

**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, N.C. 27915)	Response of Complainant
)	to Second Motion for
Complainant)	Extension of Time
v.)	
)	
Outer Banks/Kinnakeet)	
Associates, LLC.)	
)	
Respondent)	

NOW COMES Kinnakeet Shores Home Owners Inc. ("Complainant" or "HOA") pursuant to NCUC Rule R1-19 and responds to the second motion to extend time to file answer submitted January 25, 2022 on behalf of Respondent, Outer Banks/Kinnakeet Associates LLC.

Complainant respectfully requests that the Commission deny the Respondent's request for an additional extension of time and that Respondent be directed immediately to respond to the Commission's order requiring its response. Complainant is in immediate need of the Commission's assistance in addressing the deficiencies outlined in its Complaint. Complainant understands that it is the Public Staff's policy to refrain from active participation and dockets such as this unless at the Commission's request.

The wastewater treatment system serving Complainant has been under moratorium effective October 13, 2021, for more than three months. Respondent was informed that the

moratorium would be imposed by correspondence dated August 25, 2021. The shortcomings and deficiencies resulting in the imposition of the moratorium did not arise overnight and have been accumulating for years. The situation in Kinnakeet Shores is in immediate need of assistance from the Commission to address and take steps to prompt removal of the moratorium and to require the Respondent to comply with its service obligations.

In its Complaint of December 13, 2021 Complainant has asked relief from the Commission: (1) that the Commission as expeditiously as possible require a comprehensive due diligence investigation into Respondent's suitability to own and operate the wastewater treatment and collection system in compliance with the public interest; (2) that the Commission, in coordination with the Public Staff and the Department of Environmental Quality, require Respondent to take immediate steps to rectify the deficiencies causing the imposition of the moratorium; (3) that the Commission, if after investigation and due diligence, should determine that Respondent is incapable financially or operationally or otherwise to continue to operate the system, appoint an emergency operator; (4) that the Commission, to the extent that Respondent is unwilling or unable to operate the system in accordance with the public convenience and necessity, revoke Respondent's bond; (5) that the Commission investigate the possibility of identifying a potential new owner of the Kinnakeet Shore wastewater treatment system that is willing to acquire and operate the system on terms that would not result in unreasonable rates to ratepayers; (6) that to the extent the Commission determines that Respondent should continue to own and operate the system, the Commission require a substantial increase in Respondent's bond to be forfeited and revoked in the event Respondent's pattern of inadequate service is repeated in the future.

Respondent requested and obtained one extension of time to file answer in response to the Commission's order that it respond to the Complaint on December 28, 2021. By order issued December 20, 2021 the Commission extended the time in which response should be filed to January 27, 2022. Complainant was unaware of the request for the first extension of time

and only learned of it upon receipt of the Commission's order. Consequently, Complainant had no opportunity to respond.

By motion dated January 25, 2022 Respondent seeks yet another extension of time to file its response. Again, in spite of the certificate of service that the motion had been served upon counsel for Complainant, Complainant only learned of the filing of this motion upon being advised by representatives of the Public Staff.

Respondent recites as justification for its need for an additional extension the fact that the Complaint refers to "numerous documents, including permits, correspondence, orders, and pleadings in a separate action, which were not attached to the Complaint and which undersigned council is continuing to collect and review in preparation to admitting or denying the existence or substance of the alleged documents."

The documents, permits, correspondence, and orders and pleadings are specifically identified in the Complaint and are matters of public record. Except as to DEQ's correspondence imposing the moratorium, the recited documents appear and are easily reviewed on the Commission's docket portal on its web page. Furthermore, surely Respondent is aware of all of these actions to which the Complaint refers. If not, all the more reason that the Commission expeditiously provide relief to Respondent's long suffering constituents and ratepayers.

In its first motion to extend time to file answer dated December 20, 2021 Respondent cited the same justification, referring to the numerous documents addressed in the Complaint and the need for counsel to investigate them. Apparently, no effort has been made in the meantime to conduct the investigation Respondent alleges it needs to undertake in order to respond.

If Respondent has not yet even accumulated information easily obtained, if not in its own files, on the public record so as to respond to the allegations in the Complaint, all the more reason that this intransience not be rewarded with yet another opportunity to delay.

Wherefore, Complainant requests that the Commission deny the Respondent's request for an additional extension of time and that Respondent be directed immediately to respond to the Commission's order requiring its response.

Respectfully submitted this 26 day of January 2022.

Edward S. Finley, Jr., PLLC

/s/ Edward S. Finley, Jr.

Edward S. Finley, Jr.

CERTIFICATE OF SERVICE

I hereby certify that a true and exact copy of the foregoing Response was duly served upon parties of record either by depositing same in a depository of the United States Postal Service, first class postage prepaid, or by electronic delivery.

This the 26 day of January 2022

C. Sean Yacobi
C. Sean Yacobi, PLLC
P. O. Box 1851 Nags Head N.C. 27959
yacobilaw@gmail.com

William Grantmyre
Public Staff-North Carolina Utilities Commission
4626 Mail Service Center
Raleigh, NC 26699-43000
william.grantmyre@psncuc.nc.gov

Ray E. Hollowell, Jr.
Outer Banks/Kinnakeet Associates, Inc.
8351 Fern Lane
Connelly Springs, NC 28612

Edward S. Finley, Jr., PLLC

/s/ Edward S. Finley, Jr.

Edward S. Finley, Jr.
2024 White Oak Rd.
Raleigh, NC 27608
919-418-4516
edfinley98@aol.com

COUNSEL FOR COMPLAINANT