

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. W-1125, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of)	
Greater Kinnakeet Shores Home Owners,)	
Inc. c/o Pat Weston P. O. Box 853 Avon,)	
North Carolina 27915)	
Complainant)	ORDER SERVING ANSWER
)	
v.)	
)	
Outer Banks/Kinnakeet Associates, LLC.,)	
Respondent)	

BY THE COMMISSION: Notice is hereby given that on January 27, 2022, the attached Answer of Outer Banks / Kinnakeet Associates, LLC. (Answer of Respondent), has been filed with the Commission, setting forth the admissions or denials of the complaint and an offer or other statement of Respondent relating to satisfaction of the complaint.

Commission Rule R1-9 provides that if the Answer of Respondent is satisfactory to you as Complainant, then no further proceedings will be held in this docket.

You are, therefore, requested to review the attached Answer of Respondent and advise the Commission whether the Answer is acceptable to you and, if not, whether you desire a public hearing to present evidence of your complaint. You may advise the Commission of your position by filing a separate Reply to the Answer or, if you so desire, you may check the appropriate box on the form attached to this Notice and sign the form and return it to the Commission.

This Order will be served on Complainant by electronic mail (email), delivery confirmation receipt requested. If Complainant does not file a reply or request a hearing

by February 14, 2022, the Commission will assume the complaint is satisfied and this docket will be closed.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 2th day of February, 2022.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script, reading "Erica N. Green". The signature is written in dark ink and is positioned above the printed name.

Erica N. Green, Deputy Clerk

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Greater Kinnakeet Shores Home Owners, Inc.
v.

Outer Banks/Kinnakeet Associates, LLC

- () The relief offered in the Answer filed by the Respondent is acceptable to me as Complainant, and I do not desire a public hearing in this proceeding.
- () The Answer filed by the Respondent is not satisfactory to me as Complainant, and I hereby request a public hearing at which time I will present evidence in support of the complaint.
- () Although the Answer filed by the Respondent is not completely satisfactory to me as Complainant, I do not request a hearing at this time. I do request that the Commission keep this docket open for at least six (6) months so that the matters complained of can be monitored by the Complainant, the Commission, and the Public Staff.
- () The Answer filed by the Respondent is not satisfactory to me as Complainant and I request the following additional information subject to Commission review as to the reasonableness of my request. (Detail)

Signature of Complainant

THIS REPLY SHOULD BE RETURNED TO:

Chief Clerk
North Carolina Utilities Commission
4325 Mail Service Center
Raleigh, North Carolina 27699-4325

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BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the matter of)	
Greater Kinnakeet Shores Home Owners,)	
Inc. c/o Pat Weston P.O. Box 853, Avon,)	
North Carolina 27915,)	ANSWER OF
Complainant,)	OUTER BANKS/ KINNAKEET
v.)	ASSOCIATES, LLC
)	
Outer Banks/Kinnakeet Associates, LLC,)	
Respondent.)	

NOW COMES the Respondent, Outer Banks/Kinnakeet Associates, LLC responding to Complainant's complaint as follows:

The correct name, address and electronic mail address of Respondent is:

Outer Banks/ Kinnakeet, Inc.
P.O. Box 1158
Avon, NC 27915-1158
Email:

The name, address and electronic mail address of counsel representing Respondent is:

Law Office of C. Sean Yacobi, PLLC
P.O. Box 1851
Nags Head, NC 27959

ANSWER

1. It is admitted that the HOA may act on behalf of property owners within the Kinnakeet Shores Subdivision as limited by the applicable declarations, amended declarations, and its Articles of Incorporation. It is specifically denied that HOA is empowered by any applicable documents to

represent “utility consumers”. OBKA lacks sufficient information to admit or deny the remaining allegations made in Paragraph 1 of the HOA’s Complaint and therefore, the same are denied.

2. OBKA lacks sufficient information to admit or deny the remaining allegations made in Paragraph 2 of the HOA’s Complaint and therefore, the same are denied.

3. It is admitted that OBKA provides wastewater collection and treatment services to the Kinnakeet Shores Subdivision pursuant to permits issued by agencies of the State of North Carolina which have designated permit numbers. It is further admitted that the Division of Water Resources placed a moratorium on adding additional sources of wastewater to the OBKA system. OBKA lacks sufficient information to admit or deny the remaining allegations made in Paragraph 3 of the HOA’s Complaint and therefore, the same are denied.

