

Gas deals' fine print can be costly
By Mike Lee

Linked Objects:



Source: *Fort Worth Star-Telegram*
Credit: *Star-Telegram staff writer*
Saturday, August 25, 2007
Edition: Tarrant, Section: Work
and Money, Page C1
[Printer friendly](#) [Email this story](#)

CORRECTION: Colonial National Bank has signed legal releases, called subordination agreements, for homeowners leasing mineral rights to natural gas companies. But it has not yet signed any for customers leasing to Chesapeake Energy in the Oakhurst neighborhood. The bank's practice is mischaracterized in this article. (8/28/07)

* Some homeowners who signed leases with energy companies must also get a subordination agreement with a mortgage company — for a fee, of course.

FORT WORTH — More than a year ago, homeowners in Oakhurst, a middle-class neighborhood northeast of downtown, became some of the first in the city to sign up for natural gas drilling.

The landmen called it "mailbox money." By signing the leases, the property owners would get a royalty check for the life of the gas well.

Now, those homeowners are learning about the fine print in natural gas leases. Before they can cash their royalty checks, they have to get legal releases called subordination agreements from their mortgage companies. And the mortgage companies are asking for fees that amount to several years' worth of royalty payments.

Gas-company officials said the problem may affect every homeowner who has signed a gas lease after reaching a mortgage agreement. That could include thousands of people in Fort Worth.

Joe Walker, who has lived in Oakhurst two years, found out about the paperwork requirement in mid-July when he got a letter from Chesapeake Operating Co. He had about two weeks to get the paperwork processed or have his royalty payments "suspended" by the gas company.

Walker sent the paperwork to his mortgage company, Countrywide Home Loans, and got a letter back asking for a \$500 fee. And, the letter said, even that \$500 didn't guarantee that the company would agree to sign the paperwork.

He eventually negotiated the fee down to \$75, but the bank said in a letter that there's no guarantee that it will approve the agreement. And the third-party investor who has bought Walker's mortgage might impose other requirements, according to the letter.

Walker wondered why residents weren't told about the need for subordination agreements when they signed the leases in 2006.

"Somebody should have been able to figure this out," he said in an interview last week. "That would have given people a year and a half to get this taken care of."

Oakhurst resident Jann Miles got a letter from her mortgage company, Washington Mutual, asking for \$700 in fees, along with a new survey of her property.

At least one bank, Colonial National, has refused to sign the subordination agreements that Chesapeake sent out, although bank officials say they're willing to work with Chesapeake and the homeowners. **SEE CORRECTION**

Enough residents were concerned that they held a neighborhood meeting with an oil and gas lawyer and Chesapeake representatives.

Dale Resources, one of the pioneers in inner-city gas leasing in Fort Worth, handled the original leases in Oakhurst. Company President Larry Dale led VIP tours of the drill site, near the Mercado Juarez restaurant on the west side of Interstate 35W, to show how drilling could be done with minimal impact on the neighborhood, which is east of the highway.

Dale later sold the whole operation to Chesapeake. A spokesman for Dale referred questions to Chesapeake.

Julie Wilson, Chesapeake's vice president for corporate development, said her company wasn't involved in the leasing process.

"It's hard for us to know what they were told or what they weren't," she said. "I don't think there's any misrepresentation on the part of any energy company or anybody signing a minerals lease."

Tim Malone, an oil and gas lawyer who spoke to residents at their meeting last week, said part of the problem is that urban gas drilling is so new.

When a gas company leases mineral rights in a rural area, it might need subordination agreements for only two or three landowners. Chesapeake has about 600 leases with homeowners in Oakhurst.

"The logistics are just much more cumbersome," Malone said.

Wilson, the Chesapeake executive, said dealing with property owners who have mortgages is a relatively new experience for the company. Until recently, most gas exploration was done in rural areas, where land is more likely to be owned outright.

"We do realize now that there needs to be a better job of telling people upfront," she said. "We're changing our language in the leases and telling people that they have a responsibility to make sure they get the subordination."

Alan Hegi, a real estate lawyer who is president of the real estate section for the Tarrant County Bar Association, said it's important for homeowners to know what they're doing when they sign a lease.

"Do your homework," he said. "Oil and gas companies are trying to sign up people for leases but they're not going to hold everybody's hands through the process. [Homeowners] have got to have some ownership responsibility."

Banks typically are cooperative, Hegi said.

"That additional income to the homeowner does mean that the homeowner will have an enhanced ability to pay," he said. "I'd be surprised if lenders were refusing to give permission. I'm not surprised if they're charging a fee; that's what lenders do."

The residents give Chesapeake credit for trying to resolve the situation. Chesapeake agreed to pay residents for up to 90 days, even if they had not processed the paperwork. And the gas company also

offered a simplified version of the paperwork, known as consent of lien holder.

"I'm not mad at Chesapeake, I think that the mortgage companies are trying to make another dollar," Miles said.

Miles' bank, Washington Mutual, did not respond to three requests for comment this week. Nor did officials at Walker's bank, Countrywide.

Officials at Colonial, the bank that has not signed any subordination agreements, said they're looking out for their interests and customers' interests.

But the company uses a different type of subordination agreement, one that gives it the ability to take over the gas lease if a homeowner defaults on a mortgage. Gas companies typically don't want to get into the middle of a foreclosure.

mikelee@star-telegram.com Mike Lee, 817-390-7539