



Windermere Oaks Water Supply Corporation

Committed to Providing Clean, Safe Water for All Our Residents

November 22, 2022

Dear WOWSC Members,

The trial of the lawsuit regarding the sale of certain Windermere Oaks Water Supply Corporation property to Friendship Homes and Hangers back in 2015 finally concluded on Friday, November 18th.

After nearly a *full week* of evidence and testimony, the jury in the case came back with a verdict that, in short, found that Dana Martin and Friendship Homes behaved improperly in the transaction, and that they should pay \$70,000 in damages to WOWSC, representing the difference in value paid by Friendship Homes (\$203,000) compared to what the jury found the property sold was actually worth.

The jury was presented with specific questions as to the liability of both Friendship Homes and Hangars and Dana Martin, and the jury found them liable; however, it is also notable that the jury *did not find* that Ms. Martin acted with any malicious intent.

The result of those findings will be a judgment that money damages of \$70,000 are awarded against those defendants, to be paid to the WSC, subject to plaintiffs' claims to some of that money.

Additionally, at the close of evidence, the court issued judgment *dismissing* all of the plaintiffs' claims that WOWSC had acted "ultra vires," or outside its powers.

Finally, there is one remaining claim involving the WOWSC that remains pending, related to whether any/how much of the \$70,000 awarded to the WOWSC should be paid to the plaintiffs in connection with their costs in pursuing the case; the court will make that determination at a later date.

This trial came at the conclusion of a grueling and divisive litigation process, and after the enormous expenditure of legal fees.

In order to obtain just this result, the plaintiffs testified that their attorney's fees alone were over \$460,000.

You will note that WOWSC was *not* a plaintiff against Ms. Martin and Friendship at this trial; as was discussed at length at the October 26, 2019 WOWSC membership-Board meeting, the Board appropriately weighed the potential costs and uncertainty as to the potential legal claims against Ms. Martin and Friendship Homes in deciding *not* to pursue those claims further (as the plaintiffs and a small group of WOWSC members wanted).

As reflected in public discussions at that 2019 meeting, the 2019 WOWSC Board thoughtfully considered the actions of the 2015 WOWSC Board, the competing appraisals and other evidence of the property's value, the potential damage to WOWSC's reputation as a seller if it tried to sue a buyer of its property (making it potentially difficult to find future willing buyers to purchase WOWSC's remaining airport property), and other related concerns, and determined that full litigation against Dana Martin and Friendship Homes would be imprudent, too costly, and questionable for full recovery of \$1 million+ that the plaintiffs believed likely.

After all of this litigation, and all of these legal expenses, the jury's finding that the claims were worth only \$70,000 supports the Board's decision three years ago *not* to risk significant ratepayer dollars in pursuit of a risky and uncertain claim.

In summary, after trial of the case to a jury of 12 citizens of Burnet county, this case is over, with a finding against Ms. Martin and Friendship Homes **and no findings or judgments against any of the WOWSC's other directors (past and current) or against the WOWSC in any respect.**

Ms. Martin, Friendship Homes, and the plaintiffs may appeal this verdict, and the WOWSC knows that they might do so.

The WOWSC however is hopeful that the parties accept the will of the jury and do not appeal so as to diminish future legal costs to the company's members.

The WOWSC specifically hopes that at the very least, the plaintiffs will not appeal any of the court's actions dismissing the other directors or the WOWSC, so that the WOWSC does not have to incur any effort or legal costs in that appeal.

Additionally, when the result of this case becomes final (after appeals, if any are asserted), the WOWSC will consider and take action with respect to any attorney's fees it advanced Ms. Martin's defense regarding claims made against her as a former director (such attorney's fees were paid with respect to the defense of all current and former directors named as defendants, with all of those directors other than Ms. Martin being dismissed from the case by the court). The WOWSC has a right to reimbursement of those fees in the event of a final judgment finding Ms. Martin liable, and will consider and take appropriate action at the appropriate time.

There will surely be some other related developments and actions flowing from the results of this case, but for now, we wanted to share with you the immediate results, and the WSC's wishes to move forward and once and for all, put this matter behind us and to heal as a community.

The WSC hopes you all have a wonderful Thanksgiving with your family and friends.

Sincerely,

The WOWSC Legal Subcommittee



Joe Gimenez, President



Mike Nelson Vice President