

RESOLUTION NO. 20-09-15

**A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE KEY LARGO WASTEWATER TREATMENT
DISTRICT, DENYING THE APPEAL OF GEOFFREY
BAILEY TO HAVE HIS PARCEL INCLUDED IN THE
DISTRICT'S UNIQUE PROPERTY PROGRAM; AND
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, Resolution No. 39-12-13 established the Residential Unique Property Program for the Key Largo Wastewater Treatment District ("District"); and

WHEREAS, that said Resolution No. 39-12-13 relates to the provision, installation, and maintenance of low pressure collection ("grinder pump") systems on unique residential parcels; and

WHEREAS, that said Resolution No. 39-12-13 defines a Residential Unique Parcel as a single-family Residential Tax Parcel that cannot connect to the District's sanitary sewer system by means of a gravity connection and which must tie directly into the District's force main via a Grinder Pump System; and

WHEREAS, Dr. Geoffrey Bailey ("Dr. Bailey") has requested the District include his parcel of real property located at 98801 Overseas Highway (AK#1640646) in the Residential Unique Property Program and/or that the District provide him with a grinder pump free of charge; and

WHEREAS, after a thorough review of the facts and circumstances surrounding this matter, District Staff ("Staff") concluded that Dr. Bailey was ineligible for the Unique Property Program because his property had been provided with a gravity connection and he was not required to tie directly into the District's force main; and

WHEREAS, the District does not have a program or policy for providing a grinder pump at no cost to a parcel that has been provided with a gravity connection but is in need of a pump; and

WHEREAS, Staff have determined that the in the absence of such a policy or program, the District is not permitted to make a gratuitous transfer of District property, such as a grinder pump, to private individuals such as Dr. Bailey; and

WHEREAS, Staff have determined that Dr. Bailey did not demonstrate that the application of the District's eligibility requirements for the Residential Unique Property Program or the application of the District's mandatory connection requirement affects him in a manner significantly different from the way it affects other similarly situated persons who are subject to those same rules; and

WHEREAS, Staff have determined that if the District were to grant Dr. Bailey's request that the District include his parcel in the Residential Unique Property Program and/or provide him with a grinder pump at no cost, the District would be giving him a special privilege that is denied to other similarly situated persons at public expenses; and

WHEREAS, Dr. Bailey requested, and was afforded, the proper Customer Service procedure in connection with his request; and

WHEREAS, Dr. Bailey requested, and was afforded, a final appeal to the District's Board; and

WHEREAS, that said appeal was heard by the Board on September 1, 2015; and

WHEREAS, subsequent to that September 1, 2015 hearing, and after due deliberation and discussion, the Board voted on Dr. Bailey's Customer Appeal; and

WHEREAS, as Dr. Bailey's Customer Appeal did not receive the affirmative vote of a majority of the governing board members present, it was the ruling of the Chair that the said Customer Appeal had failed; and

WHEREAS, the Chair further ruled that as Dr. Bailey's Customer Appeal had failed, Staff's determination that Dr. Bailey was not eligible to be included in the District's Residential Unique Property Program and/or to be provided with a grinder pump at no cost, would prevail.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE KEY LARGO WASTEWATER TREATMENT DISTRICT AS FOLLOWS:

Section 1. Recitals. That the above recitals are true and correct and are incorporated into this Resolution by reference.

Section 2. The Customer Appeal of Dr. Geoffrey Bailey, requesting that the District include his parcel of real property located at 98801 Overseas Highway (AK#1640646) in the Residential Unique Property Program and/or that the District provide him with a grinder pump free of charge has been denied.

Section 3. That this denial is the final decision of the District.

Section 4. That Dr. Geoffrey Bailey be sent a copy of this resolution

Section 5. Effective Date. That this Resolution shall take effect upon adoption by the Board of Commissioners.

Section 6. Within thirty (30) calendar days of the effective date of this resolution, the decision of the Key Largo Wastewater Treatment District Board of Commissioners denying the Customer Appeal of Dr. Geoffrey Bailey may be appealed to a court of competent jurisdiction located in

Monroe County pursuant to applicable rules. Failure to file such an appeal within thirty (30) calendar days shall be deemed a waiver of Dr. Geoffrey Bailey's right to seek judicial review.

RESOLVED AND ADOPTED THIS 8th DAY OF SEPTEMBER, 2015

The foregoing RESOLUTION was offered by Commissioner Tobin, who moved its approval. The motion was seconded by Commissioner Higgins, and being put to a vote, the result was as follows:

| | AYE | NAY |
|----------------------|---------------|-----|
| Chairman Asdourian | <u>✓</u> | ___ |
| Commissioner Gibbs | <u>Absent</u> | ___ |
| Commissioner Higgins | <u>✓</u> | ___ |
| Commissioner Majeska | <u>✓</u> | ___ |
| Commissioner Tobin | <u>✓</u> | ___ |

The Chairman thereupon declared Resolution No. 20 -09-15 duly passed and adopted the 8th day of September, 2015.

KEY LARGO WASTEWATER TREATMENT DISTRICT



Chairman David Asdourian

ATTEST:

Approved to as to form and legal sufficiency



Katherine Jackson, District Clerk



Ray Giglio, General Counsel