4. The HOA fails to designate to which letter Paragraph 4 refers and therefore, OBKA lacks sufficient information to admit or deny the allegations made in Paragraph 4 of the HOA’s Complaint and therefore, the same are denied. By way of further answer, any writing from “DEQ” speaks for itself.

5. It is admitted that OBKA requires a substantial increase in its rates to adequately fund its operations and that the staff employed by OBKA to run the plant use their best efforts to do so. It is also admitted that there have been no appreciable disruptions of waste water collection from the Kinnakeet Shores Subdivision. It is denied that a service disruption can be expected at any time and that OBKA was to provide notice of the moratorium to consumers. OBKA lacks sufficient information to admit or deny the remaining allegations made in Paragraph 5 of the HOA’s Complaint and therefore, the same are denied.

6. It is admitted that there has not been a rate increase for wastewater services of OBKA since 1999-2000 and that Ray R. Hollowell is a real estate developer and the managing member of OBKA. It is further admitted that Mr. Hollowell has told members of the HOA that OBKA requires a rate increase to adequately fund its wastewater treatment services and that members of the HOA are entitled to adequate wastewater collection services. OBKA lacks sufficient information to admit or deny the remaining allegations made in Paragraph 6 of the HOA’s Complaint and therefore, the same are denied.

7. OBKA lacks sufficient information to admit or deny the allegations made in Paragraph 7 of the HOA’s Complaint and therefore, the same are denied.

8. Respondent has moved to strike the allegations set forth in Paragraph 8 of HOA’s complaint and reserves the right to respond to said paragraph if Respondent’s motion to strike is denied.

9. Respondent has moved to strike the allegations set forth in Paragraph 9 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

10. Respondent has moved to strike the allegations set forth in Paragraph 10 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

11. Respondent has moved to strike the allegations set forth in Paragraph 11 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

12. Respondent has moved to strike the allegations set forth in Paragraph 12 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

13. OBKA admits that the Public Staff of the Utilities Commission found that OBKA's wastewater system was in good condition in 2013 and that OBKA was providing adequate wastewater utility service. Respondent has moved to strike the remaining allegations set forth in Paragraph 13 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

14. Respondent has moved to strike the allegations set forth in Paragraph 14 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

15. OBKA lacks sufficient information to admit or deny the allegations made in Paragraph 15 of the HOA's Complaint and therefore, the same are denied.

16. Respondent has moved to strike the allegations set forth in Paragraph 16 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

17. Respondent has moved to strike the allegations set forth in Paragraph 17 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

18. Respondent has moved to strike the allegations set forth in Paragraph 18 of HOA's complaint and reserves the right to respond to said paragraph if Respondent's motion to strike is denied.

19. OBKA lacks sufficient information to admit or deny the allegations made in Paragraph 15 of the HOA's Complaint and therefore, the same are denied. By way of further answer, OBKA's denies any obligation to "interact" with the HOA as its obligations are to its consumers, not with the entity charged with managing the common areas and enforcing the applicable restrictive covenants.

FIRST AFFIRMATIVE DEFENSE

(Lack of Standing)

Respondent respectfully asserts as an affirmative defense to the claims herein that the HOA lacks the standing to assert against OBKA any claim set forth in its Complaint, and whereas the HOA lacks said standing, the HOA's Complaint herein should be dismissed in its entirety.

SECOND AFFIRMATIVE DEFENSE

(Lack of Subject Matter Jurisdiction)

Respondent respectfully submits that whereas the HOA's Complaint fails to allege sufficient facts to establish that the HOA has standing to assert the claims set forth in its Complaint, the Commission lacks the subject matter jurisdiction to adjudicate said claims and therefore, the HOA's Complaint herein should be dismissed in its entirety.

THIRD AFFIRMATIVE DEFENSE

(Pursuit of a Rate Increase)

Respondent respectfully submits that OBKA is in the process of preparing an application for a rate increase such that there will be adequate funds to repair, operate and maintain the wastewater treatment plant for the foreseeable future and, whereas a reasonable rate increase is suggested by the HOA Complaint as a remedy to the alleged deficiencies in OBKA's wastewater system, said increase will render moot the alleged bases for the claims asserted by HOA herein.

