

**THE MAJESTIC CONDOMINIUM UNIT OWNERS ASSOCIATION**  
1324 EUCLID STREET, NORTHWEST • WASHINGTON, DISTRICT OF COLUMBIA 20009

December 29, 2009

To: All Majestic Condominium Owners  
Re: 2010 Annual Meeting

**Please plan on attending the Association's annual meeting on Thursday, January 28, 2010, at 8:00pm in our building's main lobby.** Your input on two important matters is required:

Association Finances: The Board has adopted a provisional 2010 budget, which will be presented in detail at the meeting; it complies with the common element replacement obligations outlined in the building's engineering study and the Federal Housing Authority's capital reserve funding requirements. However, it does not account for approximately \$21,000 in adjusted billings from the DC Water & Sewer Authority (WASA), from which the Board has unsuccessfully, to date, sought relief. At the meeting the Board will solicit your ideas and seek volunteers to lead this ongoing relief effort so that a special assessment and/or increases to the Association's monthly dues can reasonably be avoided. Copies of the Association's 2009 and 2010 budgets, along with WASA's recent arbitration decision are enclosed for your review.

Board Election: The Association's by-laws authorize five homeowners to serve on the Association's Board for a period of three years after being duly elected by the Association. Kerri Stelcen was appointed to Board in 2009 after Diane Brown resigned, and Kerri is standing for election for a full three-year term at the annual meeting. Flagg Youngblood, having been duly elected by the Association in 2007, is standing for re-election at the annual meeting. If you wish to volunteer for Board service, please notify Brian Wrenn, Board Vice President, via telephone or email no later than Tuesday, January 26, 2010, so he may include your name on the ballot.

Additionally, the Board will provide an update on the Association's warranty claims against the building's developer and review other Association business during the annual meeting.

If you are unable to attend the annual meeting, please complete the enclosed proxy statement and submit it as indicated on the proxy form.

From your fellow homeowners, who voluntarily serve as the Association's Board, thank you for your cooperation and assistance.

Joe Carroll,  
Tony Hawkins,  
Kerri Steclen,  
Brian Wrenn, and  
Flagg Youngblood





**BEFORE THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY  
DEPARTMENT OF CUSTOMER SERVICES**

In Re: Majestic Condominiums  
1324 Euclid Street, NW  
Account No. 173711-3

Before R. Bradley Runyan, Hearing Officer  
October 14, 2009 at 11:00 a.m.

**BACKGROUND**

The customer contested a water and sewer bill, dated January 23, 2009, for the above-referenced account. After an investigation, the DC Water and Sewer Authority (WASA) denied the protest. The Majestic Condominium Association then requested an administrative hearing. At the hearing on October 14, 2009, Ms. Eileen Wright, and Ms. Mary Larris was present to represent WASA. Ms. Mary Peacock, Esq., and Mr. Flagg Youngblood were present as the customer.

The service address is a 38 unit condominium (multi-family) building that was formed in 2004 and was renovated at this time. The water bill is paid by the association as a common element to all units. The contested bill was for a part of the water use from June 25, 2007 to January 20, 2009, the date the meter was read. It was the customers understanding that throughout this period they had been paying bills that were for actual use. Since 2007 they have paid their bills in full and on time. The customer was not satisfied with the communication from WASA in a letter dated June 12, 2009, as to the reason for the adjusted bill. Counsel for Majestic commented that since the meter was working per WASA's June 12<sup>th</sup> letter, and since the customer had paid their bills, that the adjustment must be in error. Mr. Flagg added that they paid the bills in good faith and could not understand how WASA could go back and claim more was owed after the fact. (Testimony of Ms. Peacock and Mr. Flagg; Customer's Documents presented at the hearing).

The position of WASA is that the contested bill is valid. Historically the building had several service calls since the renovation around 2004. The meter had been installed in 2005, yet until June 29, 2007 there was no movement on the meter which did not register any use. In June, 2007, the meter was tested and passed the test as a functioning meter. However, the meter's bypass valve was open from 2005 until June 29, 2007, which allowed the customer to use water, but did not register actual use of the water. The bypass valve was turned off at this time. The customer, prior to the period in dispute, had received estimated bills. During the period of dispute the customer had received estimated bills through August of 2008. The customer's meter was not replaced, however, the meter transmission unit was not functioning. This is a device that is attached to the meter, and which is supposed to transmit, by satellite transmission, the meter readings to WASA on a daily basis. In August, 2008, a technician was sent to test

the meter. He also took a reading directly from the meter. The meter was not changed or repaired. Since July 2007, the MTU has been sending the meter readings forward. Even though the MTU was functioning the customer continued to get estimated bills until the bill in dispute. The meter has two registers; A and B. A is currently working and B is not registering. WASA went back and used the actual read from June 2007 until January 20, 2009 to determine the actual use of water and adjusted the bill in January 2009. The customer did not receive a bill from August 2008 until the disputed bill in January. Ms. Larris worked on this accounting to give credit for the estimated bills paid against the actual usage billed. It is WASA's policy that on multifamily and commercial properties the bills can be adjusted from the beginning of the problem in which estimated bills were given. (Testimony of Ms. Larris; Testimony of Ms. Wright; DC WASA production files).

