

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 951235-WS
of County Commissioners of) ORDER NO. PSC-96-0990-FOF-WS
Manatee County Declaring Manatee) ISSUED: August 5, 1996
County Subject to the Provisions)
of Chapter 367, Florida Statutes)
- Request For Exemption From)
Florida Public Service)
Commission Regulation For)
Provision of Water Service by)
Marshalls' Braden River Mobile)
Home Park, Inc.)
_____)

ORDER INDICATING EXEMPT STATUS
OF MARSHALLS' BRADEN RIVER MOBILE HOME PARK, INC.

BY THE COMMISSION:

On December 12, 1995, Marshalls Landing filed an application with this Commission for recognition of its nonjurisdictional status, pursuant to Section 367.021(12), Florida Statutes. Marshalls Landing is located at 5524 53rd Avenue East, Oneco, Florida. Mr. Steven K. Marshall, President and primary contact person, filed the application on behalf of Marshalls Landing.

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 367.021(12), Florida Statutes, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code.

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 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."

Upon review of the application it was determined that the correct name of the entity is Marshalls' Braden River Mobile Home

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Park, Inc. (Marshalls'). In addition, Marshalls' qualifies for exemption pursuant to Sections 367.022(4) and (5), Florida Statutes, instead of 367.021(12), Florida Statutes. Section 367.022(4), Florida Statutes, states that public lodging establishments providing service solely in connection with service to their guests are exempt from Commission regulation. Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service.

On May 24, 1996, Mr. Marshall refiled the application seeking recognition of Marshalls' exemption from Commission regulation pursuant to Sections 367.022(4) and (5), Florida Statutes. According to the application, Marshalls' provides water service only to the tenants and guests of the mobile home park located at 5524 53rd Avenue East, Oneco, Florida. Also, the water service is included as a nonspecific portion of the rent. Wastewater service is provided by septic tank.

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. Marshall acknowledged that he 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 Marshalls' is exempt from our regulation pursuant to Sections 367.022(4) and (5), Florida Statutes. However, the owner of Marshalls' or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Marshalls' Braden River Mobile Home Park, Inc., Post Office Box 518, Oneco, Florida 34264, is exempt from Commission regulation, pursuant to the provisions of Sections 367.022(4) and (5), Florida Statutes. It is further

ORDERED that this Docket shall remain open to process additional applications.

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By ORDER of the Florida Public Service Commission, this 5th
day of August, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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.