

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by THE WOODLANDS OF)	DOCKET NO. 890480-WS
CAPE CORAL for exemption from FPSC)	ORDER NO. 21152
regulation for water and sewer)	ISSUED: 5-2-89
facilities in Lee County.)	
)	

ORDER INDICATING THE EXEMPT STATUS OF
THE WOODLANDS OF CAPE CORAL

By letter and affidavit received April 10, 1989, and supporting documentation received April 17, 1989, The Woodlands of Cape Coral (The Woodlands) has requested acknowledgement of the exempt status of its water and sewer facilities. The affidavit, letter, and supporting documentation show that: the owner is Mr. Eugene R. Blenkush; The Woodlands provides water and sewer service solely to its tenants; The Woodlands receives its water from the City of Cape Coral; The Woodlands is currently served by a septic tank system, but the Department of Environmental Regulation (DER) now is requiring a sewage treatment plant to be used; The Woodlands proposes to build a sewage treatment plant on its premises; and The Woodlands does not collect any specific charge for water or sewer service from its tenants, as those charges are nonspecifically included in the tenants' monthly rents.

Pursuant to Section 367.031, Florida Statutes (1987), before DER will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or sewer facilities if they qualify for a statutory exemption. The Woodlands requested an exemption under Section 367.022(5), Florida Statutes (1987).

Section 367.022(5), Florida Statutes (1987), exempts from Commission regulation landlords providing water or sewer service to their tenants without specific compensation for the service. Based on the facts as represented, we find that the water and sewer facilities of The Woodlands are exempt from our regulation under the terms of Section 367.022(5), Florida Statutes (1987). However, should there be any change in circumstances or method of operation, the owner of The Woodlands of Cape Coral, or his successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that on the facts represented, the water and sewer facilities for The Woodlands of Cape Coral, located at 825 Santa Barbara Blvd., Cape Coral, Florida 33904, are exempt from Commission regulation by reason of Section 367.022(5), Florida Statutes (1987). It is further

ORDERED that should there be any change in circumstances or method of operation of The Woodlands of Cape Coral water or

DOCUMENT NUMBER-DATE

04373 MAY-2 1989

FPSC-RECORDS/REPORTING

ORDER NO. 21152
DOCKET NO. 890480-WS
PAGE 2

sewer facilities, the present owner or any successor(s) in interest shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florid Public Service Commission,
this 2nd day of MAY, 1989.


STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

DCS

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.59(4), Florida Statutes, to notify parties of any administrative hearing or judicial review of Commission orders that is available under Sections 120.57 or 120.68, Florida Statutes, as well as the procedures and time limits that apply. This notice should not be construed to mean all requests for an administrative hearing or judicial review will be granted or result in the relief sought.

Any party adversely affected by the Commission's final action in this matter may request: 1) reconsideration of the decision by filing a motion for reconsideration with the Director, Division of Records and Reporting within fifteen (15) days of the issuance of this order in the form prescribed by Rule 25-22.060, Florida Administrative Code; or 2) judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or the First District Court of Appeal in the case of a water or sewer utility by filing a notice of appeal with the Director, Division of Records and Reporting and filing a copy of the notice of appeal and the filing fee with the appropriate court. This filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.