

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by VILLAGES OF PINE ISLAND for exemption from Florida Public Service Commission regulation for a sewer utility in Lee County)	DOCKET NO. 880773-SU
)	ORDER NO. 20774
)	ISSUED: 2-20-89

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman
 THOMAS M. BEARD
 BETTY EASLEY
 JOHN T. HERNDON

ORDER INDICATING EXEMPT STATUS OF
VILLAGES OF PINE ISLAND MASTER PROPERTY OWNERS ASSOCIATION

BY THE COMMISSION:

The Villages of Pine Island is a development currently in the pre-construction phase in Lee County. According to the developer, there are no sewer facilities available to the area planned for development. Therefore, the developer, Cumbria Development Corporation, plans to construct sewage treatment facilities to serve the Villages. In order to begin construction, a permit from the Department of Environmental Regulation (DER) is required. Pursuant to Section 367.031, Florida Statutes, before DER will issue a construction permit, it requires either a certificate authorizing service or proof of exemption from regulation by this Commission.

On June 6, 1988, the Commission received a request from the engineer for the developer that the proposed sewage treatment facility be found exempt from this Commission's regulation. Enclosed was an affidavit, signed by the engineer, and a copy of the Articles of Incorporation for the Villages of Pine Island Master Property Owners Association, Inc. On October 14, 1988, a copy of the revised Articles of Incorporation for said Association was submitted. On October 27, an affidavit signed by the president of the developer corporation was submitted. On November 23, 1988, a copy of proposed Bylaws of the Association was received.

Section 367.022(7), Florida Statutes, provides an exemption from regulation by this Commission for a nonprofit corporation providing service solely to members who own and control such nonprofit corporation.

The revised Articles of Incorporation establish the Villages of Pine Island Master Property Owners Association, Inc., ("Association"), as a nonprofit corporation. The October 19, 1988 affidavit signed by the president of the developer corporation provides that the association will own and control a sewage treatment facility that serves the Villages of Pine Island development and that service will be provided solely to members of the Association. Article IV of the revised Articles of Incorporation provides that all record title owners of the Villages of Pine Island residential development shall be

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members of the Association. Article III of the proposed Bylaws provides that each owner shall have one vote. Thus the control of the Association will pass from the developer when over 50% of the lots are sold.

Based on the above, we find that the Association is exempt from this Commission's regulation under the nonprofit corporation exemption, Section 367.022(7), Florida Statutes. However, this finding of exemption is conditioned on adoption of the proposed Bylaws. Further, in the event of any change in circumstances or method of operation that might affect its exempt status, the Association, or its successor(s) in interest, should inform this Commission within 30 days of such change so that exempt status may be reevaluated.

WHEREFORE, in consideration of the foregoing, it is

ORDERED by the Florida Public Service Commission that the above described sewer service to be provided by Villages of Pine Island Master Property Owners Association, Inc., whose address is 305 Marianna Avenue, North Fort Myers, Florida 33903, is exempt from regulation pursuant to the nonprofit association exemption, Section 367.022(7), Florida Statutes. It is further

ORDERED that the Villages of Pine Island Master Property Owners Association shall adopt the proposed Bylaws previously submitted to this Commission on or before April 20, 1989. It is further

ORDERED that in the event of any change in circumstances or method of operation that might affect its exempt status, the Villages of Pine Island Master Property Owners Association, or its successor(s) in interest, should inform this Commission within 30 days of such change so that exempt status may be reevaluated. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission,
this 20th day of FEBRUARY, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

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