

**MVP PROPERTIES, L.L.C.'s
RESPONSE TO ONE GAS, INC.
d/b/a TEXAS GAS SERVICE
CO.'s PRESENTATION
REGARDING JUNE 2, 2015
AGENDA ITEM NO. 49738(7.B)**

CAUSE NO. C-7554-14-C

**MVP PROPERTIES, LLC §
PLAINTIFF**

VS.

**ONE GAS, INC. D/B/A §
TEXAS GAS SERVICE CO. §
DEFENDANT §**

IN THE DISTRICT COURT

§

§ 139TH JUDICIAL DISTRICT

§

§

HIDALGO COUNTY, TEXAS

**EXCLUSIVE JURISDICTION
PREFERENTIAL JURY TRIAL
JUNE 22, 2015**

MVP PROPERTIES, LLC is a TEXAS Corporation, with its principal office in HIDALGO COUNTY and its members are both Hidalgo County residents.

ONE GAS, INC. is a foreign corporation from OKLAHOMA doing business as Texas Gas Service Co., by selling gas to Hidalgo County residents and businesses for a profit.

Neither Hidalgo County or MVP Properties owe a duty to a trespasser, including One Gas, Inc.

In general, an owner or occupier of land has no duty of care has no duty of care or liability to a trespasser, except for the duty to except for the duty to refrain from injuring them willfully, wantonly, them willfully, wantonly, or through gross negligence, Tex. Civ. negligence, Tex. Civ. Prac. & Rem Code 75.007(b)
75.007(b)

ABANDONMENT REQUEST FOR UNOPEN ROAD

MVP PROPERTIES, LLC

December 14, 2011

VIA HAND DELIVERY

Commissioner Joseph Palacios
Hidalgo County, Pct. 4
1051 N. Doolittle Rd.
Edinburg, Texas 78542

Re: Request for Abandonment of Right-Of-Way

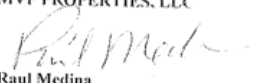
Dear Mr. Palacios:

Pursuant to Local Government Code Sec 263.054 (Relinquishment of Abandoned Land) MVP Properties, LLC is requesting Hidalgo County relinquish the 30' County Right-Of-Way dedicated in 1909. (see Exhibit 1.2 & 3) We feel we have met all elements required by statute as we are the successors in interest, have farmed property for over forty years, and the county has not used it for its intended purpose. This Right-Of-Way runs in between Lots 1-4 and Lots 6-10 of Block 58 of Citrus Fruit Development Company Subdivision as recorded in Vol. 8, Pages 428-431, Deed Records of Hidalgo County, Texas and remains an unopen county road. This Right-Of-Way runs directly into the Edinburg Landfill, and we own all property surrounding it. Approximately ¼ mile to the north of this Right-Of-Way is Encitos Road, an open county road, and about 800 feet to the south, we have dedicated a public utility easement to the City of Edinburg.

If you have any questions, please call me at my office or directly on my cell phone at (956) 802-9926 and I will be pleased to address them.

Respectfully,

MVP PROPERTIES, LLC


Raul Medina
President

RM/sag
Enclosures: as stated

MESQUITE PLAZA • 3101 N. JACKSON • MCALLEN, TEXAS 78501
(956) 994-9933 TEL • (956) 994-9939 FAX

ABANDONMENT REQUEST FOR UNOPEN ROAD

MVP PROPERTIES, LLC

December 14, 2011

Commissioner Joseph Palacios
Hidalgo County, Pct. 4
1051 N. Doolittle Rd.
Edinburg, Texas 78542

Re: Request for Abandonment of Right-Of-Way

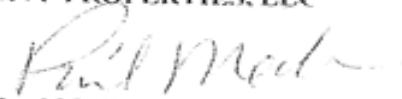
Dear Mr. Palacios:

