

ORDER NO. 87855

IN THE MATTER OF SERVICE TERMINATION *
TO LYNNHILL CONDOMINIUM *
DEVELOPMENT, INC. BY POTOMAC ELECTRIC *
POWER COMPANY AND WASHINGTON GAS *
LIGHT COMPANY *

BEFORE THE
PUBLIC SERVICE COMMISSION
OF MARYLAND

CASE NO. 9430

Issue Date: October 28, 2016

ORDER TO SHOW CAUSE

On October 28, 2016, the Public Service Commission of Maryland (“Commission”) received correspondence¹ from the Maryland Office of the Attorney General (“Attorney General”) stating that the Attorney General had received information from Lynnhill Condominium Development, Inc. (“Lynnhill”), unit owners, and tenants of unit owners, indicating that Potomac Electric Power Company (“Pepco”) and Washington Gas Light Company (“WGL”) (collectively, “the Utilities”) had terminated utility services to Lynnhill’s residential condominiums in Prince George’s County, Maryland. According to the information provided by the Attorney General, residents and occupants of these condominiums assert that their Utilities services were terminated without advance notice as required under Code of Maryland Regulations (“COMAR”) 20.31.03.06.

The Attorney General’s correspondence included three affidavits attesting to the Utilities’ alleged termination of service without prior (or proper) notice.² These affidavits state that notice was first provided on Monday, October 24, 2016, stating that the utilities could be terminated as early as October 25, 2016.

¹ Exhibit A.

² Affidavits of David Gilmore, Mohammed Hyder and Kia Gilchrist.

Public Utilities Article §7-307.2(b) requires an electric and gas utility which bills the governing body of a condominium property to “post notice conspicuously at or near to the common area of the condominium” if the bill is in arrears. COMAR 20.31.03.06 requires that customers must receive at least 14 days notice before the date on or after which termination will occur “in conspicuous locations in the building, such as near mailboxes, entrances, and exits”. Based on the affidavits provided by the Attorney General, a colorable claim has been made that the Commission’s regulations may have been violated either by Pepco or WGL or both.

Therefore, the Commission hereby directs the Utilities to address these allegations and to show cause why the Commission’s regulations have not been violated. Failure to respond could result in sanctions being levied against each of the Utilities, which could result in a fine or civil penalty pursuant to Md. Code. Ann. Public Utilities Article § 13-201. Pepco and WGL shall send their respective response to this Show Cause Order to: Mr. David J. Collins, Executive Secretary, 6 St. Paul Street, 16th Floor, Baltimore, Maryland 21202.

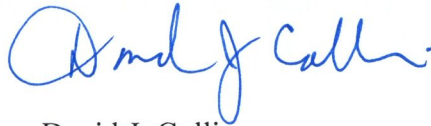
IT IS THEREFORE, this 28th day of October, in the year Two Thousand Sixteen by the Public Service Commission of Maryland,

ORDERED: (1) That Potomac Electric Power Company and Washington Gas Light Company shall provide a written response explaining whether each Utility individually provided Notice of Termination of Service in accordance with the Commission’s COMAR Regulations to the residents of Lynnhill Condominium Development, Inc. prior to termination of utility services on or about October 25, 2016; and

(2) That each Utility is directed to show cause why the Commission should forbear in imposing a fine or civil penalty in this matter in accordance with Md. Code. Ann. Public Utilities Article § 13-201; and

(3) That in the interim, pending response to this Show Cause Order, Potomac Electric Power Company and Washington Gas Light Company are hereby directed to restore and maintain service to each of the buildings at Lynnhill Condominium Development as soon as possible until further directed by the Commission.

By Direction of the Commission,

A handwritten signature in blue ink, appearing to read "David J. Collins". The signature is fluid and cursive, with the first name "David" being more prominent.

David J. Collins
Executive Secretary

Exhibit A

BRIAN E. FROSH
Attorney General

WILLIAM D. GRUHN
Chief

ELIZABETH F. HARRIS
Chief Deputy Attorney General

DONNA HILL STATON
Deputy Attorney General

CAROLYN QUATTROCKI
Deputy Attorney General



STATE OF MARYLAND
OFFICE OF THE ATTORNEY GENERAL

FACSIMILE NO.

