

No. 735454-4-I

COURT OF APPEALS, DIVISION I
OF THE STATE OF WASHINGTON

ALBERT AND MARGARET FIGARO, Husband and Wife,

Appellants,

v.

CITY OF BELLINGHAM, a Washington municipal corporation,

Respondent.

BRIEF OF RESPONDENT

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INTRODUCTION

This case concerns the City of Bellingham's right to manage its utility systems in a manner that promotes the best interests of the City. Prior to 2004, the City allowed property owners within the urban growth area (UGA) to contract for municipal water service, municipal sewer service, or both, prior to annexation. This policy had unintended consequences.

The property owners who contracted for municipal utility services and were able to develop their properties at urban level densities had little incentive to petition the City for annexation. These properties create a barrier which prevents the City from growing outward. Therefore, the City changed its policy in June 2004 to require properties in the UGA to annex before receiving new direct retail water and/or sewer service.

Albert and Margaret Figaro own a vacant lot outside of the City in the UGA. The Figaros requested water and sewer service from the City in July 2014. The City denied their request based on its policy requiring them to annex before the City will provide utilities. The City has no duty to provide the Figaros municipal utility services prior to annexation.

STATEMENT OF THE ISSUES

1. Did the trial court correctly grant summary judgment on the contract claim for sewer service because the parties did not have an implied contract for sewer service?
2. Did the trial court correctly grant summary judgment on the contract claim for water service because the claim is barred by the statute of limitations?

STATEMENT OF THE CASE

The Figaros have owned a vacant lot outside of the corporate limits of the City since 1975. CP 159. The property abuts Yew Street Rd. (a Whatcom County right-of-way) in the City's designated UGA. The City owns a water main and a sewer main in the Yew Street Rd. right-of-way because the area was previously located within a water service zone and a sewer service zone. CP 37. A water service zone (or a sewer service zone) is a defined area outside the corporate limits of the City within which municipal water (or sewer service) would be provided subject to terms and conditions set forth by the City. CP 44.

The City created the water service zone that included the Yew Street Rd. area by ordinance 8728 in January 1979. CP 42-66. Property owners within the water service zone could request water service from the

City by submitting an application. CP 48-52. The City reserved the right to grant or deny applications for service based upon listed criteria. *Id.* By October 2000, approximately eighty percent of properties in the north Yew Street Rd. area received water service from the City. CP 228.

Whatcom County made significant road improvements to Yew Street Rd. in the summer of 2000. The County installed a sanitary sewer system in Yew Street Rd. during that project. CP 227. The County also installed water and sewer service stubs for all properties, including four (4) vacant lots, abutting Yew Street Rd. during this project "to avoid tearing up the road at later date." CP 228.

The City did not communicate with the Figaros about the County's installation of the sewer service stub on their property. However, the Figaros paid the City \$480.00 for the installation of a water service stub "for future use" during the County's construction project. CP 163.

The City adopted ordinance 2000-12-087 in December 2000. CP 68-74. The ordinance added the newly constructed Yew Street Rd. sanitary sewer to the City's sewer service zone.

Property owners within the sewer service zone could apply for sewer service from the City. Property owners proposing new development were required to submit an application, detailed plans, and pay applicable fees. CP 70-71. If the City approved the application for sewer service, then

the parties would execute a written contract. The required written contract would "constitute a covenant running with the land." CP 69. The City also required property owners contracting for sewer service to "sign an annexation agreement." *Id.*

The City Council adopted a moratorium on providing utilities outside the corporate limits of the City in 2002. CP 280. The Council then began a series of deliberations about its policy of providing utility services outside the corporate limits of the City. CP 236-271, CP 279-80, CP 284-87, CP 322-24, CP 337-38, CP 352-53. The City Council adopted its current policy in June 2004. CP 362-63. That policy generally requires property owners in the UGA to annex before receiving utility services. CP 323.

The City adopted ordinance 2006-03-026 in March 2006. CP 76-82. The ordinance repealed the water service zone in the Yew Street Rd. area. *Id.* The City effectively withdrew its conditional offer of water service at that time. However, the City specifically exempted property owners with contracts for service from the effects of the repeal:

Council does not intend to terminate any water or sewer service that is in existence as of this Ordinance's effective date. For purposes of this ordinance, "in existence" means the property is currently receiving service and/or shall have a fully signed, valid, and recorded utility service zone agreement. CP 77.

