

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 950727-WS
from Florida Public Service) ORDER NO. PSC-95-1384-FOF-WS
Commission regulation for) ISSUED: November 7, 1995
provision of water and)
wastewater service in Pinellas)
County by Placido Bayou)
Community Association, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
PLACIDO BAYOU COMMUNITY ASSOCIATION,
INC. AND CLOSING DOCKET

BY THE COMMISSION:

On June 26, 1995, Placido Bayou Community Association, Inc. (Placido or Association) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Placido is located at 4691 Laurel Oak Lane, NE, St. Petersburg, Florida 33703. Mr. Warren Papin, vice president and primary contact person, filed the application on behalf of Placido.

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 provides service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. 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, Placido stated that it is a nonprofit corporation; that it will provide service solely to its members who own and control it; and that it will provide water and wastewater service for which it will provide its own billing. The service

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area is specified as Placido Bayou, a private development in northeast St. Petersburg. The Association provided a warranty deed granting it the use of the land upon which the facilities are located. Also included with the application were the Articles of Incorporation as filed with the Secretary of State and the Bylaws, which documents clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership. Additionally, the utility provided documentation that control of the Association was transferred from the developer to the members as of October 6, 1995.

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, Mr. Papin acknowledged that he 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 Placido 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 Placido's exempt status.

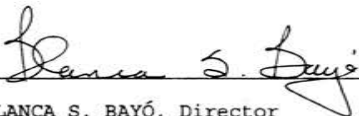
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Placido Bayou Community Association, Inc., 4691 Laurel Oak Lane, NE, St. Petersburg, Florida 33703, 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 of or method of operation, a representative of Placido Bayou Community Association shall inform the Commission within thirty days of such change so that its exempt status may be reevaluated. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 7th day of November, 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.