WRITER'S DIRECT DIAL NO.

(410)576-6556

(410)576-6558

October 28, 2016

Hand Delivered

H. Robert Erwin
General Counsel
Public Service Commission
6 Saint Paul Street
Baltimore, MD 21202

Re: PEPCO and Washington Gas Termination of Service to Lynnhill Condominium Development

Dear Mr. Erwin:

The Consumer Protection Division of the Office of the Attorney General has received information from the Lynnhill Condominium Development, Inc., unit owners, and tenants of unit owners indicating that the utilities failed to provide the advance notice of their intention to terminate service to the Lynnhill Condominium Development required under COMAR 20.31.02.05.C and D and 20.31.03.06. The Division is also concerned that the termination of service to Lynnhill Condominium Development, which we understand contains residents who are elderly, residents who are disabled, and residents who are children, poses a threat to the health and safety of the residents. See COMAR 20.31.01.04.

I am enclosing affidavits from the President of the Lynnhill Condominium Development, a unit owner in the Lynnhill Condominium Development, and a tenant in the Lynnhill Condominium Development. Each of the affidavits indicate that notice was first provided on Monday, October 25, 2016, stating that utilities could be terminated as early as Tuesday, October 26, 2016, when, in fact, we understand the utilities were shut off.

The Consumer Protection Division brought an action against Lynnhill Condominium Development on Thursday, October 27, 2016, in the Circuit Court for Prince George's County seeking a temporary restraining order and injunction against the condominium association and landlord unit owners. The Division sought an order providing continued access to the units after October 27, 2016, which we understand will be entered by the Court. Attached is a copy of the proposed order that we provided to the Court. We also sought the establishment of a rent/assessments escrow into which funds would be paid by

200 Saint Paul Place ❖ Baltimore, Maryland, 21202-2021

Main Office (410) 576-6300 ❖ Main Office Toll Free (888) 743-0023

Consumer Complaints and Inquiries (410) 528-8662 ❖ Health Advocacy Unit/Billing Complaints (410) 528-1840

Health Advocacy Unit Toll Free (877) 261-8807 ❖ Homebuilders Division Toll Free (877) 259-4525 ❖ Telephone for Deaf (410) 576-6372

www.marylandattorneygeneral.gov

residents and unit owners and from which current utilities could be paid. The Court has asked for the utilities' involvement in the suit and has not entered any order with respect to the escrow.

The Consumer Protection Division is asking the Public Service Commission to look at (1) the notice that was provided to the Association, unit owners, and tenants occupying Lynnhill Condominium Development, (2) whether the utilities terminated service despite having reasonable grounds to believe that doing so could harm the health and safety of the occupants, (3) the utilities' consideration of unusual circumstances, including the fact that this was a master-metered building, and (4) any other issues that the Commission believes are raised by this termination. We are also asking the Commission to look at reinstatement of utilities to the condominium, to the extent that it is within the Commission's power to do so.

We welcome the Commission's participation in the Division's action pending in the Circuit Court for Prince George's County, or would welcome the Commission considering the applicable issues in an administrative proceeding before the Commission or other appropriate forum.

Please let me know if there is any additional information that I can provide you to assist you in your consideration of this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "William D. Gruhn". The signature is fluid and cursive, with the first name "William" being the most prominent part.

William D. Gruhn
Chief, Consumer Protection Division

Exhibit 1

CONSUMER PROTECTION DIVISION,
OFFICE OF THE ATTORNEY GENERAL

* IN THE CIRCUIT COURT FOR
* PRINCE GEORGE'S COUNTY

Plaintiff,

* CASE NO.: _____

v.

*

LYNNHILL CONDOMINIUM
DEVELOPMENT, INC.

*

*

Defendant.