Pursuant to Local Government Code Sec 263.054 (Relinquishment of Abandoned Land) MVP Properties, LLC is requesting Hidalgo County relinquish the 30' County Right-Of-Way dedicated in 1909. (see Exhibit 1.2 & 3) We feel we have met all elements required by statute as we are the successors in interest, have farmed property for over forty years, and the county has not used it for its intended purpose. This Right-Of-Way runs in between Lots 1-4 and Lots 6-10 of Block 58 of Citrus Fruit Development Company Subdivision as recorded in Vol. 8, Pages 428-431, Deed Records of Hidalgo County, Texas and remains an unopen county road. This Right-Of-Way runs directly into the Edinburg Landfill, and we own all property surrounding it. Approximately ¼ mile to the north of this Right-Of-Way is Encitos Road, an open county road, and about 800 feet to the south, we have dedicated a public utility easement to the City of Edinburg.

If you have any questions, please call me at my office or directly on my cell phone at (956) 802-9926 and I will be pleased to address them.

Respectfully,

MVP PROPERTIES, LLC


Raul Medina
President

MVP Properties, LLC fully complied with Texas Transportation Code 251 requirements of:

Obtaining title report and survey of the right of way, at the suggestion of Hidalgo County Attorney Stephen Crain.

MVP Prop

transportation

Obtaining
sugges

ay, at the
Crain.

Raul Medina

From: benny [benito.rodriguez@co.hidalgo.tx.us]
Sent: Wednesday, December 21, 2011 3:23 PM
To: Raul Medina
Cc: Comm. Palacios; Marcos Lopez; roberto.villarreal@co.hidalgo.tx.us
Subject: FW: Scanned from Comm Pct 4 Xerox
Attachments: Scanned from Comm Pct 4 Xerox001.pdf

-----Original Message-----

From: hccp4@co.hidalgo.tx.us [mailto:hccp4@co.hidalgo.tx.us]
Sent: Wednesday, December 21, 2011 2:33 PM
To: benito.rodriguez@co.hidalgo.tx.us
Subject: Scanned from Comm Pct 4 Xerox

Request Abandonment of Right of Way (Un-Open County Rd.)

Good Afternoon, Mr. Medina

Mr. Crain review the paperwork submitted for the above-mentioned. He did not have a problem with the request, however recommended to use the Transportation Code Chapter 251. It requires to obtain a title report and a survey of the right of way to be abandoned and a deed to be submitted for the conveyance.

Should you need additional information, please feel free to call.

Thanks, Benito

Off. (956) 383-3112
Fax. (956) 381-5905
Cell (956) 588-5582

MVP Propert

Transportation

Obtaining

ay, at the

Raul Medina

From: benny [benito.rodriguez@co.hidalgo.tx.us]
Sent: Wednesday, December 21, 2011 3:23 PM
To: Raul Medina
Cc: Comm. Palacios; Marcos Lopez; roberto.villarreal@co.hidalgo.tx.us
Subject: FW: Scanned from Comm Pct 4 Xerox
Attachments: Scanned from Comm Pct 4 Xerox001.pdf

-----Original Message-----

From: hccp4@co.hidalgo.tx.us [mailto:hccp4@co.hidalgo.tx.us]
Sent: Wednesday, December 21, 2011 2:33 PM

Good Afternoon, Mr. Medina

Mr. Crain review the paperwork submitted for the above-mentioned. He did not have a problem with the request, however recommended to use the Transportation Code Chapter 251. It requires to obtain a title report and a survey Of the right of way to be abandoned and a deed to be submitted for the conveyance.

Should you need additional information, please feel free to call.

Thanks, Benito

ORDER CLOSING, ABANDONING AND VACATING

STATE OF TEXAS

COUNTY OF HIDALGO

ORDER CLOSING, ABANDONING AND VACATING TRACT I, 0.57 ACRES, AND TRACT II, 0.91 ACRES, OF ROADWAY BEING OUT OF LOTS 6, 7, 8, 9, & 10, BLOCK 49, LOTS 1, 2, 3, 4, & 5, BLOCK 58, AND LOTS 4 & 5, BLOCK 57, CITRUS FRUIT DEVELOPMENT COMPANY SUBDIVISION, HIDALGO COUNTY, TEXAS

WHEREAS, the Commissioners Court of Hidalgo County, on the 24th day of January, 2012, at a duly called and noticed meeting of the Hidalgo County Commissioners Court at which a quorum was present came to be heard facts and information concerning abandoning, closing and vacating an unopened county road being Tract I, 0.57 acres, and Tract II, 0.91 acres of land (the "Road") more particularly described by meets and bounds as attached hereto as Exhibit "A" and made part hereof.

