

ILEGAL PRACTICES BY THE STATE WATER COMMISSION FOR TIJUANA, INCLUDING IT'S FEES FOR WATER CONSUMPTION

By Romelio Hernandez

It is without a doubt of great recognition, the fact that our Baja California's State Government has improved in many ways the services that by law, is responsible of providing to the community. It appears that due to the democratic process that has been taking place in the country lately, new administrations are striving and being able to provide more efficient, high-quality and human services to its people on a daily basis. However, it is our duty and we should be careful enough to point out any flaws within the Government that lessens its good and improved image, either by a badly provided service or an arbitrary treatment to its people.

One of the services that has seen improvement so far, is the one provided by the State Water Commission for the city of Tijuana (hereinafter referred as Commission or Water Company), which supplies a vast region within the State of Baja California. Unfortunately, as a public entity that the Commission represents, we have notice that on many occasions it's power and authority is used with total disregard to State rules that govern such Agency. It seems sometimes as if it's main and only purpose would be the revenue process and related duties, more often forgetting about working efficiently, and truly servicing the community.

As we all know, usable or drinking water distribution and sewage discharge are two important obligated tasks to be performed by the Government for its people. State Law has delegated such duties to the decentralized institutions known as the State Water Commissions for each City within the State of Baja California. Such Water Commissions we should point out, are truly Government Agencies as they have full authority and powers to issue binding resolutions (water consumption receipts), legally enforceable by the State Revenue Department and through a very costly procedure.

As a Government Agency, the Commission is then obligated to provide drinking water to its habitants and take proper action towards sewage discharge. Most

importantly, the Water Company is not allowed under any circumstance to withhold from providing such services, unless it's beneficiaries do not comply with proper payment of fees for water consumption. Such rule however, does not apply to residential areas or housing developments who's residents are always entitled to such services regardless of payment status, for healthy reasons provided under the Federal Health Act. Nevertheless, it appears as if such rule is generally unknown including by the same Water Company, who immediately proceeds to discontinue water supply at the least delay in payment, with total disregard of health standards provided under federal law.

Important enough, fees for water consumption should be carefully fixed by the Commission, and related receipts should then reflect a true and accurate statement for water usage. Since receipts from the Water Commission are truly binding resolutions that can be legally enforceable by the State' Revenue Department and through a costly administrative process, with harsh consequences including seizure of land and other assets, it is mandatory that the Water Company complies with a detailed procedure established under State Law, to fix and come up with the amounts to be charge for said water usage.

Only following strict procedure rules under State Law for fixing water usage fees, is a receipt from the Commission to be considered accurate, expressing a true consumption, and most importantly, legal. We have found that on most occasions, the Water Company has issued receipts for water consumption with total disregard of proper procedure under State rules. On this matter, the State Administrative Court for the City of Tijuana, has ruled several times according to our petitions, recognizing an illegal practice by the Commission when fixing fees for water usage. On these situations, the Court has waived all fees for water consumption ordering the Water Company to re-establish it's service when suspended to the plaintiff.

If the Commission has wrongfully discontinue water supply for non payment of receipts that are considered inaccurate or show unjustified charges, we encourage you to get legal advise and carefully examine if said quotas have been legally fixed according to procedure rules under State Law.

There are even some occasions when the Commission will threaten to close household and business facilities' water drains, and will even follow through, in order to intimidate someone to pay the required water fees. You should be very careful with this type of situations since State and Federal Law do not allow the Commission or any other entity under any circumstances to close water drains or perform any kind of activity that stops sewage discharge.