



# Windermere Oaks Water Supply Corporation

*Committed to Providing Clean, Safe Water for All Our Residents*

January 10, 2023

Once again, the small group of people responsible for years of previous misinformation to the neighborhood has been circulating misleading information about the jury verdict issued November 18, 2022. **Rest assured that the Board will pursue the judgment and legal fees due once Final Judgment is made after court processes.** Here's the current situation:

After years of litigation and a full week of trial the jury found that Dana Martin and her company underpaid for the property. They answered the question of damages to be awarded against Ms. Martin, in the amount of \$70,000, which they calculated as "The difference between the net amount, considering fair market value, the WOWSC would have received from a sale of the Property to an unrelated party at the time of the transaction and the net amount received by WOWSC at the time of the transaction." That is, per the jury, this **entire lawsuit, and all the related proceedings, were over a piece of property that a jury decided was worth \$270,000 instead of the \$200,000 net gained by the water company.**

To obtain this \$70,000 verdict, the plaintiffs Dick Dial, Rene Ffrench, and Bruce Sorgen paid in excess of \$400,000 to their attorney, as she testified to at trial. Given the relatively small amount of money that was awarded by the jury, and in light of the plaintiffs' much greater expenditure required to obtain that result, the WOWSC board continues to believe that this matter should have been resolved by settlement long ago, and the WOWSC board stands by its decision not to have joined the plaintiffs in their pursuit of what turned out to be \$70,000. Furthermore, joining the plaintiffs would likely have caused the company and its members to suffer through further litigation with the title company, yet another possible expense which weighed against pursuing the plaintiffs' cause.

The WOWSC discussed these matters at a lengthy open community meeting on October 26, 2019. The Board members at the time, including current members Joe Gimenez, Mike Nelson and Dorothy Taylor, stated that they wished to avoid the uncertainty and expense of litigation in a case with dueling positions and limited upside. The Board instead chose at that time to enter into a mediated agreement with Ms. Martin, resolving the value dispute through an additional \$20,000 offered to the water company. The Board's mediated action would have prevented the company from incurring any more legal fees in pursuing further claim on valuation. Despite the Board's decision, the plaintiffs then continued their lawsuit, expanding it to include Gimenez, Nelson and Taylor, along with the five 2015-2016 Board members they had previously named in the suit. Their continued action caused the company to pay hundreds of thousands in defense of the corporation and the current/former directors. In May 2021, the Court dismissed the plaintiffs' lawsuit, with a Take Nothing order for ALL claims against the current and former directors of the WSC, excepting Ms. Martin. At trial, all the plaintiffs' claims against the corporation were similarly dismissed by the Court.

**As to when the WOWSC will collect the \$70,000 and attorney fees which the company spent for Ms. Martin's defense, there are many legal processes ahead. The jury verdict will not be turned into a "Final judgment"** (that is, a signed judgment from the judge that is required to make any jury verdict into a **collectible judgment**) **until after a hearing currently scheduled for February 2, 2023.** At that time, a judgment will become appealable by any party. While the WOWSC hopes that it will not be appealed, so this case can at long last come to an end and the WSC can go about collecting the money owed to it, it is possible that either the plaintiffs or Ms. Martin could appeal. If that happens, the legal process will delay the collectability of any judgment, meaning that no money can change hands. No final determination of this case will be made until all appeals are completed. **The process must play out to conclusion before any fees may be collected.**

We restate our wish that **NO PARTIES APPEAL** the eventual final judgment, so the WOWSC can collect what is owed to it, and so that this long dispute might finally come to an end.

WOWSC Board

Joe Gimenez

Mike Nelson

Rich Schaefer

Dorothy Taylor