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September 18, 2007

Chairman Eddie Roberson
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243

VIA ELECTRONIC DELIVERY

filed electronically in docket office on 09/19/07

Re: Turnberry Homes, LLC v. King's Chapel Capacity, LLC—Docket No. 07-00199.

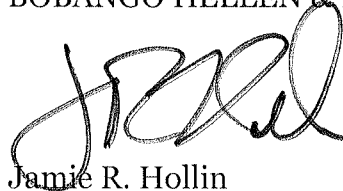
Dear Chairman Roberson:

Please find the original and 4 copies of the Amended & Restated Reply in Opposition to Petition for Temporary Injunctive Relief filed on behalf of King's Chapel Capacity, LLC in the referenced matter enclosed herewith. Due to printing errors, KCC's response to the allegations in Paragraph 19 of the Petition were cut off and omitted from the original response.

If I may be of further assistance in this matter, please do not hesitate to contact me. I am

Very truly yours,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC



Jamie R. Hollin

Enclosure

Cc: John E. Powell (w/enclosure)

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

TURNBERRY HOMES, LLC

Petitioner,

v.

KING’S CHAPEL CAPACITY, LLC

Respondent.

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Docket No. 07-00199

**RESPONDENT’S AMENDED & RESTATED REPLY IN OPPOSITION TO
PETITION FOR TEMPORARY INJUNCTIVE RELIEF**

The Respondent, King’s Chapel Capacity, LLC (“KCC”), by and through undersigned counsel, hereby replies in opposition to the Petitioner’s request for a temporary injunction and respectfully states as follows:

Turnberry Homes, LLC (“Turnberry”) and Ashby Communities, LLC (“Ashby”) are parties to 3 separate lawsuits pending in the Williamson County Chancery Court (the “Court”) substantially similar to the Petition for Injunctive Relief filed on behalf of Turnberry (the “Petition”). KCC recently became a party to 1 of the lawsuits filed by Turnberry. Turnberry and Ashby have a disagreeable relationship based upon the interpretation of various rules and contracts applicable to the parties as it relates to the development of King’s Chapel Subdivision (the “Subdivision”) located in Williamson County, Tennessee. During all pertinent times described herein, KCC has had no authority to act in any way which would affect the business relationship of Ashby and Turnberry.

Turnberry maintains that it cannot obtain use and occupancy permits for Lots 138 and 139 in King's Chapel without sewer service. KCC has committed no act or failed in a duty to act that would prevent Turnberry from being issued use and occupancy permits from the appropriate authorities in Williamson County for Lots 138 and 139. Lots 138 and 139 in King's Chapel have access to sewer service. Thus, Turnberry has suffered no harm which would prevent it from selling the residences located on Lots 138 and 139.

At the Tennessee Regulatory Authority's ("Authority") Conference on September 10, 2007, the panel of Directors raised concerns and questions relative to turning on and turning off the sewer valve to Lot 138. Turnberry takes the position that it has availed itself of the remedy of self-help in regard to restoring sewer services to Lot 138. (Petition, ¶ 8). Turnberry has **never** received the required approval to receive sewer services to Lot 138. Turnberry has commandeered sewer service for itself and has been misappropriating sewer service without the authority to do so. Once this fact became known, the sewer valve was shut off immediately. Turnberry has since restored fraudulently obtained sewer services without permission to do so. Turnberry has never paid for sewer services to Lot 138—Turnberry is not KCC's customer. Turnberry's misappropriation of sewer service and trespassing on KCC's property is violation of Tennessee law.

