

RESOLUTION 90-5

CONCERNING UNAUTHORIZED SERVICE CONNECTIONS

WHEREAS, the District has identified a number of unauthorized water service connections, and

WHEREAS, the water for many properties located in the District is provided by wells that have experienced diminished water production and/or contamination, and

WHEREAS, the District has an obligation to provide water service to all properties in the District but the existing water supply of the WCSD is inadequate to meet this obligation, and

WHEREAS, it is the District's policy that properties which have dwellings which were constructed prior to December 31, 1987, and for which well water is inadequate or contaminated have the highest priority for new service connections, and

WHEREAS, the WCSD has arranged to provide delivery of water under emergency circumstances, through the Westhaven Volunteer Fire Department, to District property owners who have inadequate or contaminated wells, and who possess adequate storage units, and

WHEREAS, the policy of the Westhaven Mutual Water Company (WMWC) was that one share entitled a property owner to a single service connection, and this same policy has been adopted by the Westhaven Community Services District (WCSA), and

WHEREAS, unauthorized service connections diminish the WCSD's ability to meet its obligations as prioritized by the District, and

WHEREAS, it is in the best interests of the District to offer to compromise and settle the matter of unauthorized service connections as expeditiously as possible, and to offer as an inducement to such settlement the highest priority for new service connections to those properties which immediately discontinue unauthorized service connection,

BE IT RESOLVED, the Board of the WCSD hereby adopts the following findings and remedies concerning unauthorized service connections.

Day, Patricia (514-033-10Y):

Findings: Ms Day has rented out a "dome" on her property for a total of about 3 years since 1975 (3/15 years = 20% rental usage rate). The dome contains a bedroom, sink, shower, and stove and is thus legitimately viewed as a dwelling unit. As such, Ms Day's situation cannot be distinguished from other unauthorized service connections to fully equipped dwelling units.

Remedy:

1. Discontinue service to unauthorized (rental) dwelling;
2. Place on first priority for new service connections (Section 401, see below) with future service connection approval subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$84.00 (20% rental use x \$14/mo x 30 mo) retroactive fees for unauthorized, unbilled service from November 1987 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of \$20/mo; and (c) payment of service connection fee.

Day, Kathleen (514-033-16):

Findings: Approximately two years ago, Ms Day added a house trailer to her property so as to provide a private bedroom for her daughter. Although this trailer arguably contains all necessary facilities for a complete dwelling unit, Ms Day's daughter cooks and eats all meals in the main residence and effectively uses the trailer as a private bedroom. Only two people (Ms Day and her daughter) are currently in residence on the property. So long as this situation exists, we find that the additional dwelling unit is not being used to support an additional household.

Remedy:

1. We regard the existing situation as temporary and as not constituting an "irregular and unauthorized service connection".
2. We note that this finding does not imply WCSO recognition or authorization for two service connections at this property.
3. Inform Ms Day that additional service connection would not, at this time, be allowed if additional person(s) were to occupy the trailer, thus altering the use to which the trailer has been put from a "bedroom" to a full use dwelling unit.

Cunliffe (515-041-16x):

Findings: WCSD/WMWC water has been used, without authorization, at this property since 1980 for the purposes of garden watering. An existing well was used for drinking water (and other?) purposes at this residence and at the next door Gey residence (share owner) until 1988. Residents were aware that a share was required to authorize these use of WMWC/WCS D water, but were also aware that shares were no longer available for purchase. In 1988, the Cunliffe's attempted to improve the production of their inadequate well by drilling it deeper. Instead, the production of the well was even worse. They appear to have a 1,000 gallon water storage tank which they use to collect rainwater.

Remedy:

1. Discontinue service to parcel by WCSD;
2. Offer WVFD emergency water service to allow filling of 1,000 gallon storage tank as necessary at usual rates;
3. Place on first priority for new service connections (Section 401, see below) with future service connection subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$392.00 (\$14/mo x 28 mo since well was re-drilled) retroactive fees for unauthorized, unbilled service from January 1988 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of \$20/mo; and (c) payment of service connection fee.

Mays (PeeWee's/Westhaven Market 514-131-09):

Findings: Minutes of 8 May 1972 meeting of WMWC indicate that property owner requested the parcel be billed for one service connection instead of two. Since 1976 only one service connection has been billed and paid. We regard this as a sufficient period of time to warrant a conclusion that the additional service connection was discontinued. In addition, no idle share fee had been paid to maintain active connection. It is therefore inappropriate to provide an additional service connection at this time. Although the former market may be used primarily as a "shop", it has two bedrooms, a kitchen and a bathroom, and is therefore arguably a "dwelling unit". The current tenant has recently used these dwelling unit features.

Remedy:

1. Discontinue service to market/dwelling unit;
2. Inform owners that WCSD has no objection to rental of property for use as woodworking shop (i.e. not used as dwelling unit).
3. Place on first priority for new service connections with future service connection (Section 401, see below) subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$56.00 (\$14/mo x 4 mo used as rental dwelling unit) retroactive fees for unauthorized, unbilled service from January 1990 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of \$20/mo; and (c) payment of service connection fee.