The Figaros were not receiving water service and did not have a written contract for water service in March 2006.

Some property owners affected by the repeal of the water service zone lobbied the City Council for additional time to enter a contract for water service. Consequently, the City Council adopted ordinance 2006-06-064 which gave property owners meeting certain criteria an additional year during which they could execute a contract for water service. CP 84. The deadline for entering contract was June 27, 2007. The Figaros did not apply for water service, pay the required fees, or execute a written contract for water service before that deadline.

The Figaros first requested water service from the City in November 2007. CP 39. City staff informed the Figaros that the City's policy required them to annex before receiving water service, but that they could request an exception based on special circumstances. CP 96. The Figaros requested an exception, but the City Council denied their request on March 3, 2008 following a public hearing. CP 103-04. The Figaros did not appeal that decision or take any further action until July 2014.

Meanwhile, the City adopted ordinance 2011-05-025 in May 2011. CP 87-94. The ordinance repealed all remaining water and sewer service zones outside the corporate limits of the City including the sewer service

zone in the Yew Street Rd. area. *Id.* The ordinance also codified the

Council's June 2004 policy regarding utility services in the UGA:

The City will provide new direct retail water and/or sewer service to areas within the City's Urban Growth Area only after the areas annex to the City. The City will not modify, extend, or expand direct retail water and/or sewer service in the City's Urban Growth Area without annexation unless the City Council determines that such modification, extension, or expansion is necessary to protect basic public health and safety and the environment. CP 91.

The Figaros took no action in response to the City's repeal of the sewer service zone in May 2011.

The Figaros submitted a written request for both water and sewer service in June 2014. CP 109-31. The Figaros' request was denied by the Public Works Director because their property is in the UGA and they have not annexed. CP 133-41. The City Council reviewed the Figaros' request and affirmed the Director's denial by a unanimous vote on October 27, 2014. CP 150.

The Figaros appealed the denial of their request to the Whatcom County Superior Court by filing a Land Use Petition and Complaint for Breach of Contract, Declaratory Judgment, and Injunctive Relief. CP 7-28.

The City moved to dismiss the LUPA portion of the complaint because the City cannot regulate the Figaros' property and, therefore, the City's denial of their request for utility services could not be a "land use

decision." CP 566-74. Judge Garrett agreed and granted the City's motion. CP 209-10.

The City then moved for summary judgment on the contract claims. CP 211-21. Judge Garrett granted the City's motion because the Figaros failed to prove that the parties contracted for either sewer or water service. VRP 14:23-15:17, CP 552-55. Moreover, the City proved that the contract claim for water service was barred by the statute of limitations.

Id. The Figaros appeal.

ARGUMENT

The Trial Court Correctly Dismissed the Claim for Sewer Service.

Washington courts have consistently recognized the right of a municipality to deny water or sewer service to properties outside the city limits. *Brookens v. City of Yakima*, 15 Wn. App. 464, 466, 550 P. 2d 30 (1976) ("In the absence of contract, express or implied, a municipality cannot be compelled to supply water outside its corporate limits."), *People for the Preservation and Development of Five Mile Prairie v. City of Spokane*, 51 Wn. App. 816, 821, 755 P.2d 836 (1988)("Although authorized to extend its water service outside its boundaries, a city is not compelled to do so."), *Yakima County Fire Prot. Dist. No. 12 v. City of Yakima*, 122 Wn.2d 371, 858 P.2d 245 (1993)("The use of "may" in RCW 35.67.310 supports the City's argument that the power granted by RCW

35.67.310 is discretionary and that the City is not bound to provide sewer service to persons residing outside its boundaries."), and *Harberd v. City of Kettle Falls*, 120 Wn. App. 498, 84 P.3d 1241 (2004).

The *Brookens* court ruled that a city cannot be compelled to supply water outside its corporate limits in the absence of an express or implied contract. An express contract is a "contract whose terms the parties have explicitly set out." Black's Law Dictionary, 321 (7th ed. 1999). By contrast, an implied contract is a "contract that the parties presumably intended, either by tacit understanding or the assumption that it existed." *Id.* at 322.

