

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930700-WS
From Florida Public Service) ORDER NO. PSC-93-1462-FOF-WS
Commission Regulation For) ISSUED: October 7, 1993
Provision of Water and)
Wastewater Service in Palm Beach)
County by The Vinings at Town)
Place Apartments.)
_____)

ORDER INDICATING EXEMPT STATUS
OF THE VININGS AT TOWN PLACE APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On August 15, 1993, The Vinings At Town Place Apartments (Vinings) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The Vinings is an apartment complex located at 21409 Town Lakes Drive, Boca Raton, Florida. The Vinings is owned by Town Colony II Associates. Mr. Brad D. Bryant, Vice President of Town Colony, filed the application on behalf of Vinings. The primary contact person is Ms. Ann Cohen, Agent for Town Colony II Associates.

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(8), Florida Statutes, and Rules 25-30.060(2) and (3)(h), Florida Administrative Code.

Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation. According to the application, Vinings purchases water and wastewater service from the City of Boca Raton. In turn, Vinings provides service at a charge that does not exceed the actual purchase price; Vinings is aware of the requirements of Rule 25-30.111, Florida Administrative Code; Vinings provides water and wastewater service; and the service area is limited to the apartment complex.

RECORDED & INDEXED

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According to the application, the City of Boca Raton's rates and charges are as follows:

Water
(Bi-Monthly Rates)

Meter Reading Charge
\$2.64 Per Building (Master Meter)

Base Charge
\$11.85 Per Unit

Gallorage Charge
\$.44 Per 1,000 Gallons For First 25,000 Gallons Used,
\$1.06 Per 1,000 Gallons For Second 25,000 Gallons Used,
\$1.38 Per 1,000 Gallons Over 50,000 Gallons Used

Wastewater
(Bi-Monthly Rates)

Residential

One-bath Units - \$12.93

Two-bath Units an additional \$6.45 (\$12.93 + \$6.45)

In addition, the City of Boca Raton charges a 25% surcharge on all fees, rates and charges for customers located outside the city limits. Since the Vinings is outside the city's corporate limits, the charges shown above include the surcharge.

The Vinings' rates and charges for water and wastewater are as follows:

Water

Meter Reading Charge
\$2.64 Per Building (Master Meter)

Base Charge
\$11.85 Per Unit

Gallorage Charge
(To be paid by The Vinings At Town Place Apartments)

Wastewater
(Bi-Monthly Rates)

Residential

One-bath Units - \$12.93

Two-bath Units an additional \$6.45 (\$12.93 + \$6.45)

With the exemption of the gallonage charge which is not billed, the Vinings' rates and charges are the same as the City of Boca Raton. Therefore, the reseller's rates or charges will not exceed the actual purchase price.

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, Mr. Bryant 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 the Vinings is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of the Vinings or any successors in interest, must inform the Commission within 30 days of such change so its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, The Vinings At Town Place Apartments, 6400 Congress Avenue, Suite 1100, Boca Raton, Florida 33487, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of The Vinings At Town Place Apartments or any successors in interest shall inform this Commission within 30 days of such a change so that we may reevaluate the Vinings' exempt status. It is further

ORDERED that Docket No. 930700-WS is hereby closed.

By ORDER of the Florida Public Service Commission this 7th day of October, 1993.



STEVE TRIBBLE, 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 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.