



# Public Service Commission

## -M-E-M-O-R-A-N-D-U-M-

**DATE:** September 26, 1995

**TO:** Alice Crosby, Division of Legal Services  
Division of Records and Reporting

**FROM:** Patricia Brady, Division of Water and Wastewater *plus JW*

**RE:** Docket No. 941044-WS, Resolution of Board of County Commissioners of Charlotte County declaring Charlotte County subject to the provisions of Chapter 367, Florida Statutes - Request for exemption for provision of wastewater service by RIVER FOREST VILLAGE, INC.

On December 1, 1994, an application for a nonprofit exemption from regulation by the Florida Public Service Commission was filed on behalf of River Forest Village, Inc. (River Forest Village or the Community) pursuant to Section 367.022(7), Florida Statutes. The application was signed by Mr. J. Albert Thomas who is the President of River Forest Village's Board of Directors and the primary contact person for the application. Mr. Thomas' address, as well as the physical location and mailing address for River Forest Village, is 4300 Riverside Drive, Punta Gorda, Florida 33982 (813/639-3311). This location is in Charlotte County.

In accordance with Section 367.022(7), Florida Statutes, and Rule 25-30.060(2) and (3)(g), Florida Administrative Code, Mr. Thomas filed a statement that River Forest Village is a nonprofit corporation providing service solely to members who own and control it and that the Community will do its own billing for wastewater service. Water is provided by the City of Punta Gorda directly to the homeowners. Mr. Thomas has acknowledged that he is aware of the penalty pursuant to Section 837.06, Florida Statutes, for knowingly making false statements in writing with the intent to mislead.

River Forest Village is a 204 unit mobile home community. All residents are shareholders of River Forest Village, Inc. The community was never under developer control. Instead, in 1980, the Corporation purchased the land and facilities from the owners, Robert and Dorothy McKinley, and established a nonprofit corporation. A copy of the Warranty Deed has been furnished as proof that River Forest Village owns the land upon which the utility facilities are located.

When the Corporation formed, a "Corporate Resolution" was used as the Article of Incorporation. A replacement certification by the Florida Department of State was provided which indicates that the Corporate Resolution was accepted as River Forest Village's Articles of Incorporation on December 5, 1980. Since the Corporate Resolution does not provide information on the organizational structure of the community, the By-Laws are used as the controlling document.

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River Forest Village's By-Laws clearly show the requirements for membership and that member voting rights are one vote per unit of ownership. In addition, an affidavit was furnished by Mr. Thomas stating that "all members of River Forest Village, Inc. are provided utility service, and that each member is a shareholder in the Corporation...(and)... entitled to one (1) vote per share."

Section 2.08(C)(14) of the Administrative Procedures Manual grants staff the administrative authority to approve requests for determination of exempt status that are clear-cut and without controversy. Staff finds the application in compliance with statutory requirements and without apparent controversy. Staff recommends that an administrative order be issued granting River Forest Village, Inc. a nonprofit exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes.

Staff also recommends that the order require River Forest Village to notify the Commission within 30 days of any change in circumstances or method of operation of its water or wastewater systems so that its exempt status may be reevaluated. The docket should remain open to process additional applications.

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