A contract to provide water or sewer service may be implied where: (1) "a municipality holds itself out as a public utility willing to supply all those who request service in a given area," *Brookens* at 466, or (2) the parties engage in a course of conduct and common understanding that shows a mutual intent to contract with each other. *Harberd* at 516.

The record does not support either theory of implied contract.

The City Does Not Hold Itself Out as a Public Utility Willing to Supply All Those Who Request Service.

Brookens is analogous and instructive. In that case, an out-of-town property owner sued the City of Yakima after the city refused his request to provide municipal water service to a proposed development. *Brookens*,

at 465. The owner alleged that parties had an implied contract for water service. The court disagreed.

The *Brookens* court noted that "the record reflects no holding out by the City from which to imply a general offer to supply any and all land owners." *Brookens*, at 466 (emphasis added). Conversely, the city's adoption of a resolution to supply water only under certain conditions showed its intent "not to supply the general area indiscriminately." *Id.* at 467. The court therefore held that the city did not hold itself out as a public utility willing to provide service to all those who requested it. *Id.* All means all. It does not mean some, many, or even most. Where a municipality makes a conditional offer of service, there is no duty provide service to all those who request it.

The Supreme Court adopted this reasoning in *Yakima County Fire Prot. Dist. No. 12 v. City of Yakima*, 122 Wn.2d 371, 858 P. 2d 245 (1993). The Court noted the general rule that a city has no duty to extend water or sewer service beyond its borders. *Id.* at 381 (quoting *Brookens*). However, the Court recognized the exception to the general rule where "a city holds itself out as a public utility willing to supply all those who request service in a given area." *Id.* at 382 (quoting *Brookens*).

The Court found that the City of Yakima held itself out as willing to provide sewer service based on an express agreement it entered with

nearby jurisdictions to accept sewage on their behalf. However, and importantly, the agreement included the city's policy of requiring present or future annexation as a condition of receiving service. The Court reasoned: "to the extent that the City held itself out as willing to provide service, it made clear that it was willing to do so only if the landowner accepted its future annexation condition." *Id.* at 382. Accordingly, the Court held that the City of Yakima had no duty to provide service to all those who requested it. *Id.* at 383. All means all.

Here, the municipal code states that new direct retail sewer service will be provided to properties in the UGA only after those properties annex to the City. BMC 15.36.010(B). Under *Brookens*, the City's policy demonstrates that it does not hold itself out as a public utility willing to provide service to all those request it in the area. Accordingly, the City has no duty to provide service under this theory of implied contract.

The Parties Did Not Engage in a Course of Dealing for Sewer Service

The *Harberd* court observed: "Generally, an implied contract comes about when through a course of dealing and common understanding, the parties show a mutual intent to contract with each other." *Harberd*, 120 Wn. App. at 516 (internal quotes omitted). The City and the Figaros did not engage in a course of dealing for sewer service.

The Figaros conceded the "course of dealing" theory in their briefing below:

The fact Whatcom County installed the sewer and water stubs and not the City is significant, because it shows the City did not enter into a course of dealing with the Figaros to provide services. CP 534 (Pls' Reply on Mot. for Summ. J. 2).

Counsel conceded this theory in the briefing and did not raise it during the summary judgment hearing. RP 9:10-14:22. The Figaros may not assert a theory on appeal different from that presented on the trial level. *Mueller v. Garske*, 1 Wn. App. 406, 409, 461 P.2d 886 (1969). Nevertheless, the evidence does not prove that the parties engaged in a course of conduct.

The City defined the course of dealing required to form a contract for sewer service when it created the sewer service zone in December 2000. CP 68-74. Property owners desiring service had to apply for service, submit detailed plans, and pay the required fees. CP 70-71. If the request was approved, then the parties would execute a written contract. CP 69. The Figaros took none of the steps required to form a contract before the City repealed the sewer service zone in May 2011 effectively withdrawing its conditional offer of service. CP 87-94.

Despite conceding this theory below, the Figaros argue that the installation of a sewer service stub on their property "shows that the City in fact entered into a course of dealing where the Figaros rightfully

expected they would be able to hook up." Appellants' Br. 12. Whatcom County, not the City, installed the sewer service stub on the Figaros' property. CP 227-28. The county installed the sewer service stub on the Figaros' vacant property - one of just four (4) vacant properties abutting north Yew Street Rd. - "to avoid tearing up the road at a later date." CP 228. The record contains no evidence of any communications between the City and the Figaros about the sewer service stub.