*

* * * * *

AFFIDAVIT OF DAVID GILMORE

I, David Gilmore, am over 18 years of age and I am competent to testify and aver as follows:

1. I am the President of the Board of Directors of Lynnhill Condominium Development ("Lynnhill"). I have held this position since February 2016. When I took on the position of President, the entire Board was replaced with new members.
2. When I took office, the condominium association had many problems, including substantial obligations to the gas and electric utilities that provide services to the complex and bankruptcy filings. The new Board of Directors has attempted to resolve the outstanding financial issues and to pay the utility companies for their ongoing costs. It has raised fees, increased collection efforts, lowered maintenance costs, repaired code violations, and cleaned up areas around the buildings. Altogether I believe that we have made remarkable progress and increased transparency in the management of the complex.
3. In spite of our efforts, we have not been entirely successful. The condominium association has attempted to resolve the financial issues with the utility companies and have offered to pay for ongoing usage. As of October 18, 2016, we were up to date with payments for

current usage to Pepco. Washington Gas, however, has refused to accept payment for ongoing usage.

4. About two months ago, ~~Washington Gas~~ ^{A Plumbing Company} turned off the gas to the property at 3103 Good Hope Avenue because of a leak. ~~Washington Gas~~ ^{A Plumbing Company} repaired the leak and turned the gas back on within a few hours.

5. If Washington Gas turns the gas back on now, the condominium association will make sure that the company has access to all of the units for inspection and help facilitate their work.

6. Many occupants were taken by surprise when the utilities were turned off on Tuesday, October 25, 2016. When we were unable to work things out with the utility companies, occupants were told on Monday that service could be cut as early as Tuesday. In fact, service was cut on Tuesday.

7. The Board of Directors believes that a short extension of time for occupants to have access to their units – even if utilities are not turned on -- is very important.

8. The Board also supports establishment of an escrow account into which tenants and unit owners would pay rent and condominium fees. Such an escrow account would make it possible for the condominium association to pay the ongoing cost of utilities so that the utilities are not harmed by ongoing usage.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.

Date:

10/27/16

Signature:

David H. Gilmore
David Gilmore

Exhibit 2

CONSUMER PROTECTION DIVISION,
OFFICE OF THE ATTORNEY GENERAL

Plaintiff,

v.

LYNNHILL CONDOMINIUM
DEVELOPMENT, INC.

Defendant.

* IN THE CIRCUIT COURT FOR
* PRINCE GEORGE'S COUNTY

* CASE NO.: _____

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AFFIDAVIT OF MOHAMMED HYDER

I, Mohammed Hyder, am over 18 years of age and I am competent to testify and aver as follows:

1. I am a resident of Lynnhill Condominium Development ("Lynnhill"). I own unit 206 at 3107 Good Hope Avenue, Temple Hills, MD 20748. I have lived there for two years.

2. I always pay my condominium fees on time and expect to have all my utilities covered as a result.

3. I understand that there were problems with the former management of Lynnhill and that they were not paying all the condominium bills. I did not know, however, until Monday evening October 24, 2016 when I saw a notice posted on a door, stating that the utility companies were going to shut off the utilities. Gas and electric utilities were shut off on Tuesday.

4. Occupants of Lynnhill were told that we would have to vacate within 72 hours. I don't want to leave my home. This is where I live. I am spending the night in my car because it is warmer than the unit.

5. I am willing to pay my condominium association fees into an escrow account to

ensure that the fees go to pay for utilities and maintenance of the complex.

6. Many other occupants, including children, older people and handicapped people are struggling to find a place to live.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.

Date: 10-27-16

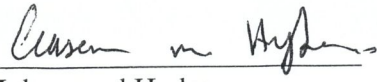
Signature: 
Mohammed Hyder

Exhibit 3

CONSUMER PROTECTION DIVISION,
OFFICE OF THE ATTORNEY GENERAL

Plaintiff,

v.

LYNNHILL CONDOMINIUM
DEVELOPMENT, INC.

Defendant.

