

STATE OF FLORIDA

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OFFICE OF THE GENERAL COUNSEL
HAROLD A. McLEAN
GENERAL COUNSEL
(850) 413-6199

Public Service Commission

September 24, 2003

Mr. Fritz Holzberg
Gistro, Inc.
P.O. Box 100 131
Naples, Florida 34108

Re: Docket No. 020640-SU - Application for certificate to provide wastewater service in Lee County by Gistro, Inc.

Dear Mr. Holzberg:

Recently, staff has become aware of the recorded "Notice to Purchaser – Mortgagor" (notice) which Gistro, Inc. (Gistro) apparently recorded on May 29, 2003, with the Lee County Clerk of Court, and served upon all lot owners, lenders, title insurers, and prospective purchasers of lots within the Spring Lakes subdivision. A copy of the notice is attached to this letter for your reference. The notice indicates, in part, that Gistro has recently applied to the Public Service Commission (Commission) for a sewer utility franchise, and that until such time as the franchise has been approved and connection fees established, Gistro is not authorized, and shall not allow, any sewer hook-ups that provide sewer service.

Please be advised that the Commission's approval of your application for certificate of authorization and the establishment of connection fees are actions which are by no means certain. As you know, your application for certificate of authorization remains deficient. See staff's most recent deficiency letter of September 5, 2003. The notice also appears to imply that the Commission has prohibited Gistro from allowing any sewer hook-ups until the application is ruled upon. The Commission has taken no such action. In fact, staff has urged you to maintain the *status quo* by continuing to allow the hook-ups at no charge until a decision is made regarding your application.

Staff has also recently become aware of a letter dated September 15, 2003, sent by Gistro to Mr. Eduardo A. and Ms. Carol A. Morales, a copy of which is also attached hereto. In that letter, you advise that Florida law allows Gistro to disconnect the Morales home without prior notice. A copy of the Commission's model tariff sheet no. 10.0 is attached to the letter, as apparent authority for this proposition. As we have discussed, the Commission rules concerning disconnection of service do not apply to you unless and until such time as you become a certificated utility and you have an approved tariff on file with the Commission.

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SEP 25 2003

09215 SEP 25 03

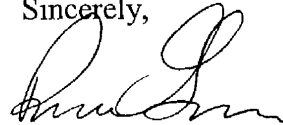
FPSC-COMMISSION CLERK

Mr. Fritz Holzberg
Page 2
September 24, 2003

Since December of 1997, staff has had a continuing dialog with you regarding the need for a certificate of authorization prior to holding yourself out as a public utility. Notwithstanding at least seven letters and untold phone hours of instructions and warnings in the intervening years, the above- referenced application was severely deficient when docketed on July 1, 2002. Subsequently, staff has sent nine additional letters of instruction and warnings to either you or your legal representative, regarding the information required for the application to be considered complete. Despite this effort, it appears that you still have little understanding of regulatory constraints or the basis upon which rates and charges are established.

Based upon all the above, staff must require that you complete the application immediately. If the information described in staff's most recent deficiency letter of September 5, 2003, including a coherent cost study supporting proposed rates and charge, is not completed and filed by November 24, 2003, staff will file a recommendation for the Commission's consideration, to deny the application as incomplete, and to close the docket. If you have any questions concerning this matter, you may contact me at (850) 413-6224, or by e-mail to rgervasi@psc.state.fl.us.

Sincerely,



Rosanne Gervasi
Senior Attorney

RG/dm
Attachments

cc: Division of the Commission Clerk and Administrative Services
Division of Economic Regulation (Brady, Redemann)



INSTR # 5838218
Official Records BK 03946 PG 1700
RECORDED 05/29/2003 01:44:10 PM
CHARLIE GREEN, CLERK OF COURT
LEE COUNTY
RECORDING FEE 10.50
DEPUTY CLERK S Jensen

NOTICE TO PURCHASER - MORTGAGOR

To all lot owners, Lenders, Title insurers, and prospective purchasers of lots within the Spring Lakes subdivision, notice is hereby given by GISTRO INC. as successor in interest to Forest Mere Joint Venture, as the private utility owner of the sewer facility lines lying within the following described lands:

All lots in Springs Lakes, Phase 1 according to the plat thereof as recorded in Plat Book 37, page 94 et seq., Public Records of Lee County Florida

All lots in Springs Lakes, Phase 2 according to the plat thereof as recorded in Plat Book 48, page pages 74 et seq., Public Records of Lee County Florida

All lots in Springs Lakes, Phase 3 according to the plat thereof as recorded in Plat Book 50, at pages 36 et seq., Public Records of Lee County Florida

The undersigned has recently applied to the Public Service Commission for a sewer utility franchise for the above described lands. Until such time as the franchise has been approved, and connection fees established, the undersigned is not authorized, and shall not allow any sewer hook-ups that provide sewer service to the above described subdivision. Until further notice, any such hook ups shall be immediately disconnected and the cost thereof shall be assessed against the lot owner.

