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April 17, 2014

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via US Mail

Chairman, Tennessee Regulatory Authority
c/o Sharla Dillon, Dockets and Records Manager
502 Deaderick Street, 4th Floor
Nashville, Tennessee 37243

Re: Laurel Hills Condominiums Property Owners' Association v. Tennessee
Regulatory Authority
Docket No. 12-00077

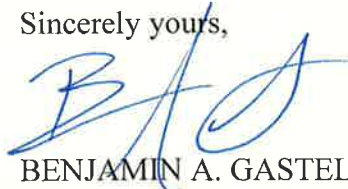
Dear Sharla:

I have enclosed an original and five copies of the RESPONDENT'S OPPOSITION TO APPEAL TO THE AUTHORITY TO GRANT THE PETITION TO INTERVENE OF THE CONSUMER ADVOCATE AND PROTECTION DIVISION OF THE OFFICE OF THE TENNESSEE ATTORNEY GENERAL to the Tennessee Regulatory Authority.

This cover letter and the above are being filed electronically by electronic mail this same date. Please return the additional copy of each stamp filed to me.

Thank you for your assistance.

Sincerely yours,



BENJAMIN A. GASTEL

Enclosure

c: Shiva Bozarth

**BEFORE THE
TENNESSEE REGULATORY AUTHORITY
NASHVILLE, TENNESSEE**

In Re:

SHOW CAUSE PROCEEDING AGAINST
LAUREL HILLS CONDOMINIUMS
PROPERTY OWNERS ASSOCIATION FOR
ALLEGED VIOLATIONS OF TENN. CODE
ANN. 65-4-201, 65-4-301(A), 65-5-102, 65-4-
101 AND/OR 65-4-103 AND 65-4-115

Docket No. 12-00077

**RESPONDENT'S OPPOSITION TO APPEAL TO THE AUTHORITY TO GRANT THE
PETITION TO INTERVENE OF THE CONSUMER ADVOCATE AND PROTECTION
DIVISION OF THE OFFICE OF THE TENNESSEE ATTORNEY GENERAL**

Respondent Laurel Hills Condominiums Property Owners' Association ("Laurel Hills") hereby files this Opposition to Appeal To The Authority To Grant Petition To Intervene filed by the Consumer Advocate and Protection Division (the "CAD"), which the CAD filed on April 9, 2015. Laurel Hills maintains that the Hearing Officer's February 4, 2015 order denying the CAD's Petition to Intervene should be upheld. The CAD simply has no interest in this proceeding.

I. The CAD's Statutory Function Is Derivative Of Tennessee Consumers Of Public Utility Services.

Under Tenn. Code Ann. § 65-4-118(b), the CAD "has the duty and authority to represent the interests of Tennessee consumers of public utilities services." In other words, the CAD's interests in TRA proceedings is necessarily derivative of the consumer's affected by that proceeding.

Here, this show cause proceeding has been issued to determine whether Laurel Hills violated the law and if so what sanction is appropriate. The initial proceeding involves solely a determination of whether Laurel Hills violated the law. The CAD originally claimed it needed to

participate in any settlement agreement that may be reached. As the Hearing Officer correctly noted this interest is simply not a cognizable legal interest justifying the CAD intervention at this stage in the proceeding. The customers of Laurel Hills cannot add anything to the current proceeding, and it follows that the CAD also does not have an interest and it claims that it wants a roll in “settlement” of this docket is simply too remote of an interest to justify intervention.

II. CAD’s Appeal Must Be Denied For Lack Of Interest In This Proceeding

Tenn. Code Ann. § 65-2-106 states the following:

The [Tennessee Regulatory Authority] is empowered and authorized in the exercise of the powers and jurisdiction conferred upon it by law to issue orders on its own motion citing persons under its jurisdiction to appear before it and show cause why the authority should not take such action as the authority shall indicate in its show cause order appears justified by preliminary investigation made by the authority under the powers conferred upon it by law. All such show cause orders shall fully and specifically state the grounds and bases thereof, and the respondents named in the orders shall be given an opportunity to fully reply thereto.

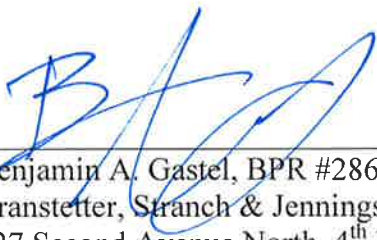
This Proceeding is initiated under this code section and on its very terms, this Proceeding is brought on the Tennessee Regulatory Authority’s (the “TRAs”) own motion and only one party is contemplated: the Respondent. The case is litigated based on the finding of the preliminary investigation made by the TRA. *Id.* The TRA then functionally acts as a prosecutor of this civil enforcement proceeding and no other entity can assume that role.

This is consistent with Tennessee law on similar enforcement actions brought by other agencies. For example, in *State v. Brown and Williamson Tobacco Corp.*, 18 S.W.3d 186 (Tenn. 2000), the Supreme Court held that where the State brings suit in its official capacity as sovereign to enforce state law, third parties “do not have a substantial legal interest in the State’s suit entitling them to intervene.” *Id.* at 92.

Here, the TRA is not seeking to prosecute any other entity other than Laurel Hills for alleged violations of the state law. The TRA seeks to impose a civil penalty on Laurel Hills for purported violations of state law and enjoin it from continuing such purported violations. The case against Laurel Hills necessarily rises or falls based on the preliminary investigation undertaken by the TRA and Respondent must be given a full opportunity to defend the action. Given this dynamic and the issues in play it is simply unclear what role the CAD seek to assume apart from the previously mentioned desire to participate in a "settlement."

Put simply, the CAD have no interest in this Proceeding and have failed to carry their burden of demonstrating an interest. Including them in this proceeding would only add to the cost and expense of this Proceeding without any appreciable benefit gained by their inclusion. The Appeal should be denied and the Hearing Officer's February 5, 2015 Order should be upheld in its entirety.

Respectfully submitted this 17th day of April, 2015.



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CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing document has been served on the following by U. S. Mail, postage prepaid:

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This the 17th day of April, 2015.



Benjamin A. Gastel