

June 23, 2021

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BOARD OF PUBLIC UTILITIES  
TRENTON, NJ

**VIA E-MAIL AND FEDERAL EXPRESS**

State of New Jersey  
Board of Public Utilities  
Office of the Secretary  
44 South Clinton Avenue  
3<sup>th</sup> Floor, Suite 314  
Trenton, NJ 08625-0350  
Attn: Hon. Aida Camacho-Welch, Secretary of  
the Board  
Aida.Camacho@BPU.nj.gov

**Re: IN THE MATTER OF PETITION OF 68-72 FRANKLIN PLACE, LLC  
AND THE VILLAGE COURTYARD CONDOMINIUM ASSOCIATION  
BPU Docket No. WO20110723  
Letter Filing NJAW Answer**

Dear Secretary Camacho-Welch:

This firm represents New Jersey-American Water Company, Inc. ("NJAW") in the above-referenced matter. Enclosed please find an original and three (3) copies of NJAW's Answer to the Petition. Kindly find the Answer and return a stamped-filed copy to the undersigned in the prepaid envelope provided for your convenience.

We thank you for your attention to this matter.

Respectfully submitted,  
ARCHER & GREINER  
A Professional Corporation

BY: /s/ Josiah Contarino  
Josiah Contarino

JC:ev  
Enclosures  
221438835v1

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New Jersey-American Water Company, Inc.

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TRENTON, NJ

**IN THE MATTER OF THE PETITION  
OF 68-72 FRANKLIN PLACE, LLC AND  
THE VILLAGE COURTYARD  
CONDOMINIUM ASSOCIATION**

**STATE OF NEW JERSEY  
BOARD OF PUBLIC UTILITIES  
BPU Docket No. WO20110723**

**ANSWER TO PETITION**

New Jersey-American Water Company, Inc. (“NJAW”), having its general offices at 1 Water Street, Camden, New Jersey 08102, a public utility of the State of New Jersey, subject to the jurisdiction of the New Jersey Board of Public Utilities (“BPU”), files this Answer to the Petition of Petitioners 68-72 Franklin Place, LLC and The Village Courtyard Condominium Association (“Petitioners”) in the above referenced matter, and states:

**RELEVANT PARTIES**

1. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.
2. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.
3. Denied as stated. NJAW admits only that it is a regulated public utility with its principal office at 1 Water Street, Camden, NJ 08102.

## FACTUAL BACKGROUND

4. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

5. Denied as stated. The Petition speaks for itself. To the extent the averments in this paragraph are intended to suggest or imply any liability on the part of NJAW, they are expressly denied.

6. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

7. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

8. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

9. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

10. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

11. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs. By way of further response, to the extent the allegations in this paragraph refer to written documents, the contents of which speak for themselves, no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

12. Denied as stated. NJAW admits that a 4-inch water main was inadequate for the development project. By way of further response, a 4-inch water main cannot be used as a tap for fire hydrants.

13. Denied as stated. NJAW admits that it worked with the Developer on a main extension for a development project that resulted in the execution of an Extension Deposit Agreement.

14. Denied as stated. While NJAW admits that it worked with the Developer on a main extension for a development project that resulted in the execution of an Extension Deposit Agreement, NJAW specifically denies Developer's use of the term "induced" to characterize the parties' work on the main extension.

15. Denied as stated. The Petition speaks for itself. To the extent the averments in this paragraph are intended to suggest or imply any liability on the part of NJAW, they are expressly denied. By way of further response, while an 8-inch meter was installed as part of the main extension, NJAW denies the Developer's characterization of such meter as an "Industrial Meter."

16. Denied as stated. NJAW admits that an 8-inch meter was installed, but denies that an 8-inch meter is defined as an "industrial meter."

17. Denied as stated.

18. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

19. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

20. Denied as stated.

21. Denied as stated. By way of further response, to the extent the allegations in this paragraph refer to written documents, the contents of which speak for themselves, no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

22. Denied.

23. Denied.

24. Denied.

25. Denied that Petitioners are entitled to the relief request in this paragraph.

#### **FACTUAL BACKGROUND**

26. Admitted.

27. Admitted that NJAW advised there existed a 4-inch water main; as for the timing of this, NJAW leaves Petitioners to their proofs.

