Fees/Sewer Improvement Districts: Arkansas Court of Appeals Addresses Unjust Enrichment Claim



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The Arkansas Court of Appeals in an October 23 Opinion addressed an issue arising out of the operation and funding of a sewer improvement district sanitary sewer system. *See Layman Lane, LLC. v. Suburban Sewer Improvement District #239 of Pulaski County*, 2024 Ark. App. 509 (2024).

The question involved an unjust enrichment claim.

Suburban Sewer Improvement District #239 of Pulaski County ("SSID") was established in February 1977 to build a sewer system for the Spring Valley Manor Subdivision in Pulaski County. The imposition of environmental regulations and maintenance needs required SSID to upgrade existing lines. This included construction of a new trunk line to serve the entire watershed. This was only financially feasible if connection fees could be collected from future tie-ins.

Capitol Lakes Sewer Property Owners' Improvement District ("Capitol Lakes") was planning a subdivision adjacent to SSID and agreed to share the construction costs of the new trunk line. According to an extension agreement between the parties, ownership of the newly installed line was retained by "SSID, its assigns, or the City of Little Rock as applicable." Capitol Lakes was granted the right to connect any lines constructed within the SSID. This agreement, executed in May 2000, bound the parties along with their successors and assigns.

SSID entered into two separate sewer-line extension agreements in 2000 and 2007. The agreements were executed with the Wilson Family and Rocket Properties, LLC. The agreements allowed both parties to connect to the trunk line constructed by SSID and Capitol Lakes in exchange for a $250,000 connection fee.

Neither required either property to become part of the district. Further, Rocket Properties was granted the right to connect approximately one hundred acres of adjacent land for $2,000 per lot. This was contingent on the connections being used for single-family residential purposes or associated uses. Both the Wilson family and Rocket Properties further agreed to assign the right to any tie-in or connection fees to SSID.

SSID transferred the entirety of its system to Little Rock Wastewater (i.e., Little Rock Water Reclamation Authority ["LRWRA"]) upon completion of the projects. The May 2010 transfer was "subject to the District's lawful rights to continue levying and collecting assessments and sewer line connection fees to retire the District's bond indebtedness and otherwise."

SSID no longer actively maintained or operated the sewer lines following the transfer. However, it still collected annual assessments from Capitol Lakes.

Layman Lane negotiated in late 2017 with SSID to connect its new development, (Copper Run), to SSID's sewer line. However, negotiations were halted when there was knowledge that SSID no longer owned or maintained the line. In June 2018, LRWRA's legal counsel emailed Layman Lane and SSID's counsel, recognizing SSID's right to collect connection fees while also acknowledging the following contractual obligation:

"4. Before a developer or SSID may tie into a LRWRA-owned line, that developer or SSID must comply with a process that is akin to LRWRA's "Developer-funded" process which is managed by LRWRA's Engineering Program Supervisor, Vince Hotho. I believe that you are familiar with that process. Once a developer has met the requirements of that process, including providing the required documentation, LRWRA will issue a letter to the developer accepting the lines and authorizing the connection to LRWRA system. Assuming that the requirements of that process are met for the Copper Run project, LRWRA will accept those lines and authorize that connection."

Layman Lane requested to connect Copper Run to LRWRA's sewer system. LRWRA in September 2018 approved the request to install a line extension, outlining the following conditions:

"12. Applicant agrees to obtain all necessary permits and approvals from all other governing agencies including any applicable improvement District prior to the start of construction. APPLICANT SHOULD MAKE AN INDEPENDENT DETERMINATION of the existence, status or amount of any fees which may be due to third parties (such as improvement Districts) which may be owed to the third party in addition to those fees due to LRWRA for sewer lines and or sewer facilities installation proposed by applicant. LRWRA and the Little Rock Water Reclamation Authority have no such information of amounts due third parties, if any, and assume no responsibility for furnishing such information to Applicant and expressly disclaim any such duty or liability of any nature whatsoever arising out of Applicant's failure to make that determination."

Phase 1 of the Copper Run subdivision sewer system was completed and transferred to LRWRA on February 22, 2019. Layman Lane connected to LRWRA's system without paying a connection fee to SSID. On January 22, 2020, SSID's attorney notified Layman Lane of a failure to pay the required connection fee. The attorney cited an agreement that SSID could collect such fees even after transferring its system to LRWRA. The letter stated that Layman Lane was responsible for paying these fees as per a prior agreement and a September 27, 2018, letter from LRWRA. SSID specified the connection fee at $1,750 per residential lot.

Two other phases of the Copper Run sewer system were thereafter completed and transferred to LRWRA without payment of a connection fee.

On April 20, 2020, SSID sued Layman Lane for unjust enrichment. It claimed that Layman Lane benefited from SSID's sewer infrastructure without paying a required connection fee. SSID argued that Layman Lane was informed prior to construction that fees would be due, with the value of the benefit estimated at $1,750 per residential unit, totaling $306,250. Layman Lane denied the claim and raised several affirmative defenses, including failure to name a necessary party.

The lower court concluded that SSID had the authority to charge connection fees under Arkansas law and had validly reserved those rights when transferring its sewer lines to LRWRA. The lower court held that it provided Layman Lane with a valuable sewer connection for the Copper Run subdivision. In addition, it found that Layman Lane was aware of the obligation to pay the connection fee. Because Layman Lane received this benefit without paying, the lower court held that Layman Lane was unjustly enriched.

Layman Lane was also held to have failed to prove its affirmative defense of failure to name a necessary party. It awarded SSID $306,250, plus $61.58 per day in post judgment interest.

Layman Lane presented the following arguments on appeal:

1. SSID provided no benefit supporting its claim of unjust enrichment;
2. SSID lacked the requisite statutory authority to demand a connection fee for a system it did not own nor maintain a "reasonable expectation of payment" in;
3. SSID had an express contract and statutory rights providing full recover under its bill-of-sale reservation;
4. SSID maintain no right to negotiation connection fees on property it no longer owned;
5. SSID's evidence of damages was based on testimony that was "competent, speculative, not comparable in character, and not based on actual restitution; and
6. SSID's failure to join the Little Rock Water Reclamation Authority exposes it to the potential of double liability.

The Court of Appeals focused on the unjust enrichment theory. It reversed the lower court's ruling. The decision was deemed erroneous because SSID had transferred its sewer system to LRWRA. SSID only retained the right to charge a connection fee. This was held not to grant it authority to provide services or benefits to Layman Lane.

Layman Lane was therefore held to have not received a benefit from SSID. This was due to it connecting to LRWRA's system as opposed to SSID's. SSID's claim that it should be compensated for past improvements was held to be based on self-interest, the claim itself was delayed, and further, equitable principles did not support SSID's position. Therefore, Layman Lane was not deemed unjustly enriched by its use of the sewer system.

A copy of the Opinion can be downloaded here.