The Figaros did not take the affirmative steps required to accept the City's conditional offer of sewer service before it was revoked in May 2011. Therefore, the parties did not have the mutual intent required to imply a contract for sewer service.

The Trial Court Correctly Dismissed the Contract Claim for Water Service.

The City disputes that the evidence shows a mutual intent to contract for water service for the same reasons discussed above. See discussion, pp. 7-13 supra. However, the resolution of this appeal does not depend on that issue. The court may assume for purposes of the City's summary judgment motion that the installation of a water service stub "for future use" on the Figaros' property in September 2000 created an implied contract for service. The City breached that implied contract in March 2006. The statute of limitations for actions on an implied contract is three

years. RCW 4.16.080(3). Therefore, the Figaros' November 2014 claim is time barred.

The Figaros conceded this point below. During the summary judgment hearing, counsel for the Figaros stated:

I don't have specific rebuttal to the strict interpretation of the statute of limitations. I can't make an argument that the discovery rules should be applied unless I am doing it under CR 11 to expand case law. But even if it did, I don't necessarily disagree with what the City has said. VRP 11:24 - 12:6.

The Figaros should be precluded from arguing on appeal an issue that they conceded below. *Mueller v. Garske*, 1 Wn. App. 406, 409, 461 P.2d 886 (1969). Nevertheless, the undisputed facts show this claim is time barred.

Harberd is on point. In that case, an out-of-town property owner executed several written contracts with the city for extraterritorial water service between 1983 and 1994. *Harberd*, at 504. The city adopted a moratorium on all out-of-town water hookups except those water hookups "guaranteed by payment, a signed contract and/or recorded with the county" in 1994. *Id.* at 505. The city adopted a comprehensive plan in November 1997 that stated in part: "City services will not be extended outside of the city limits unless these areas are first annexed to the City." *Id.* *Harberd* filed a complaint for breach of contract in March 2001 alleging that the city reneged on an earlier agreement to provide him water.

The city argued that its comprehensive plan provided Harberd constructive notice that the city would not provide additional water services outside the city prior to annexation. This argument is based on the maxim that ignorance of the law, which everyone is bound to know, excuses no one. The court agreed:

Mr. Harberd was on constructive notice no later than November 1997 that the City would no longer grant out of town hookups. Given his constructive notice, and the lack of credible evidence of any adverse City decisions after that time, Mr. Harberd's March 16, 2001 breach of contract claim has to be time barred. *Id.* at 514.

The court ruled that the cause of action accrued when the city adopted its comprehensive plan in November 1997 providing constructive notice to Harberd of the city's intent not to provide him water. Accordingly, Harberd's March 2001 claim was time barred.

The Figaros' claim is similarly time barred. The City repealed the water service zone in the Yew Street Rd. area in March 2006. CP 76-82. The ordinance provided the Figaros constructive notice that water service would not be provided prior to annexation. The statute of limitations accrued in March 2006 and the deadline for filing a claim was March 2009. Therefore, the Figaros' November 2014 claim is time barred.

In addition to the constructive notice of breach provided by ordinance 2006-03-026, the City provided actual notice to the Figaros that it would not serve them in March 2008. The City Council held a public

hearing on the Figaros' initial request for water service on March 3, 2008 and voted unanimously to deny the request. CP 103-04. The City's unqualified refusal to provide them service in March 2008 constituted a breach of any implied contract to serve. Even if actual notice of the City's intent not to serve was required, and it was not in *Harberd*, then the Figaros had sufficient notice of the City's breach no later than March 2008. If the cause of action accrued in March 2008, then the deadline for filing was March 2011. The Figaros' claim would still be time barred.

The Figaros' contract claim or water service is time barred regardless of whether the cause of action accrued in March 2006 (when the City repealed the water service zone) or in March 2008 (when the City denied the Figaros' 2007 request for service).

The Trial Court Correctly Rejected Other Arguments Raised by the Figaros in Response to the City's Motion for Summary Judgment.