28. Admitted that a 4-inch water main was inadequate. By way of further response, a 4-inch water main cannot be used as a tap for fire hydrants.

29. Denied as stated.

#### **The Original Application**

30. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

31. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

32. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

33. Denied as stated. By way further response, NJAW bids to approved contractors.

34. Denied.

35. Denied.

36. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

37. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

38. Denied as stated.

39. Admitted that these parties met in or around 2015.

40. Admitted that a discussion occurred regarding whether the condominium would have a sprinkler system.

41. Denied.

42. Denied as stated.

43. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

44. Denied as stated.

45. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

**The Revised Application**

46. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

47. Denied as stated. By way of further response, in January 2016 NJAW provided Petitioner with an “Extension Deposit Agreement” that Petitioner failed to sign as of April 2017, at which point the agreement had expired.

48. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

49. Denied as stated.

50. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

51. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

52. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

53. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

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56. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

57. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

58. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

59. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

60. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

61. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

62. Denied as stated. By way of further response, NJAW admits that an 8-inch meter was installed, but denies that an 8-inch meter is defined as an "industrial meter."

63. Denied as stated.

64. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.



65. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

66. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

67. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

68. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

69. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

70. Denied.

71. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

72. Denied as stated. By way of further response, NJAW bids to approved contractors and calculates the cost of a project based thereon. It is not a “negotiation.”

73. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

74. Denied as stated.

75. Denied as stated.

76. Denied as stated. By way of further response, NJAW admits that an 8-inch meter was installed, but denies that an 8-inch meter is defined as an “industrial meter.”

77. NJAW is without knowledge or information sufficient to form a belief as to the truth of this allegation and, therefore, denies same and leaves Petitioners to their proofs.

78. Denied as stated.

79. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

80. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

81. The allegations in this paragraph refer to written documents, the contents of which speak for themselves and therefore no response is required. To the extent the allegations paraphrase or mischaracterize the contents of the documents, said allegations are denied.

82. Denied as stated. By way of further response, NJAW admits that an 8-inch meter was installed, but denies that an 8-inch meter is defined as an “industrial meter.”

83. Denied.

**RELIEF REQUESTED**

84. Denied.

85. Denied.

86. Denied.

87. Denied.

88. Denied.

**WHEREFORE**, Respondent respectfully requests that the relief sought in the Petition be denied and the Petition dismissed in its entirety.

**AFFIRMATIVE DEFENSES**

1. The Petition fails to state a claim upon which relief can be granted.
2. NJAW has provided utility services in conformance with its tariffs, New Jersey statutes, and the regulations of the New Jersey Board of Public Utilities.
3. Accord and satisfaction.
4. The utility services supplied to Petitioners were supplied and billed in accordance with the terms and conditions and rate schedules set for in NJAW's Tariff for utility services filed with and approved by the New Jersey Board of Public Utilities.
5. Petitioners' claims are barred, either wholly or in part, under the doctrines of waiver, estoppel and/or laches.
6. Petitioners' claims are barred, or alternatively, any amount it is awarded must be reduced, because of Petitioners' failure to mitigate damages.
7. Any damages Petitioners may have suffered were the result of the actions, or inactions, of third parties over whom NJAW exercised no authority or control and for whose conduct NJAW should not be held responsible.
8. Any damages Petitioners may have suffered were caused, or contributed to, by Petitioners, and its members, and any amount Petitioners are awarded must be reduced in an amount equal to the percentage of responsibility allocable to Petitioners and its members.
9. NJAW did not violate any duty owed to Petitioners.

10. Any and all actions taken by NJAW with respect to the matters alleged in the Petition were taken in good faith and in accordance with established industry practice.

11. NJAW did not omit or miscommunicate any material fact.

12. All service to the development were mandated by the City of Summit fire officials as consistent with RSIS standards.

13. NJAW reserves the right to amend and/or supplement the foregoing affirmative defenses at any time.

**WHEREFORE**, Respondent respectfully requests that the relief sought in the Petition be denied and the Petition dismissed in its entirety.

**ARCHER & GREINER, P.C.**  
Attorneys for Respondent

By: /s/ Josiah Contarino  
Thomas J. Herten  
Josiah Contarino

Dated: June 23, 2021

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