* IN THE CIRCUIT COURT FOR
* PRINCE GEORGE'S COUNTY
* CASE NO.: _____

*

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* * * * *

AFFIDAVIT OF KIA GILCHRIST

I, Kia Gilchrist, am over 18 years of age and I am competent to testify and aver as follows:

1. I am a resident of Lynnhill Condominium Development ("Lynnhill"). I rent unit 310 at 3103 Good Hope Avenue, Temple Hills, MD 20748. I have lived there with my two children since March 2016.

2. I have always paid my rent on time and expect to have all my utilities covered as a result.

3. On Monday, my son told me about a notice from Pepco that he saw on the door, informing us that it would turn off the electricity and might do so as early as the next day. In fact, the electricity was turned off on Tuesday. I never saw any notice from the gas company, but our gas was also turned off on Tuesday.

4. We were told by the building management that we had to get out of our unit within the next 72 hours. We could only go in between the hours of 9:00 am and 3:00 pm. As a result, I had to take off work and have tried to retrieve as many things as I could. We are staying temporarily with a friend.

5. I paid our rent through the end of the month, but have not been able to stay there

with the utilities shut off.

6. I would like to go back to the unit, at least through the end of my lease term, if the utilities are turned back on.

7. I am willing to pay my rent into an escrow account.

I SOLEMNLY AFFIRM UNDER THE PENALTIES OF PERJURY AND UPON PERSONAL KNOWLEDGE THAT THE CONTENTS OF THE FOREGOING AFFIDAVIT ARE TRUE.

Date: 10/26/16

Signature: Kia Gilchrist
Kia Gilchrist

Exhibit 4

Brauer, Max

From: Brauer, Max
Sent: Friday, October 28, 2016 12:03 PM
To: 'legreen@co.pg.md.us'
Cc: 'jmmccarthy@co.pg.md.us'; 'wjohnson@dcmdconsumerlaw.com';
'behoffman@pepcoholdings.com'; Trumka, Richard Jr.
Subject: Proposed Order -- Lynnhill
Attachments: CPD v. Lynnhill Condominiums ORDER 10 28 2016.docx

Your Honor:

Please find attached a proposed order from yesterday in the Lynnhill Condominium matter.

Very Truly Yours,

Max F. Brauer
Assistant Attorney General
Mortgage Unit
Office of the Attorney General
200 St. Paul Place
Baltimore, MD 21202
410-576-6952

CONSUMER PROTECTION DIVISION
OFFICE OF THE MARYLAND
ATTORNEY GENERAL,

Plaintiff,

v.

LYNNHILL CONDOMINIUM
DEVELOPMENT, INC.

and

JOHN DOES 1-75

Defendants.

* IN THE
* CIRCUIT COURT
* FOR
* PRINCE GEORGE'S COUNTY
*
* Case No. CAE16-40059
*
*
*
*

* * * * *

ORDER GRANTING TEMPORARY RESTRAINING ORDER

Upon consideration of the Consumer Protection Division's Motion for Temporary Restraining Order, the Affidavits in support thereof, and upon consent of the Parties, it is this 28th day of October, 2016, hereby,

ORDERED, that the Consumer Protection Division's Motion for Temporary Restraining Order is **GRANTED IN PART AND RESERVED IN PART**; and it is further

ORDERED, that Defendants will not interfere with tenant's access to Lynnhill Condominiums; and it is further,

ORDERED, that this matter is continued until 3 pm, on Friday, November 4, 2016; and it is further,

ORDERED, that the parties will appear telephonically before this Court for a status conference at 12 pm on November 1, 2016; and it is further,

ORDERED, that copies of the pleadings in this matter shall be served via email to Prince George's County, Washington Gas, Potomac Electric Power Company (PEPCO) by 12 pm on October 28, 2016; and it is further,

ORDERED, that three (3) true test copies of this Temporary Restraining Order shall be released to the Consumer Protection Division.

Date

Judge, Circuit Court for Prince George's County

Copies to:

Max F. Brauer
Assistant Attorney General
Consumer Protection Division
Office of the Attorney General
200 St. Paul Place, 16th Floor
Baltimore, MD 21202

Lynnhill Condominium Association
29 Gaither Street
Temple Hills, Maryland 20748