The Figaros advanced several new legal arguments in response to the City's Motion for Summary Judgment. The Figaros argued that the City's denial of their request for service violated the contracts clause of the state and federal constitutions, that the City waived its right to deny the request for utility services, and that the court should equitably toll the statute of limitations. The Figaros did not raise any of these arguments in their complaint. CP 7-28. The City requested that the trial court disregard

these theories because the complaint provided insufficient notice of them. CP 541-42 (citing *Estate of Dormaier ex rel. Dormaier v. Columbia Basin Anesthesia, P.L.L.C.*, 177 Wn. App. 828, 854, 313 P.3d 431 (2013)). Judge Garrett correctly disregarded these theories because they are not supported by the facts or the law.

The City Did Not Violate the Contracts Clause

The Figaros argue that the City violated the contracts clause when it repealed the water and sewer service zones. Appellants' Br. 13. This argument fails because the parties have not contracted for either water or sewer service.

The authority cited by the Figaros for this argument, *Scott Paper Co. v. City of Anacortes*, 90 Wn.2d 19, 578 P.2d 1292 (1978), is distinguishable. In *Scott Paper*, the City of Anacortes executed two written agreements with a paper company to provide the company water service at fixed rates. The agreements included specific terms and conditions. The City of Anacortes attempted to unilaterally amend those contracts, i.e. to raise the price for water, several years later by adopting an ordinance. The Court held that the city could not raise the rates charged to the paper company without violating the contracts clause of the state and federal constitutions. That is not what happened here.

In contrast to *Scott Paper*, the City and the Figaros have not contracted for either water or sewer service. Moreover, the City disclaimed any intent to impair existing contractual obligations when it adopted ordinance 2006-03-026:

City Council does not intend to terminate any water or sewer service that is in existence as of this Ordinance's effective date. For purposes of this Ordinance, "in existence" means the property is currently receiving service and/or shall have a fully signed, valid, and recorded utility service zone agreement. CP 76-78.

The Figaros were not receiving water service and had not executed a written contract for water service when the City repealed the water service zone. CP 39.

The City included a similar disclaimer when it repealed the sewer service zone in May 2011. CP 89. As explained above, the City never contracted with the Figaros to provide them sewer service.

The City did not violate the contracts clause when it repealed the water service zone and the sewer service zone because the City never contracted with the Figaros to provide them either service.

The City Did Not Waive its Rights

The City has the right to define the conditions under which it will provide utility services beyond the corporate limits of the City. See *Brookens* and *Yakima County Fire Prot. Dist. No. 12*. The City also has the right to withhold new utility services from properties outside the city

until those areas annex. *Harberd*, at 506. The City has not waived its rights.

The City has historically reserved the right to deny applications for water and sewer service in the Yew Street Rd. area. CP 42-53 and CP 68-74. The City also reserved the right to change the conditions under which it would provide service as needed "to promote the best interests of the City." CP 43. The City has exercised its rights.

First, the City changed its policy regarding utility services in the UGA in June 2004. CP 362-63. Second, the City repealed the water service zone in the Yew Street Rd. area in March 2006. CP 76-81. Third, the City repealed the sewer service zone in the Yew Street Rd. area and codified its policy requiring property owners in the UGA to annex before they may receive utility services in May 2011. CP 87-94.

The Figaros are misapplying the waiver doctrine in an attempt to avoid the statute of limitations on their contract claim. The authority cited in support of this argument does not support it. *Bowman v. Webster*, 44 Wn.2d 667, 269 P.2d 960 (1954) involves a dispute over a real estate transaction, not a contract claim for municipal utility service. Moreover, the defendant in *Bowman* relied on waiver as an affirmative defense to avoid liability - the waiver doctrine was used as a shield, not a sword.

Bowman was a purchaser of real estate who sued the seller, Webster, for misrepresenting the property line. The seller argued that the purchaser waived his right to a remedy for the alleged misrepresentation because he took numerous voluntary steps to complete the real estate transaction after learning the true property boundary. The purchaser took possession of the property, obtained a mortgage, paid the entire purchase price, and accepted the deed after being informed of the true property boundary. The court agreed that the purchaser waived his right to seek remedies for the seller's alleged misrepresentation under those facts.

The City adopted its current policy requiring properties in the UGA to annex before receiving utility services in June 2004. Unlike the purchaser in *Bowman*, the City has not taken numerous voluntary steps since that time that show an intent to waive its policy and provide the Figaros utility services. The converse is true. The City has twice denied the Figaros' requests for service because they have not annexed. The facts of this case do not support the Figaros' waiver argument.

