

BEFORE THE  
STATE OF FLORIDA  
PUBLIC SERVICE COMMISSION

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**ORIGINAL  
FILE COPY**

Docket No. 91-0056-PU

IN RE:

Complaint of Consumer John Falk )  
regarding resale of electricity and )  
gas by H. Geller Management Company )  

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**DIRECT TESTIMONY OF  
CARL G. PARKER**

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ERVIN, VARN, JACOBS, ODOM & ERVIN TALLAHASSEE, FLORIDA

PSC-RECORDS/REPORTING

1 Q: Please state your name and address.  
2 A: My name is Carl G. Parker. My business  
3 address is 405 Pasadena Avenue South, St.  
4 Petersburg, Florida 33743.  
5  
6 Q: What is your profession?  
7 A: I am an attorney. I have practiced law in  
8 Pinellas County for over 40 years.  
9  
10 Q: Does your practice include the field of  
11 condominium law?  
12 A: Yes. I have concentrated my practice over the  
13 years in the fields of real property,  
14 development and condominium law. Over the  
15 years, I have formed for my clients over 500  
16 condominium projects.  
17  
18 Q: What particular work is involved in  
19 establishing a condominium?  
20 A: I often assist my clients in the acquisition  
21 of the real property involved through a  
22 typical real estate closing. Once the client  
23 decides to develop the property as a  
24 condominium, the necessary documents must be  
25 prepared to legally create the condominium and

1           the condominium association.           Since  
2           approximately 1975 the Florida Condominium Act  
3           has required developers of condominiums to  
4           make extensive filings for the project with  
5           the Division of Florida Land Sales and  
6           Condominiums.   Those documents include the  
7           declaration of condominium, articles of  
8           incorporation, detailed descriptions,  
9           summaries and diagrams of the physical  
10          improvements included in the project, and  
11          contracts and other documents to be furnished  
12          to purchasers.

13

14        Q:   Are the condominium documents required to  
15           include an estimated budget of the  
16           association's expenses?

17        A:   Yes.  In a condominium project the purchasers  
18           of units become members of the homeowners'  
19           association.  The estimated budget is included  
20           in the documents to show the purchasers the  
21           likely amount of maintenance fees or dues they  
22           will pay as members of the association.  Of  
23           course, in the ordinary condominium project  
24           all expenses of the association are passed  
25           through to its members, so the estimated

1 budget is important to disclose to purchasers  
2 what they can expect as their proportionate  
3 share of the association's expenses.

4

5 Q: Are you familiar with Mr. Herm Geller?

6 A: Yes. I performed various legal services for  
7 his corporation, Herm Geller Enterprises, Inc.  
8 in connection with the Terrace Park - Five  
9 Towns condominium project.

10

11 Q: Did you have any involvement with the  
12 estimated budgets included in the filings made  
13 by Herm Geller Enterprises, Inc. with the  
14 Division of Florida Land Sales and  
15 Condominiums?

16 A: Yes. I drafted many of the condominium  
17 documents for some of the earlier buildings in  
18 the project. By 1979 and/or 1980 the basic  
19 format had been established and my involvement  
20 gradually decreased. Most of the buildings  
21 were handled in the same way as the earlier  
22 buildings.

23

24 Q: Were you involved with preparation and filing  
25 of the estimated budget for the Jefferson

1 Building?

2 A: I did not actually prepare the budgets for any  
3 of the buildings. I do recall that we had a  
4 great deal of difficulty in fitting the  
5 estimated budget required by the Division to  
6 the Terrace Park - Five Towns project because  
7 of the unique concept of the essentially fixed  
8 maintenance fee. This project did not fit the  
9 usual mold for a condominium because the long  
10 term management contract removed from the  
11 residents and their homeowner's association  
12 responsibility for the ordinary operating  
13 expenses of a condominium. A condominium  
14 association typically has certain operating  
15 expenses, divides that number by the number of  
16 unit owners, and collects the necessary  
17 maintenance fee or dues from the members. If  
18 expenses go up for salaries, insurance,  
19 electricity, or any expenses, the association  
20 passes through those expense directly to i'  
21 members. The estimated budget affords the  
22 prospective purchasers an opportunity to see  
23 what level of expenses and maintenance fees or  
24 dues he or she will have to pay each month.

1           In the Terrace Park - Five Towns setting,  
2           however, the management contract removes the  
3           association and its members - residents from  
4           direct involvement in the operating expenses.  
5           The residents pay their stated monthly fee,  
6           plus any fixed annual increase - an average of  
7           \$3.00 per year - plus any fixed dollar amount  
8           increases permitted under Article VI(a) - (d),  
9           of the contract relating to increases in rates  
10          for insurance, electricity and other items.  
11          The management contract explaining the  
12          maintenance fee structure was already a part  
13          of the prospectus, so any information about  
14          maintenance fees in the estimated budget was  
15          duplicative.

16  
17          Q: Did you have any direct discussions with staff  
18          of the Division of Land Sales and Condominiums  
19          at the time of the Jefferson Building  
20          concerning the estimated budget?

21          A: Yes. At Mr. Geller's request, I telephoned  
22          the Division on one or more occasions. I  
23          explained to the staff members the unique  
24          nature of the Terrace Park - Five Towns  
25          project and the difficulty in applying the

1 usual budget format to these circumstances.  
2 The Division staff told me that some form of  
3 estimated budget must be included in the  
4 prospectus in addition to the contract itself,  
5 and that a budget would at least show the  
6 types of expenses that would be covered by the  
7 maintenance fee being paid by the residents.  
8 The staff told that any errors or mistakes in  
9 the numbers used in the budget were not  
10 important, as long as the total of expenses  
11 shown was equal to the maintenance fees being  
12 paid by the residents.

13

14 Q: What did you then do?

15 A: I informed Mr. Geller of the above information  
16 and advised him to prepare some form of budget  
17 requested by the Division. From that point  
18 forward, I had no further involvement with the  
19 project.

20

21

22 Q: Does that conclude your testimony?

23 A: Yes.