WHEREAS, the Commissioners Court has determined it has no purpose or use for the Road; that such Road is unopened and is not currently in use; that there is no foreseeable need or use in the future for the Road;

WHEREAS, the Commissioners Court has examined factual evidence and is not opposed to Hidalgo County abandoning, closing and vacating the Road;

NOW THEREFORE, BE IT ORDERED, ADJUDGED AND DECREED that the Commissioners Court of Hidalgo County based on the facts presented, does hereby unanimously agree to abandon, close and vacate the Road as described in Exhibit "A".

BE IT FURTHER ORDERED that, in accordance with Texas Transportation Code Section 251.058 (b), title to the portion of the public road that is closed, abandoned, and vacated to the center line of the road vests on the date this Order is signed by the County Judge in the owners of the property that abut the portion of the road being closed, abandoned and vacated. A copy of this Order shall be filed in the deed records of Hidalgo County and serves as the official instrument of conveyance from Hidalgo County to the owner of the abutting property.

WHEREUPON, Commissioner Joseph Palacios moved for the adoption of said Order, said Motion being seconded by Commissioner Joel Quintanilla and duly adopted by all members of the court present voting "aye".

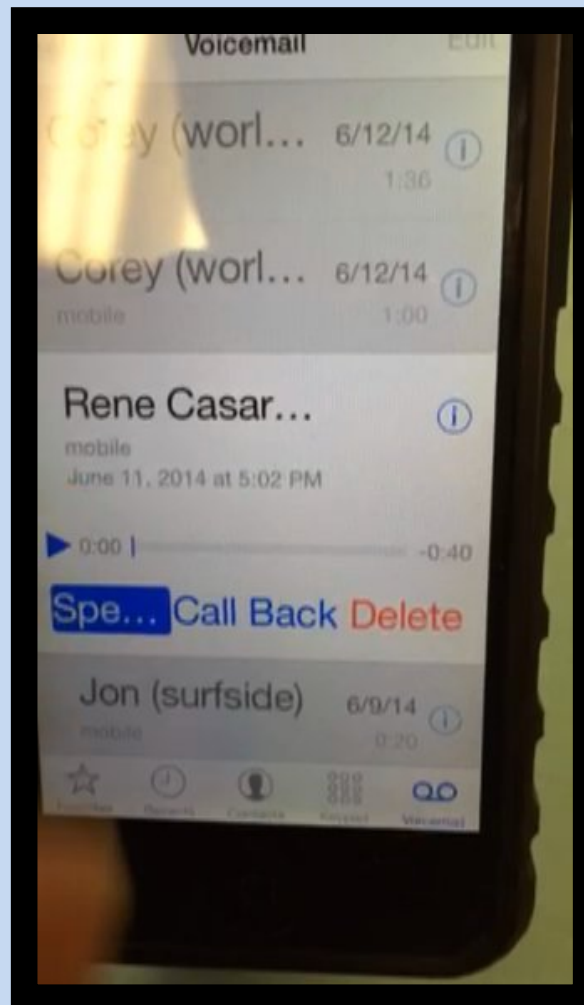
ATTEST 

Arturo Guajardo, Jr., County Clerk


Ramon Garcia, County Judge

APPROVED BY
COMMISSIONERS' COURT
ON: 1/24/12

One Gas, Inc. went back on their word



June 12, 2014 - Email

Raul Medina

From: Casares, Rene C. [Rene.Casares@onegas.com]
Sent: Thursday, June 12, 2014 7:41 AM
To: Raul Medina
Cc: De Alba, Jose A.
Subject: MVP Properties - Texas Gas Service
Attachments: Option #1 - MVP Properties.pdf; Option #2 - MVP Properties.pdf

Raul,

Attached are the two Options we have discussed internally with our Operations and Management groups to resolve the property issue on US281.