WASTEWATER SYSTEM DEVELOPMENT

KCC caused the King's Chapel wastewater system to be designed to serve its proposed residential subdivision. The design of the wastewater system was then approved by TDEC and the Williamson Water & Wastewater authority. After application and a review of the plan as submitted to the Authority, the Authority granted

KCC a Certificate of Public Convenience and Necessity to operate the wastewater system in King's Chapel.¹

KCC subsequently entered into a contract with Ashby to pay for all construction costs for the wastewater system to be used on land and lots owned by Ashby. Ashby has and continues to pay for the complete construction of the wastewater system. Presently, the treatment and disposal portions of the wastewater system are complete. The collection system is 40% complete. As Ashby decides which area and lots to build-out the collection system, Ashby contributes the collection system to KCC (Contribution-In-Aid-of-Construction), allowing KCC to provide wastewater service. In other words, Ashby must first make sewer facilities available before KCC is capable of providing service to any lot in King's Chapel. Once the collection system is dedicated to KCC for specific lots and land, it becomes KCC property and KCC provides continual wastewater service. The relative issues between Turnberry and Ashby over whether lots owned by Turnberry in King's Chapel receive initial wastewater service are currently pending before the Court.

Turnberry has been a customer of KCC only on its model home that was sold several months ago to a homeowner. For that lot, Turnberry paid for sewer service because the house was occupied by a sales agent and utilized by prospective homebuyers during the day. Although Ashby instructs KCC as to when a lot is ready to be connected to the system, KCC and its agents or employees are responsible for all inspections and turning on the connection valve. KCC inspects the collection tank for construction debris and in several cases the collection tanks need to be pumped before KCC allows

¹ Docket No. 04-00335.

the initial connection requested by Ashby. In fact, the Turnberry Model Home collection tank had to be pumped because of construction debris.

Turnberry, on its own and without any authorization, turned the collection valve to the on position on Lot 138 allowing any possible construction debris to enter the collection, treatment, and disposal systems. Once this became known, KCC turned this valve off. Turnberry has constructed homes on 22 other lots in King's Chapel, but has never had wastewater service or connection valves turned on until the collection tanks were inspected and a homeowner/customer purchases the property and executes a sewer service subscription agreement.

PETITION FOR INJUNCTIVE RELIEF

KCC hereby responds to the correspondingly numbered paragraphs as set forth in the Petition:

1. Admitted.
2. Admitted.
3. Admitted that Hang Rock, LLC, Ashby Communities, LLC ("Ashby") and KCC are all Tennessee limited liability companies. It is denied that all three of these entities are "controlled" by Mr. John Powell.
4. Admitted.
5. Admitted that Lot 138 has a collection tank installed on the property. It is denied that Lot 139 does not have a collection tank installed on the property. Lot 139 has a collection tank installed on the property.
6. Admitted that Turnberry once owned 22 other lots in King's Chapel. Denied that Turnberry must purchase collection tanks from KCC or Ashby and that only

Electel could install collection tanks in King's Chapel. Admitted that Wayne Stine is the President of Electel. All remaining allegations are denied.

7. Denied that Turnberry purchases collection tanks from KCC. Denied that Turnberry requested a collection tank from KCC or Ashby for Lot 139. A collection tank has been installed on Lot 139. Turnberry is not prevented by KCC from obtaining a use and occupancy permit for Lot 139.

8. Turnberry is misappropriating sewer services from Lot 138. Turnberry took it upon itself and trespassed on KCC's property and initiated services without approval. Turnberry's allegation that it cannot obtain a use and occupancy permit for Lot 138 without sewer service is false. Turnberry possesses a use and occupancy permit for Lot 138.

9. Admitted.

10. Turnberry is misappropriating sewer service from KCC for Lot 138.

11. Admitted.

12. Admitted.

13. Denied. The Williamson County Chancery Court did not approve Turnberry's application for an injunction.

14. No response required.

15. Admitted that KCC holds a certificate of public convenience and necessity issued by the Authority. All other allegations are denied.

16. No response required.

17. No response required.

18. Denied.

19. Denied.

Respectfully submitted,

FARRIS MATHEWS BRANAN
BOBANGO HELLEN & DUNLAP, PLC

By: 

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Attorneys for King's Chapel Capacity, LLC

Certificate of Service

I hereby certify that a true and correct copy of the foregoing has been placed in the U.S. Mail, postage pre-paid, addressed to the Petitioner's attorney, **Todd E. Panther, Esq.**, and **Stephen A. Lund, Esq.**, Tune, Entrekin & White, P.C., located at 315 Deaderick Street, AmSouth Center, Suite 1700, Nashville, Tennessee, 37238 this 18th day of September, 2007.



Jamie R. Hollin