WHEREFORE, Respondent respectfully prays the Commission for the following relief:

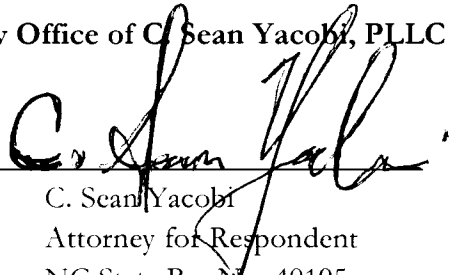
1. That OBKA be permitted to complete and submit its application for a rate increase;
2. That OBKA be permitted to implement its plan to rectify the alleged deficiencies in its wastewater treatment system;

3. That the HOA's prayer for the appointment of an emergency operator or the identification of a potential new owner or the increase in OBKA's bond be denied;
4. That OBKA be awarded the costs of this action including reasonable attorneys fees; and
5. Such other relief as found by the commission to be just and appropriate.

This the 27th day of January, 2022

Law Office of C. Sean Yacobi, PLLC

By



C. Sean Yacobi
Attorney for Respondent
NC State Bar No. 40195
PO Box 1851
Nags Head, NC 27959
Phone: (252) 715-3595
Fax: (252) 715-3492
yacobilaw@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document entitled ANSWER OF OUTER BANKS/KINNAKEET ASSOCIATES; LLC has been served on the parties to this action by:

- () Depositing a copy hereof, postage prepaid, in the United States Mail, properly addressed to each said party or his/her/their/its attorney.
- (✓) Electronic transmission to every party or his/her/their/its attorney, with delivery via facsimile, e-mail or other electronic address made to the facsimile, e-mail or electronic addresses shown herein below.

PARTY SERVED:

Edward S. Finley, Jr.
2024 White oak Road
Raleigh, NC 27608
edfinley98@aol.com

This the 27th day of January, 2022

Law Office of C. Sean Yacobi, BL/NC

By: 

C. Sean Yacobi
Attorney for Respondent
NC Bar No. 40195
PO Box 1851
Nags Head, NC 27959
Phone: (252) 715-3595
Fax: (252) 715-3492
yacobilaw@gmail.com

STATE OF NORTH CAROLINA
UTILITIES COMMISSION
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DOCKET NO. W-1125, SUB 9

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the matter of)
Greater Kinnakeet Shores Home Owners,)
Inc. c/o Pat Weston P.O. Box 853, Avon,)
North Carolina 27915,)
Complainant,)
v.)
Outer Banks/Kinnakeet Associates, LLC,)
Respondent.)

VERIFICATION OF
ANSWER

NOW COMES Ray R. Hollowell, managing member of Outer Banks/Kinnakeet Associates, LLC, upon his oath and does hereby verify and attest to the allegations set forth in the Answer filed herein.

This the 27th day of January, 2022

Outer Banks/Kinnakeet Associates, LLC

by _____
Ray E. Hollowell, Managing Member

State of Florida
County of _____

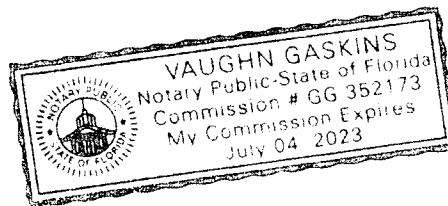
I hereby certify that _____ personally appeared before me and upon oath and affirmation subscribed to and executed the foregoing affidavit.

This the 27th day of January 2022

Notary Public

My Commission Expires _____

SEAL



CERTIFICATE OF SERVICE

I hereby certify that the foregoing document entitled VERIFICATION OF ANSWER has been served on the parties to this action by:

- () Depositing a copy hereof, postage prepaid, in the United States Mail, properly addressed to each said party or his/her/their/its attorney.
- (✓) Electronic transmission to every party or his/her/their/its attorney, with delivery via facsimile, e-mail or other electronic address made to the facsimile, e-mail or electronic addresses shown herein below.

PARTY SERVED:

Edward S. Finley, Jr.
2024 White oak Road
Raleigh, NC 27608
edfinley98@aol.com

This the 27th day of January, 2022

Law Office of C. Sean Yacobi, PLLC

By: 

C. Sean Yacobi
Attorney for Respondent
NC Bar No. 40195
PO Box 1851
Nags Head, NC 27959
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