Option #1 is to leave the line in place and purchase a minimum 30 foot strip easement from MVP Properties. This is our preferred course of resolution and the fastest in our opinion. The easement would be centered on the pipeline and extend for the length of the property (approximately 2700 feet). It would include the valve near US281; which can be enclosed with a barrier and/or wooden fence, whichever you prefer. Assessing a value to these large strip easements is not easy, normal right-of-way purchase involves an independent appraiser setting a per square foot value of the easement; however, we don't think this will place much value on the land since it is agricultural. Instead, we would like for MVP Properties to present a sale price for TGS to purchase this easement. This will probably be the easiest way to make sure both parties agree on a price.

Option #2 is to re-route the existing pipeline around the southern half of the property. This is approximately a mile of relocation and would still require an easement to install the new pipeline. A long relocation like this would be very costly for TGS and requires several months of survey, design, material requisitions, construction and testing. This would need to be planned for a 2015 budgeted project.

Please review these options and let me know when you have time to discuss a course of action so we can get started right away.

Thank you again for your time and patience.

Best regards,

Rene C. Casares, P.E.
Engineering Supervisor
Phone: 956-444-3967 | Cell: 956-357-2331
E-mail: Rene.Casares@txgas.com



5602 E. Grimes Road | Harlingen, Texas 78550
www.texasgasservice.com



June 12, 2014 - Email

Raul,

Attached are the two Options we have discussed internally with our Operations and Management groups to resolve the property issue on US281.

Option #1 is to leave the line in place and purchase a minimum 30 foot strip easement from MVP Properties. This is our preferred course of resolution and the fastest in our opinion. The easement would be centered on the pipeline and extend for the length of the property (approximately 2700 feet). It would include the valve near US281; which can be enclosed with a barrier and/or wooden fence, whichever you prefer. Assessing a value to these large strip easements is not easy, normal right-of-way purchase involves an independent appraiser setting a per square foot value of the easement; however, we don't think this will place much value on the land since it is agricultural. Instead, we would like for MVP Properties to present a sale price for TGS to purchase this easement. This will probably be the easiest way to make sure both parties agree on a price.

Option #2 is to re-route the existing pipeline around the southern half of the property. This is approximately a mile of relocation and would still require an easement to install the new pipeline. A long relocation like this would be very costly for TGS and requires several months of survey, design, material requisitions, construction and testing. This would need to be planned for a 2015 budgeted project.

Please review these options and let me know when you have time to discuss a course of action so we can get started right away.

Thank you again for your time and patience.

Best regards,

Rene C. Casares, P.E.
Engineering Supervisor
Phone: 956-444-3967 | Cell: 956-357-2331
E-mail: Rene.Casares@txgas.com

CAUSE NO. C-7554-14-C

MVP PROPERTIES, LLC
PLAINTIFF

§
§

IN THE DISTRICT COURT

VS.

§
§

139TH JUDICIAL DISTRICT

ONE GAS, INC. D/B/A
TEXAS GAS SERVICE CO. §
DEFENDANT

§
§

HIDALGO COUNTY, TEXAS

EVIDENTIARY HEARING
JANUARY 8, 2015

CAUSE NO. C-7554-14-C

MVP PROPERTIES, LLC § IN THE DISTRICT COURT
 §
VS. § 139TH JUDICIAL DISTRICT
 §
ONE Gas Inc. D/B/A §
TEXAS GAS SERVICE CO. § HIDALGO COUNTY, TEXAS