Further, notice is hereby served on all current residents of Spring Lakes, there has been numerous recent connections to the existing sewer facilities lying within the lands described without the consent or agreement of the owner of said lines. These illegal connections have been made in violation of the undersigned's ownership rights and are done in violation of Florida Statute 877.09, making such unauthorized connection a criminal offense. The undersigned hereby serves notice to all prospective purchasers that there is no sewer hook-up is available within those lands above described without the express written consent of the undersigned, as owner of said sewer lines.

DATED THIS 29 day of May, 2003.

Gistro Inc., a Florida Corporation

By: J. Fritz Holzberg

J. Fritz Holzberg, as President

STATE OF FLORIDA
COUNTY OF ~~COLLIER~~ Lee

Sworn to and subscribed before me this 29th day of May, 2003, by J. Fritz Holzberg, as President of Gistro Inc., a Florida Corporation, who is personally known to me and he did take an oath.

Rebecca A. Henderson

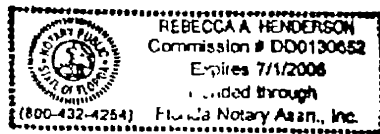
Notary Public

REBECCA A. HENDERSON

Typed, Printed or Stamped Name

My Commission Expires: 12-1-2006

My Commission Number is: DD0130652



Sep 17 2003 15:41

P.02

GISTRO INC.
A FLORIDA CORPORATION

P.O. BOX 110 131
NAPLES FL 34108

September 15, 2003

Morales Eduardo A. + Carol A.
11760 Red Hibiscus Dr.
Bonita Springs FL 34135

Dear Mr. Morales

Please be advised that your home has been connected to Gistro Inc. sewer collection system without our authorization in violation of Florida Statue 877.09

Please be advised that the law allows us to disconnect your house from the sewer system without prior notice. This notice is being provided to you pursuant to Florida law concerning trespass and unauthorized use of utilities the notice of which shall be a sufficient condition precedent to bringing a lawsuit against you for violation of same.

We urge you to contact an attorney in order to protect your legal rights and avoid a hardship to your family by the disconnecting of your sewer line. Further be advised that your builder was aware that he did not have our consent to tie into the sewer line at the time the building permit was obtained and your home was constructed. Further be advised that your home will be disconnected if this matter is not resolved in the near future.

Should you have any questions or comments, please contact your builder so that a resolution can be obtained in the near future.

Sincerely yours,

Gistro Inc.,

Sep 17 2003 15:41

P.03

ORIGINAL SHEET NO. 10.0

NAME OF COMPANY _____

WASTEWATER TARIFF

(Continued from Sheet No. 9.0)

- 17.0 DELINQUENT BILLS - When it has been determined that a Customer is delinquent in paying any bill, wastewater service may be discontinued after the Company has mailed or presented a written notice to the Customer in accordance with Rule 25-30.320, Florida Administrative Code.
- 18.0 TERMINATION OF SERVICE - When a Customer wishes to terminate service on any premises where wastewater service is supplied by the Company, the Company may require reasonable notice to the Company in accordance with Rule 25-30.325, Florida Administrative Code.
- * 19.0 UNAUTHORIZED CONNECTIONS - WASTEWATER - Any unauthorized connections to the Customer's wastewater service shall be subject to immediate discontinuance without notice, in accordance with Rule 25-30.320, Florida Administrative Code.

F.S. 2001

MISCELLANEOUS CRIMES

Ch. 877

~~X~~ 877.09 Tampering with or damaging sewer systems.—

(1) Whoever willfully or fraudulently, without the consent of any person, firm, or corporation or lessee, trustee, or receiver owning, leasing, operating, or managing any sewer system, shall tap, make or cause to be made any connection with, injure or knowingly to suffer to be injured, tamper or meddle with, plug or in any way hinder, use without authorization, or interfere with any lines, mains, pipes, laterals, collectors, connections, interceptors, manholes, appliances, or appurtenances used for or in connection with any sewer system and belonging to such person, firm, or corporation or lessee, trustee, or receiver, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) The existence of any tap, connection to, unauthorized use of, or interference with any line, main, pipe, lateral, collector, connection, interceptor, or other appliance or appurtenance used for or in connection with any sewer system and belonging to any person, firm, or corporation or lessee, trustee, or receiver owning, leasing, operating, or managing any sewer system shall be prima facie evidence of intent to violate this law by the person receiving the direct benefit from such tap, connection, or interference.

History—s. 1, 2, ch. 82-222; s. 1134, ch. 71-124

877.10 Real property; dual contracts prohibited.—

(1) It is unlawful for any person to knowingly make, issue, deliver, or receive dual contracts for the purchase or sale of real property. Dual contracts, either