

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 950604-WU
from Florida Public Service) ORDER NO. PSC-95-0898-FOF-WU
Commission regulation for) ISSUED: July 26, 1995
provision of water service in)
Sumter County by Sumter Square)
Owners Association, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
SUMTER SQUARE OWNERS ASSOCIATION, INC., AND CLOSING DOCKET

BY THE COMMISSION:

On May 30, 1995, Sumter Square Owners Association, Inc., (Sumter Square) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Sumter Square is located at Section 1, Township 18S, Range 23E, U.S. Highway 27/441, Sumter County, Leesburg, Florida. Mr. Ronald D. Brown, the president and the primary contact person, filed the application on behalf of Sumter Square.

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. The application was filed in accordance with Section 367.022(7), Florida Statutes.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; that it is providing service solely to the members who own and control it; whether it is providing water service, wastewater service, or both; who is doing its billing; and where its service territory is located. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

In its application, Sumter Square states that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes; that it is providing service solely to its members who

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own and control it; and that it is providing water service for which it is doing its own billing. The service area is located at the Sumter Square Professional Park, Section 1, Township 18S, Range 23E, U.S. Highway 27/441, Sumter County, Leesburg, Florida. Mr. Brown has provided a copy of his recorded warranty deed, thereby establishing proof of his ownership of the facilities and continued use of the land where the facilities are located. Mr. Brown has also provided an affidavit and a Declaration of Covenants stating that he will transfer ownership of the facilities and land to the Association, prior to completion of the construction of the well and water treatment facility. Further, Sumter Square's Articles of Incorporation states that any owner of a lot shall also be a member of the Association entitled to one vote per lot and, once 95% of the lots has been sold, or five years from the date of the Association's incorporation, whichever occurs first, control of the Association will pass to the nondeveloper members.

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, Sumter Square acknowledged that it is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Sumter Square is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluate its exempt status.

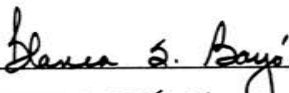
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sumter Square Owners Association, Inc., P.O. Box 491030, Leesburg, Florida 34749-1030, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, a representative of Sumter Square Owners Association, Inc., shall inform the Commission within thirty days of such change so that its exempt status may be reevaluated. It is further

ORDERED that Docket No. 950604-WU is hereby closed.

By ORDER of the Florida Public Service Commission, this 26th
day of July, 1995.



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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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.