Diggens (514-041-05x)

Findings: Mr. Diggens purchased property about 5 years ago. Property originally had a 60' x 12' mobile home, and a 15' x 20' unfinished shed. They have been remodeling the shed to turn it into a home and have been progressively adding on rooms. The original shed apparently had been rented for about 11 months while it was being remodeled and Mr. Diggens and family lived in the mobile home. After moving into the remodeled "shed", they then repaired the mobile home and have rented it off and on since that time. Mr. Diggens was asked about his familiarity with the legal entitlements of shares and his answers indicated that he was aware that 1 share = 1 service connection, but he did not choose to ask the WCSO regarding the legality of his supplying water to a rental dwelling unit on his property.

Remedy:

1. Discontinue service to rental property.
2. Place in first priority for new service connections (Section 401, see below) with future service connection subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$420.00 (\$14/mo x 30 mo used intermittently as rental dwelling unit) retroactive fees for unauthorized, unbilled service from November 1987 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of \$20/mo; and (c) payment of service connection fee.

Bernard/Pearson (514-122-18)

Findings: Mr. Bernard and Mr. Pearson purchased this property in 1986, at which time it had a main house and a separate "garage". At that time, the garage had a bedroom and a primitive kitchen, but it lacked a bathroom and septic service was not connected. Although the prior property owner had rented out both units, tenants from the garage had to share the single bathroom in the main house. After purchase, the kitchen was remodeled (cabinets added, etc.), a shower and bathroom were added, and an apparently previously-existing septic line was repaired and connected. As a result of these modifications, the garage became a fully-functioning independent dwelling unit, as distinguished from its previous function as an additional "bedroom/studio". That is, two distinct households could occupy the property as a result of these modifications.

Remedy:

1. Discontinue service to converted garage rental unit.
2. Place in first priority for new service connections (Section 401, see below) with future service connection subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$420.00 (\$14/mo x 30 mo used as rental dwelling unit) retroactive fees for unauthorized, unbilled service from November 1987 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of \$20/mo; and (c) payment of service connection fee.

Stebbins (514-033-17; 514-013-08 and 514-013-13)

Findings: Mr. Francis Stebbins and Mrs. Rose Stebbins (deceased) purchased parcel 514-033-17, which Mr. Stebbins refers to as "Tobacco Road", in 1971, at which time four houses were present, none of which were serviced by WMWC. Shortly after purchase of the parcel, a WMWC share was purchased (issued 01/12/72) and was used originally to serve one house. The remaining houses were apparently served by a well. According to correspondence from Rose Stebbins to the WMWC (10/03/74), the well on the parcel frequently ran dry during late summer or early fall and a hose from the house serviced by WMWC was used to fill the well. Such unauthorized use of WMWC water led to additional correspondence between Rose Stebbins and WMWC regarding servicing all four units, and responsibility for paying for water used to refill wells. There are no records indicating that WMWC or WCSD agreed to provide service to the additional three houses. According to WMWC records, this parcel has consistently been billed for a single service connection.

In 1972, Mr. and Mrs. Stebbins purchased two additional Westhaven parcels, 514-013-08 and 514-013-13, which Mr. Stebbins refers to as "Slum City". Both parcels had previously existing WMWC shares. At the present time, there are four houses located on these two parcels. Historically, a total of four service connections (3 active, 1 idle) have been billed to these two parcels. Effective May 1990, these two parcels have been billed for four active service connections.

Based on the above summary, Mr. Stebbins maintains a total of eight rental dwelling units on the "Tobacco Road" and "Slum City" parcels. Maximum billing has been for a total of five of these units (four at Slum City and one at Tobacco Road). WMWC and WCSD records indicate that the Tobacco Road parcel has been billed for only a single service connection.

Remedy:

1. Discontinue service to three rental dwelling units receiving unauthorized service on the Tobacco Road parcel;
2. Place in first priority for new service connections (Section 401, see below) with future service connection(s) subject to (a) proof of adequate sanitation facilities (see below), (b) payment of \$1,260 (\$14/mo x 30 mo x 3 rental dwelling units) retroactive fees for unauthorized, unbilled service from November 1987 through April 1990, plus payment of retroactive fees from May 1990 until service is discontinued, at the rate of 3 rental dwelling units x \$20/mo; and (c) payment of service connection fee(s).

AND BE IT FURTHER RESOLVED by the WCSD that:

1. Proof of Adequate Sanitation Prior to submitting request for additional service connection, applicant shall provide evidence of sanitation system sufficient to meet County Public Health Department standards.

2. Proof of Discontinued Service For each unauthorized service connection for which the WCSD requires discontinuation of service, property owner shall provide the District Manager with tangible evidence that such discontinuation of service has been accomplished. In the event that such evidence is not provided by property owner, water service shall be discontinued to the entire parcel.

3. WCSD Ordinance 90-1, Section 401, Priority for New Services, Contaminated or Insufficient Wells The District is obligated to offer service to all properties in District boundaries that have contaminated or insufficient wells as soon as the capacity to serve those properties has been demonstrated. Owners of such properties will have to pay all the standard fees for service connection. This section applies only to properties that had dwelling units as of December 31, 1987.

PASSED, APPROVED, and ADOPTED this 18th day of June, 1990, by the following roll call vote:

AYES: Berman, Hankin, Ruth, Allan

NOES: 0

ABSENT: DeMarinis

ATTEST: Debra K. Rogers
Secretary, WCSD

Alan Berman
President, WCSD

