

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

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| In re: Request for Exemption by )    | DOCKET NO. 890175-SU |
| INTERSTATE PARK 78 PROPERTY OWNERS ) | ORDER NO. 21381      |
| ASSOCIATION, INC. in Lee County )    | ISSUED: 6-15-89      |

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER INDICATING EXEMPT STATUS

BY THE COMMISSION:

Interstate Park 78 Property Owners Association, Inc., ("Association"), is a nonprofit corporation made up of record owners of lots located within a development known as Interstate Park 78. The Developer plans to construct a sewage treatment plant to serve Interstate Park 78. According to the developer, the sewage treatment facilities and land will be owned by the Association before any of the Interstate Park 78 lots are sold.

On February 2, 1989, this Commission received a request that the proposed sewage service to Interstate Park 78 be found exempt from this Commission's regulation. Attached to the request were a January 31, 1989 affidavit signed by the trustee of the Association and a copy of the Association's Articles of Incorporation, declaration of covenants, easements and restrictions. On May 3, 1989, this Commission received a copy of an Amendment to the Articles of Incorporation, a Resolution amending the Association By-Laws, an April 28, 1989 affidavit signed by the President of the Association, and the Association's Charter.

Section 367.022(7), Florida Statutes provides an exemption from regulation by this Commission for nonprofit associations that serve only members who own and control the association.

The Articles of Incorporation establish Interstate Park 78 Property Owners Association, Inc. as a nonprofit association. The Amendment to the Articles of Incorporation provides that the sewer system will be owned and operated by members of the Association. The affidavits provide that sewer service will be provided solely to Association members. Article III of the Articles of Incorporation provide that each Interstate 78 lot owner is a member of the Association. Article VII provides that each member is entitled to one vote. Accordingly, control of the Association will pass from the developer when over 50% of the lots are sold. The attorney for the Association has stated that title to the land to house the sewage treatment facilities will be transferred to the Association before any lots are sold.

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For the above reasons, we find that the Association is exempt from this Commission's regulation under the terms of Section 367.022(7), Florida Statutes. However, in the event of a change in circumstances or method of operation that may affect its exempt status, the Association, or its successor(s) in interest, should be ordered to inform this Commission within 30 days of that change so that exempt status may be reevaluated.

WHEREFORE, in consideration of the foregoing, it is,

ORDERED by the Florida Public Service Commission that the Interstate Park 78 Property Owners Association, is exempt from regulation by this Commission pursuant to Section 367.022(7), F.S. It is further

ORDERED that in the event of a change in circumstances or method of operation that may affect its exempt status, the Association, or its successor(s) in interest, shall inform this Commission within 30 days of that change so that its exempt status may be reevaluated. It is further

ORDERED that Docket No. 890175-SU is hereby closed.

By ORDER of the Florida Public Service Commission  
this 15th day of JUNE, 1989.

  
STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.

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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.