. A public utility sewer system was included in the sale as an integral part of the subdivision. The agreed purchase price of the subdivision was \$2,800,000, with \$666,655 allocated to the sewer system and certificate. The transfer was to take place in accordance with an Agreement and Escrow Instructions (Agreement) filed as Exhibit F to Application No. 58230. The Agreement contemplated payment of the entire purchase price in cash.

Subsequent to the submission of Application No. 58230, and the issuance of Commission Decision No. 89455, Stevens and National Gypsum decided to amend the Agreement so as to afford Stevens the opportunity to finance the purchase of Tri-Palm Estates through deferred payments. The amended Agreement attached to the application as part of Exhibit C, provides for the payment of \$800,000 in cash on close of escrow, with the balance of \$2,000,000 to be represented by a promissory note payable as to principal and interest in monthly

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installments over a period of four years. Interest would be at the rate of 9-1/2% per annum. The note is to be secured by a Deed of Trust and Security Agreement on all real and personal property, including sewer plant and system, to be transferred to Stevens from National Gypsum.

The application avers that the sewer system is an integral part of the Tri-Palm Estates subdivision properties and that it is in the best interest of the customers of the sewer system that it be operated in conjunction with and as part of the operations of the subdivisions. Therefore, in the event that National Gypsum exercises its security interest in the subdivisions as a result of default, it would desire to have the right to secure and operate the sewer system.

The Utilities Division has reviewed the application and concurs with the conclusion of the Finance Division that Stevens' request is reasonable.

After consideration the Commission finds that the proposed encumbrance is not adverse to the public interest. There is no opposition and there is no reason to delay granting the authority requested. A public hearing is not necessary. Because of the time constraint imposed by Decision No. 89455, dated October 3, 1978, this order should be made effective on the date hereof.

O R D E R

IT IS ORDERED that Andrew E. Stevens and Elizabeth Stevens may enter into the Amendment to Agreement and Escrow Instructions and the Security Agreement in substantially the same form as attached to the application as Exhibit C.

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The effective date of this order is the date hereof.

Dated at San Francisco, California, this 12<sup>th</sup> day  
of DECEMBER, 1978.

Robert Bateman  
President  
William J. Mason  
James L. Higgins  
Robert D. Hoyle  
Clare D. Decker  
Commissioners