

**STATE OF NORTH CAROLINA  
UTILITIES COMMISSION  
RALEIGH**

DOCKET NO. W-1125, SUB 10

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the matter of	)	
Kashf Ain, 17715 Dry Mill Road, Leesburg	)	
Virginia, 20175	)	ANSWER OF
	)	OUTER BANKS/ KINNAKEET
v.	)	ASSOCIATES, INC.
	)	
Outer Banks/Kinnakeet Associates, LLC,	)	
Respondent.	)	

COMES NOW the Respondent Outer Banks/Kinnakeet Associates, LLC, hereinafter OBKA, by Counsel in answer to the Complaint of Kashf Ain, and says:

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 Defendant is:

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

**ANSWER**

1. As to the Complainant's letter of 11/29/2021, it is admitted that Complainant and spouse have purchased a residential lot in the Kinnakeet Shores subdivision.

2. Defendant has insufficient knowledge to admit or deny the Complainant's allegations about the efforts made and expenses paid in relation to the subject property, and therefore denies same.
3. Defendant admits that a "sewer tap" is required to obtain a building permit in Dare County.
4. Defendant has insufficient knowledge to admit or deny the Complainant's allegations regarding what anyone from the Dare County Planning Department may have communicated to him and therefore denies same.
5. Defendant has insufficient knowledge to admit or deny the Complainant's allegations regarding what any third parties such as manufacturers or shipping/delivery companies may have communicated to him and therefore denies same.
6. Defendant has insufficient knowledge to admit or deny the Complainant's allegations regarding Complainant's risk of financial losses or contractual commitments to other parties and therefore denies same.
7. As to the Complainant's letter to the Commission on 1/18/2022 the Defendant further answers that Defendant lacks sufficient knowledge to admit or deny the Complainant's allegations in the first paragraph of this letter regarding what others may have communicated to him in regard to his or other parties obligations under aforesaid agreements or contracts and therefore denies same.
8. Defendant denies the allegations made in the second paragraph of Complainant's letter of 1/18/22. The Notice of Moratorium was sent on August 25, 2021 from the DEQ to the Defendant. Defendant did not receive the Notice imposing the Moratorium on August 25, 2021. As to the rest of the paragraphs' allegations or statements requiring a response, The Defendant denies those allegations.

**FIRST AFFIRMATIVE DEFENSE**  
(Notice of Moratorium Timely Published)

Defendant received the Notice of Moratorium when it was hand delivered to his accountant on October 21, 2021 by Robert Tankard of the Division of Water Resources. Pursuant to NCGS 143-215.67(d), Defendant had 15 days from the time of receipt of the Notice to publish the Notice in the appropriate manner. The Notice of Moratorium was timely published to the public in the November 3<sup>rd</sup>, 2021 edition of the Coastland Times. A true copy of the Affidavit of Publication is attached hereto as **Exhibit A**.

**SECOND AFFIRMATIVE DEFENSE**  
(Failure to Allege Prerequisites for Building Permit)

Complainant fails to allege that he satisfied the necessary prerequisites to obtaining a building permit, including, but not limited to, failing to show that Complainant obtained the approval of the Architectural Review Committee as required per the applicable Declaration, and by failing to show that there was sufficient wastewater flow capacity to accommodate Complainant's alleged plan for construction, as per the requisites of the applicable Declaration for approval to build.

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

1. That this Complaint be dismissed.;
2. That the Commission deny the relief requested by the Complainant.
3. That OBKA be awarded the costs of this action including reasonable attorney's fees; and

4. Such other relief as found by the commission to be just and appropriate.

This the 3rd day of February, 2022

**Law Office of C. Sean Yacobi, PLLC**

By \_\_\_\_/s/ C. Sean Yacobi\_\_\_\_\_

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

# Affidavit of Publication

## STATE OF NORTH CAROLINA COUNTY OF DARE

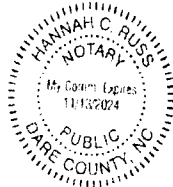
Before the undersigned, a Notary Public, duly commissioned, qualified, and authorized by law to administer oaths, personally appeared the undersigned representative who being duly sworn, deposes and says that he (she) is an employee or other officer authorized to make this affidavit of Outer Banks Newsmedia, LLC, engaged in the publication of a newspaper known as The Coastland Times, issued and entered as second class mailing in the Town of Manteo, N.C., in said county and state; that he (she) is authorized to make this affidavit and sworn statement; and the notice or other legal advertisement, a true copy of which is attached hereto, was published in The Coastland Times on the following date(s):

11/03/21

And that the said newspaper in which such notice, paper, document or legal advertisement was published was at the time of each and every such publication, a newspaper meeting all of the requirements and qualifications of Section 1-597 of the General Statutes of North Carolina and was a qualified newspaper within the meaning of Section 1-597 of the General Statutes of North Carolina.

Theresa Schneider, Publisher

Subscribed and sworn to before me this  
3rd Day of November, 2021



Hannah C. Russ, Notary Public  
Dare County, NC  
My commission expires November 13, 2024

Account #  
Ad # 1340222

8351 FERN LANE  
CONNELLY SPRINGS NC 28612

### PUBLIC NOTICE SEWER MORATORIUM Kinnakeet Shores' Wastewater System

The Kinnakeet Shores' Wastewater Treatment Plant (WWTP) in Dare County cannot accept the discharge of additional waste to the Wastewater System effective October 13, 2021 due to problems associated with its wastewater plant and collections system. Therefore, the Kinnakeet Shores' WWTP is hereby placed on a sewer moratorium at its wastewater treatment plant effective October 13, 2021.

On the basis of thorough file review and application of Article 21 of Chapter 143, General Statutes of North Carolina, Public Law 92-500 and other lawful standards and regulations, the North Carolina Environmental Management Commission has determined that the Kinnakeet Shores' WWTP is unable to adequately collect and treat waste tributary to its wastewater treatment facility.

North Carolina General Statute 143-215.67(a) directs that no person subject to the provision of NCGS 143-215.1, 143-215.108 or 143-215.109 shall cause or allow the discharge of any wastes to a disposal system in excess of the capacity, which the disposal system cannot adequately treat. The moratorium on additional sewer connections or additional flow will remain in effect until the Outer Banks/Kinnakeet Associates, LLC has rectified the current noncompliant conditions of the facility and has obtained written permission from the North Carolina Environmental Management Commission suspending the moratorium.

The permit and other information may be inspected during normal office hours at the Division of Water Resources, 943 Washington Square Mall, Washington, North Carolina 27889, telephone: (252) 946-6481. Copies of the information on file are available upon request and payment of the costs of reproduction.

Questions regarding the status of the sewer moratorium should be directed to Mr. Ray Hollowell, at (252) 202-2358.

11-3p

OFFICIAL COPY

Feb 03 2022



### CERTIFICATE OF SERVICE

I hereby certify that the foregoing document entitled ANSWER and VERIFICATION of OBK.A has been served on the parties to this action by:

- ( x ) 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:**

Kashf Ain,  
17715 Dry Mill Rd.  
Leesburg, VA 20175

This the 3rd day of February, 2022

**Law Office of C. Sean Yacobi, PLLC**

By: /s/ *C. Sean Yacobi*

C. Sean Yacobi  
Attorney for Respondent  
NC Bar No. 40195  
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