Mr. Flagg and Ms. Peacock was quite insistent in their testimony that the Condominium could not be responsible for the bypass valve nor the MTU and that they had inquired why there was no bill from August 2008 until January 2009. The customer challenged who had the responsibility for the equipment. WASA clarified that WASA is responsible for the meter but not the piping to the meter which would involve the bypass valve. When questioned how the customer could know to have their plumber or engineer inspect the equipment if there did not appear to be a problem, WASA stated that if the customer receives an estimated bill, they have the right to request an actual reading. The customer could not recollect ever having a professional inspect the meter and the piping connected thereto. WASA in July 2006 contacted Chatel management company for the customer to inform them that the bills would be estimated until the meter was reading correctly (repaired or replaced). (Testimony of the parties; WASA production files)

#### FINDINGS OF FACT

1. The property connected with this account is a 38 unit condominium building 1324 Euclid Street, NW that has been owned and occupied by association for all times relevant to this protest and appeal (Testimony of Mr. Flagg).
2. The bill subject to the appeal is dated January 23, 2009 and covers the water use from June 25, 2007 to January 20, 2009 (Testimony of the parties).
3. The customer had received estimated bills from June 25, 2007 to the protested bill. (Testimony of the parties).
4. Although the customer was sent a paper bill each month that showed that the bills were estimated, they apparently did not examine these bills, and therefore did not realize they were getting estimated bills, until after receipt of the large bill that is protested (Testimony of the parties).
5. When an meter inspection was conducted by a WASA technician in August, 2009, he found the MTU not working and replaced the unit. An actual reading was taken

at the same time. (WASA production files; Daily Meter Readings record; testimony of Ms. Larris).

6. The customer believed that the bills were actual for the entire period and paid those bills.(Testimony of Mr. Flagg).
7. There is no evidence of anything wrong with the meter, other than the failure to register water on Register B. (Usage information for account; testimony of the parties).

#### CONCLUSIONS OF LAW

1. The burden of proof is on the customer to show, by a preponderance of evidence, that the decision of WASA is incorrect (21 DCMR 420.7 and 420.8).
2. The administrative hearing provided by WASA's regulations during which a customer may protest a water and sewer bill is a contested case hearing to determine the legal rights, duties or privileges of specific parties; it is not a rulemaking proceeding (34 DC Code 2305; 2 DC Code 502(8); Citizens Assn. of Georgetown, Inc. v. Washington, 291 A.2d 699 (1972)).
3. This is a reasonable interpretation of WASA's regulations and not "plainly erroneous or inconsistent with the regulations" and therefore will be upheld (21 DCMR 406; *Teamsters Local Union 1714 v PERB*, 579 A 2d 706).
4. In this case, the customer has failed to carry the burden of proof, as the preponderance of the evidence shows that the meter was tested and was working properly at the time of the bill and that the meter readings used for the bill are correct; therefore the contested bill is accurate (Findings of Fact No.1 through 7; 21 DCMR 420.7 and 420.8).

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1324 EUCLID STREET, NORTHWEST • WASHINGTON, DISTRICT OF COLUMBIA 20009

2010 Annual Meeting Proxy

I/We hereby certify that I/we am/are the owner(s) of unit # \_\_\_\_\_ in The Majestic Condominium, an Association (hereinafter known as “the Majestic”), and that I/we do hereby appoint and constitute:

\_\_\_\_\_, owner of unit # \_\_\_\_\_ in the Majestic,

as my/our attorney, for and in my/our name, to vote as my/our proxy and to represent me/us at the annual meeting of the Majestic to be held at 1324 Euclid Street Northwest, Washington, D.C. 20009, on Thursday, January 28, 2010, at 8pm, and for and on my/our behalf, to vote on any matter which may come before the Association’s annual meeting or any adjournment thereof according to the number of votes that I/we would be entitled to vote if I/we was/were personally present.

This proxy shall be void if I/we personally attend the annual meeting; it may be revoked in writing at any time, and shall expire on the adjournment of the annual meeting.

In witness whereof, I/we have executed this proxy on (date) \_\_\_\_\_.

\_\_\_\_\_ your signature(s)

\_\_\_\_\_

\_\_\_\_\_ witness

Deliver to: Chatel Real Estate (hard copy)  
Attention: Sergio – Meeting Proxy  
1929 18th Street Northwest  
Washington, D.C. 20009

or: (202) 462-4980 (fax)  
Attention: Sergio – Meeting Proxy

or: majestic-board@yahoogroups.com (as a PDF)

**Note: completed proxy forms must be received by noon on January 28, 2010.**