

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 940793-WU
From Florida Public Service) ORDER NO. PSC-94-1054-FOF-WU
Commission Regulation For) ISSUED: August 29, 1994
Provision of Water Service in)
Citrus County by Crossland)
Realty, Inc.)
_____)

ORDER INDICATING NONJURISDICTIONAL STATUS
OF CROSSLAND REALTY, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On July 26, 1994, Best Bar B Que filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.022(6), Florida Statutes. Best Bar B Que, located at 1701 Gulf to Lake Highway, Lecanto, Florida, provides water service to itself and a mobile home located adjacent to the property. Ms. Terri Hartman, Vice President of Crossland Realty, Inc. (owner of the system) and primary contact person, filed the application on behalf of Best Bar B Que.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. From a review of the application filed by Best Bar B Que, it was determined that Best Bar B Que does not qualify for exemption pursuant to Section 367.022(6), Florida Statutes. It does, however, qualify for exemption pursuant to Section 367.021(12), Florida Statutes.

Subsequent to that filing, we determined that Best Bar B Que is no longer in operation and the building is vacant. Crossland Realty, Inc. (Crossland), the owners of the system and the building, is currently trying to sell or lease the property. At the direction of the Commission Staff, Crossland refiled the application on August 22, 1994, requesting recognition of its exempt status pursuant to Section 367.021(12), Florida Statutes.

Section 367.021(12), Florida Statutes, states that a "utility means a water or wastewater utility and except as provided in Section 367.022, includes every person, lessee, trustee, or

DOCUMENT NUMBER-DATE
08868 AUG 29 1994
FPSC-RECORDS/REPORTING

receiver owning, operating, managing or controlling a system, or proposing construction of a system, who is providing or proposes to provide water or wastewater service to the public for compensation."

According to Crossland's application, water service is provided only to the building located at 1701 Gulf to Lake Highway and an adjacent mobile home, there is no charge for providing the service, and all costs of providing service are treated or recovered as operational expenses. Wastewater service is provided by septic tank.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Ms. Hartman acknowledged that she is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that Crossland Realty, Inc. is not a utility pursuant to the provisions of Section 367.021(12), Florida Statutes. Accordingly, Crossland Realty, Inc. is not subject to this Commission's jurisdiction. However, should there be any change in circumstances or method of operation, the owner of Crossland or any successors in interest, must inform the Commission within 30 days of such change so that its nonjurisdictional status may be reevaluated.

It is, therefore,

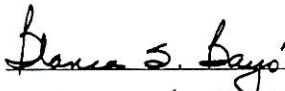
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Crossland Realty, Inc., 587 East Gulf to Lake Highway, Lecanto, Florida 34461, is not a water utility subject to this Commission's jurisdiction, pursuant to the provisions of Section 367.021(12), Florida Statutes. It is further

ORDERED that Crossland Realty, Inc., is exempt from this Commission's jurisdiction only for the system located at 1701 Gulf to Lake Highway, Lecanto, Florida 34461. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Crossland Realty, Inc., or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate the system's nonjurisdictional status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 29th
day of August, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.