September 25, 2024

To: Ivins City Council
From: Padre Lakes Homeowners
Re: Refund request for water bill overcharge -Padre Lakes

We wish to applaud Ivins city in winning the 2023 Water Conservation Award. Padre Lakes has been a vigorous supporter of the city in their effort to reduce water usage. With the support of the city, our community contribuited to that accomplishment by saving 20,620,000 gallons of water between 2020 and 2023. We greatly appreciate the support and direction that we have received from the city of Ivins in our conservation efforts.

While reviewing the reduction in water use, we noted a discrepancy in the rate being charged on one of the meters. That rate discrepancy was reviewed with Charles Gillette in May of this year. It was determined that an unintentional error had been made and Padre Lakes was overcharged for approximately 5 years. We received an offer from Charles for a partial refund. The offer was for a refund of only one years overcharge.

While we respect the initial partial offer, we believe we should rightfully receive a full refund of what the city overcharged us. This would be the only solution that fully reflects this wonderful city's mission and integrity.

After our request for a full refund, the city attorney stated that the law, only allowed for a refund of up to 1 year. He offered reasoning based on Utah Code, 63G-7-402.

Please note that the title on 63G-7-402 is "Time for filing notice of a claim" we respectfully assert that it does not address a limit on the period covered in the claim, but merely the period in which a claim may be filed once the aggrieved party becomes aware of the act or omission that the claim is for.

Code section 63G-7-401 "When a claim arises" states in (1) b "The statute of limitations does not begin to run untill a claimant knew, or with the exercise of reasonable diligence should have known that the claimant had a claim…)

Reading the law, we do not see a restriction of repayment of an overcharge to 1 year period but a 1-year limit to file a claim. We became aware of the overcharge when it was confirmed by Charles Gillette in the late spring of this year. Thus, our claim was made timely. It seems only just and ethical to refund the full overcharge to the Ivins citizens that have paid for this unintended error.

Thank you,
Padre Lakes Homeowners

PS: Code sections 63G-7-401 and 63G-7-402 are attached in full for your review.