ORDER GRANTING TEMPORARY INJUNCTION

BE IT REMEMBERED that on the 8th day of January, 2015, came on to be heard the Application for Temporary Injunction filed by the Plaintiff herein. The Plaintiff and the Defendant both put on evidence prior to resting their respective cases. After considering the evidence and hearing the argument of counsel, the court makes the following findings:

1. The Plaintiff is the sole owner of BLOCK 49, LOTS 6, 7, 8, 9, & 10 and BLOCK 58, LOTS 1, 2, 3, 4 & 5 of CITRUS FRUIT DEVELOPMENT COMPANY SUBDIVISION, Edinburg, Texas, as recorded in Volume 6, Pages 428-43, in the deed records of Hidalgo County, Texas.
2. After reviewing the testimony, the court finds that the allegations in the Plaintiff's Second Amended Petition are true.
3. Defendant holds no easement of record or consent for its gas pipeline on Plaintiff's property.
4. Plaintiff was bonafide purchaser of the property described above without notice of Defendant's gas pipeline at the time it purchased the property on June 28, 2010.
5. Hidalgo County abandoned its interest in Plaintiff's property on January 24, 2012.
6. Defendant's gas pipeline presents an extreme necessity and hardship to the Plaintiff as it is attempting to develop the property. Defendant's gas pipeline disturbs possession of and use and enjoyment of Plaintiff's property.
7. There is no easement on the property in favor of the City of Edinburg.
8. Defendant has not acquired an easement by prescription on the property.
9. Defendant is ordered to remove gas pipeline by October 15, 2015.

10. Defendant is ordered to cease and desist from further trespassing onto Plaintiff's property.

This order will be effective upon the Plaintiff posting a bond in the amount of \$100,000.00 with the Hidalgo County District Clerk.

The case is set for preferential trial on the merits on the 22nd day June, 2015 at 9:00 a .m., before the 139th Judicial District Court, Edinburg, Hidalgo County, Texas.

SIGNED AND ENTERED on this the 20th date of January, 2015.



JUDGE PRESIDING

cc: Raul Medina, LAW OFFICE OF RAUL MEDINA, P.C., 3101 N. Jackson Rd., McAllen, Texas 78501-
email: raul@raulmedinalaw.com.

Millard A. Johnson, JOHNSON DELUCA KURISKY & GOULD, A Professional Corporation, 4 Houston Center,
1221 Lamar, Suite 1000, Houston, Texas 77010 - email: mjohnson@jdkglaw.com

CAUSE NO. C-7554-14-C

MVP PROPERTIES, LLC	§	IN THE DISTRICT COURT
VS.	§	139TH JUDICIAL DISTRICT
ONE Gas Inc. D/B/A	§	
TEXAS GAS SERVICE CO.	§	HIDALGO COUNTY, TEXAS

ORDER GRANTING TEMPORARY INJUNCTION

BE IT REMEMBERED that on the 8th day of January, 2015, came on to be heard the Application for Temporary Injunction filed by the Plaintiff herein. The Plaintiff and the

3. Defendant holds no easement of record or consent for its gas pipeline on Plaintiff's property.

6. Defendant's gas pipeline presents an extreme necessity and hardship to the Plaintiff as it is attempting to develop the property. Defendant's gas pipeline disturbs possession of and use and enjoyment of Plaintiff's property.
7. There is no easement on the property in favor of the City of Edinburg.
8. Defendant has not acquired an easement by prescription on the property.
9. Defendant is ordered to remove gas pipeline by October 15, 2015.

Dissatisfied with Judge Flores' ruling

**One Gas files a Writ of Mandamus to
13th Court of Appeals**



NUMBER 13-15-00209-CV
COURT OF APPEALS
THIRTEENTH DISTRICT OF TEXAS
CORPUS CHRISTI - EDINBURG

IN RE ONE GAS, INC. D/B/A TEXAS GAS SERVICE CO.

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

Before Chief Justice Valdez and Justices Rodriguez and Longoria
Memorandum Opinion Per Curiam¹

Relator, One Gas, Inc. d/b/a/ Texas Gas Service Co., filed a petition for writ of mandamus and an emergency motion to stay in the above cause on April 29, 2015. Through this original proceeding, relator seeks to vacate an order granting a temporary injunction which requires relator to, inter alia, remove a gas pipeline from realty before October 15, 2015.

