

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 921313-WU
from Florida Public Service) ORDER NO. PSC-93-0835-FOF-WU
Commission Regulation for) ISSUED: June 3, 1993
Provision of Water Service in)
St. Lucie County by BILTMORE NO)
NAME PLAZA)
_____)

ORDER INDICATING EXEMPT STATUS OF BILTMORE NO NAME PLAZA
AND CLOSING DOCKET

BY THE COMMISSION:

On December 24, 1992, Biltmore No Name Plaza #1 (applicant) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.021(12), Florida Statutes. However, a staff review of the application showed that the applicant received compensation for providing water service. Therefore, the applicant was notified on March 31, 1993, that it did not qualify as a non-jurisdictional entity under Section 367.021(12), Florida Statutes.

Subsequently, on April 7, 1993, Biltmore No Name Plaza (Biltmore) filed an application for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Biltmore No Name Plaza is the same entity as Biltmore No Name Plaza #1. Biltmore is a complex of rental warehouses located at 1677-1693 S. W. Biltmore Street, Port St. Lucie, Florida 34981, receiving water service from a single well. Mr. Jerry Kreiser, the contact person, who is both President of Kreiser Investment, Inc. and the owner of the system, filed the application on behalf of Biltmore. Mr. Kreiser's mailing address is 3604 Wilderness Dr. E., Ft. Pierce, Florida 34982.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater facilities if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed under Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code.

Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants without specific compensation for the service. The application indicates that Biltmore provides water service only to its tenants, the service territory is the site

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location, and the service is included as a nonspecific portion of the monthly rent. Wastewater service is provided by a septic tank.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Jerry Kreiser 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 Biltmore is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. Should there be any change, however, in circumstances or method of operation, the owner of Biltmore or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

Based upon the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Biltmore No Name Plaza, c/o Mr. Jerry Kreiser,

3604 Wilderness Dr. E., Fort Pierce, Florida 34982, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Biltmore or any successor in interest, shall inform this Commission within 30 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 3rd day of June, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

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by: Kay Flynn

Chief, Bureau of Records

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.