Judge Garrett Correctly Denied the Figaros' Request for Equitable Tolling

The Figaros requested that the trial court equitably toll the statute of limitations with respect to the contract claim for water service. CP 52-53. The trial court correctly rejected the Figaros' request. VRP 15:9-16.

"Equitable tolling permits a court to allow an action to proceed when justice requires it, even though a statutory time period has nominally elapsed." *Benyaminov v. City of Bellevue*, 144 Wn. App. 755, 760, 183 P.3d 1127 (2008). The doctrine of equitable tolling is applied sparingly in order to avoid a manifest injustice. The courts have only applied the doctrine in extraordinary cases where a plaintiff can demonstrate both the defendant's bad faith and the plaintiff's exercise of diligence. *Id.* The Figaros did not prove either that the City acted in bad faith or that they exercised due diligence in pursuit of their rights. Therefore, the trial court correctly rejected their request to equitably toll the statute of limitations.

First, the Figaros wrongfully state that the statute of limitations ran "about eight months" before they filed suit. Appellants' Br. 18. The contract claim for water service accrued in March 2006 when the City repealed the water service zone. The statute of limitations ran in March 2009. The Figaros did not file their claim until November 2014.

Second, the Figaros argue that the City provided them "false assurances" when it denied their 2007 request for water service. Appellants' Br. 18. The City Council voted unanimously to deny the Figaro's initial request for water service in March 2008 because their property is in the UGA and they have not annexed. CP 103-04. There was no ambiguity.

The Figaros selectively quote from the staff report to suggest that the City's denial implied that a subsequent request would be approved.

Appellants' Brief, 19. The staff report was five pages long and included the following findings:

- The request is for a service to the applicant's property without a specific proposal for the property.
- Without annexation, and with the provision of utility services, urban development could occur without the full range of urban services.
- The request is not consistent with the Bellingham Comprehensive Plan policies: LU-120 and LU-122.
- The request does not meet the city Council's "June 14, 2004 Adopted Revisions to City Council Policy Regarding Utility Service Zone Extensions." Annexation should occur prior to the extension of urban services.
- The request does not meet the criteria in Bellingham Municipal Code 15.36.110;

Staff does not find a compelling reason to recommend Council set aside City policy and grant approval of the request...Staff recommends denial of the application. CP 140.

City staff recommended denial of the Figaros' 2007 request for water service for multiple reasons including, most importantly, that the request did not meet the Council's 2004 policy requiring annexation prior to the extension of urban services. The City's denial provided no assurances to the Figaros that a subsequent request would be approved. The denial implied that the Figaros should pursue annexation if they wanted to receive utility services from the City.

However, the Figaros did not pursue annexation after their initial request for water was denied. Nor did they file a claim for breach of contract (or a land use petition under Chapter 36.70C RCW). Instead, they simply waited for more than six years and then re-applied for water service (and for sewer service) based on changed circumstances, specifically the receipt of "information from the County that they could not obtain water and sewer service for the site." Appellants' Br. 19. This is a misrepresentation.

The Figaros did not request approval from Whatcom County to locate both a water well and an on-site septic system on their property. The "information" received by the County was not a decision on an application, but rather was the informal opinion of a county employee based on limited information. CP 543-45. The Whatcom County Health Dept. has not issued a formal decision with respect to locating both an on-site septic system and a private well on the property because the Figaros have not submitted any formal applications. CP 545.

Meanwhile, the City repealed the sewer service zone in the Yew Street Rd. area and codified its policy requiring properties in the UGA to annex before receiving utility services. The Figaros imply that the City acted in bad faith when it denied their applications. But the Figaros did not

meet the City's condition for receiving water service in 2008 or for receiving water and sewer service in 2014, i.e. they have not annexed.

The Figaros did not meet their burden of proving that the City acted in bad faith, deceived them, or provided them false assurances. The Figaros also failed to prove that they diligently pursued their rights. Accordingly, Judge Garrett correctly denied their request for equitable tolling.

CONCLUSION

This is a simple contract case. The City made a conditional offer of water and sewer service to the Figaros. The City revoked the offer before it was accepted. The parties did not form a valid contract for either service -- there was no meeting of the minds. Accordingly, the City has no duty to provide utility services to the Figaros.

Judge Garrett should be affirmed.

Respectfully submitted this 15th day of October, 2015.



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