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court committed a clear abuse of discretion for which the relator has no adequate remedy at law. *In re Frank Motor Co.*, 361 S.W.3d 628, 630 (Tex. 2012) (orig. proceeding); *In re Olshan Found. Repair Co., LLC*, 328 S.W.3d 883, 887 (Tex. 2010) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992) (orig. proceeding). The relator has the burden of establishing both prerequisites to mandamus relief. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding). This burden is a heavy one. *Id.*; *Canadian Helicopters Ltd. v. Wittig*, 876 S.W.2d 304, 305 (Tex. 1994) (orig. proceeding).

A trial court abuses its discretion if it reaches a decision so arbitrary and unreasonable that it amounts to a clear and prejudicial error of law or if it clearly fails to correctly analyze or apply the law. *In re Olshan Found. Repair Co., LLC*, 328 S.W.3d at 888; *Walker*, 827 S.W.2d at 840. The second requirement for mandamus relief, that the relator has no adequate remedy by appeal, "has no comprehensive definition" and is decided on a case-by-case basis. *See In re Ford Motor Co.*, 165 S.W.3d 315, 317 (Tex. 2005) (orig. proceeding) (citing *In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 136).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by the real party in interest, MVP Properties, LLC, relator's reply, and the applicable law, is of the opinion that relator has not met its burden to obtain mandamus relief. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36. Accordingly, we LIFT the stay previously imposed by this Court and we DENY the petition for writ of mandamus.



NUMBER 13-15-00209-CV
 COURT OF APPEALS
 THIRTEENTH DISTRICT OF TEXAS
 CORPUS CHRISTI - EDINBURG

IN RE ONE GAS, INC. D/B/A TEXAS GAS SERVICE CO.

On Petition for Writ of Mandamus.

MEMORANDUM OPINION

Before Chief Justice Valdez and Justices Rodriguez and Longoria
 Memorandum Opinion Per Curiam¹

Relator, One Gas, Inc. d/b/a/ Texas Gas Service Co., filed a petition for writ of mandamus and an emergency motion to stay in the above cause on April 29, 2015. Through this original proceeding, relator seeks to vacate an order granting a temporary injunction which requires relator to, inter alia, remove a gas pipeline from realty before October 15, 2015.

¹ See TEX. R. APP. P. 52.8(d) ("When denying relief, the court may hand down an opinion but is not required to do so."); TEX. R. APP. P. 47.4 (distinguishing opinions and memorandum opinions).

To be entitled to the extraordinary relief of a writ of mandamus, the relator must show that the trial court committed a clear abuse of discretion for which the relator has no adequate remedy at law. *In re Frank Motor Co.*, 361 S.W.3d 628, 630 (Tex. 2012) (orig. proceeding); *In re Olshan Found. Repair Co., LLC*, 328 S.W.3d 883, 887 (Tex. 2010) (orig. proceeding); *In re Prudential Ins. Co. of Am.*, 148 S.W.3d 124, 135–36 (Tex. 2004) (orig. proceeding); *Walker v. Packer*, 827 S.W.2d 833, 839 (Tex. 1992) (orig. proceeding). The relator has the burden of establishing both prerequisites to mandamus relief. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding). This burden is also borne by the relator in the case of a writ of mandamus. *In re CSX Corp.*, 124 S.W.3d 149, 151 (Tex. 2003) (orig. proceeding).

The Court, having examined and fully considered the petition for writ of mandamus, the response filed by the real party in interest, MVP Properties, LLC, relator's reply, and the applicable law, is of the opinion that relator has not met its burden to obtain mandamus relief. *See In re Prudential Ins. Co. of Am.*, 148 S.W.3d at 135–36. Accordingly, we LIFT the stay previously imposed by this Court and we DENY the petition for writ of mandamus.