



Public Service Commission

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

DATE: March 12, 1996
TO: Division of Records and Reporting
 Division of Legal Services, Raj Agarwal
FROM: Division of Water & Wastewater, J. Travis Coker *JTC BS M JMW*
RE: DOCKET NO. 960078-WU; Request for exemption from Florida Public Service Commission regulation for provision of irrigation service in Orange County by Lime Tree Village Community Club Association, Inc.

On January 22, 1996, this Commission received an application from Lime Tree Village Community Club Association, Inc. (Lime Tree) for a non-profit association exemption for the provision of irrigation service pursuant to Section 367.022(7), Florida Statutes, (F.S.) and Rule 25-30.060(3)(g), Florida Administrative Code, (F.A.C.). The mailing address and service area is 5303 Gateway Avenue, Orlando, Florida 32821.

Mr. Charles P. LaDue, President of the non-profit corporation, signed the application on behalf of Lime Tree. Mr. LaDue will continue to act as the contact person for Commission purposes. Mr. LaDue acknowledged Section 837.06, F.S., regarding false statements. The applicant has provided a copy of Lime Tree's Articles of Incorporation and By-Laws. These documents state each unit has one vote per unit of membership. Control of the association has passed to the membership and the association is 100% member owned. Water and wastewater service is provided by Orange County Public Utilities. The irrigation system, which utilizes water provided by a well, was constructed in the early stages of community development and is designed to automatically irrigate each lot unless that line on the property is capped. Lime Tree's members remunerate the association for irrigation service as a portion of their monthly dues. This fee is used by the association to operate and maintain the irrigation system.

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Not all residents of the community of Lime Tree chose to become members of the association and pay dues. A majority of the residents who chose not to join the association have allowed Lime Tree access onto their property to cap the irrigation line, a few home owners have refused to grant access. These residents are presently receiving irrigation service at no charge from Lime Tree. Since the service is being provided free of charge, it does not appear that the level of service could be categorized utility service as defined by Section 367.021 (12), F.S. and is therefore, non-jurisdictional.

In summary, staff has determined that Lime Tree meets the necessary qualifications for a non-profit entity exemption for irrigation service, which is provided to members, pursuant to Section 367.022(7), F.S. and Rule 25-30.060(3)(g), F.A.C. Concerning the service being provided to non-members, staff recommends that Lime Tree be granted an exemption for a non-jurisdictional finding pursuant to Section 367.021(12), F.S. and Rule 25-30.060(3)(j), F.A.C.

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Staff's recommendation is consistent with the Commission's recent decision in Order No. PSC-95-1436-FOF-WU, issued November 27, 1995, and Docket No. 951154-WU in which the identical service situation occurred at Montpelier Village Club, Inc.

Staff further recommends that the order require Lime Tree to notify this Commission in the event of any change of circumstances or method of operation of its water and wastewater system so that its exempt status may be re-evaluated. Furthermore, staff recommends that this docket be closed.

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