

MEMORANDUM

MAY 1, 1996

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FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (CAPELESS) *PC/LAT*
RE: DOCKET NO. 951235-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY DECLARING MANATEE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, F.S. - PALMA SOLA SHORES CONDOMINIUM ASSOCIATION, INC.

0587-FOF

Attached is an ORDER INDICATING THE EXEMPT STATUS OF PALMA SOLA SHORES CONDOMINIUM ASSOCIATION, INC. to be issued in the above-referenced docket. (Number of pages in Order - 3)

RGC/mw

Attachment

cc: Division of Water and Wastewater (Tomlinson)

I: 951235-O.RGC

~~XXXXXXXXXX~~
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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 951235-WS
of County Commissioners of) ORDER NO. PSC-96-0587-FOF-WS
Manatee County declaring Manatee) ISSUED: May 6, 1996
County subject to the provisions)
of Chapter 367, F.S. - Palma)
Sola Shores Condominium)
Association, Inc.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
PALMA SOLA SHORES CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On October 10, 1995, the Board of County Commissioners of Manatee County adopted Resolution No. R-95-109, pursuant to Section 367.171, Florida Statutes, declaring that as of October 10, 1995, the water and wastewater utilities in Manatee County shall become subject to the provisions of Chapter 367, Florida Statutes. The Commission acknowledged this resolution on November 9, 1995, by Order No. PSC-95-1393-FOF-WS. Pursuant to Section 367.031, Florida Statutes, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing the exempt status of the system.

On December 4, 1995, Palma Sola Shores Condominium Association, Inc., (Palma Sola Shores or utility) filed an application for an exemption pursuant to Section 367.022(7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code. The primary contact person for Palma Sola Shores is Ms. Cindy Birkhold. Mr. Ralph C. Schwartz, treasurer of Palma Sola Shores, signed the application. The mailing address for the utility is that of Ms. Birkhold, 1693 Main Street, Sarasota, Florida, 34236. The physical address of the system is 2107 Palma Sola Boulevard, Bradenton, Florida, 34209.

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. Palma Sola Shores' application was filed in accordance with Section 367.022(7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code.

Section 367.022(7), Florida Statutes, states that a nonprofit corporation or association is not subject to regulation by the Commission, as a utility, nor is it subject to the provisions of

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FPSC-REC'D BUS/REPORTING

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Chapter 367, Florida Statutes, if it provides service solely to its members who own and control the nonprofit corporation or association. In its application, Palma Sola Shores states that it is a nonprofit corporation, that it provides water and wastewater service solely to members who own and control it, that Palma Sola Shores will do the billing for such services, and that the service area is located at 2107 Palma Sola Boulevard, Bradenton, Florida 34209. The utility also included with its application its articles of incorporation, as filed with the Secretary of State, and its bylaws, which clearly state its requirements for membership and that the members' voting rights are one vote per unit of ownership. No developer is represented in the corporation, nor is a developer involved in the ownership or management of the corporation. Moreover, because Palma Sola Shores owns only the lines throughout the property but does not own any plant facilities, it is not required to provide a warranty deed as proof of ownership of the utility facilities or the land upon which the facilities are located.

Section 837.06, Florida Statutes, provides that anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. In signing the application, Mr. Schwartz acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalty for making false statements in the application.

Based upon the facts as represented, this Commission finds that Palma Sola Shores Condominium Association, Inc., is exempt from Commission regulation pursuant to Section 367.022(7), Florida Statutes. However, Palma Sola Shores is hereby put on notice that if there is any change in circumstances or method of operation, it, or its successors in interest, should inform the Commission within thirty (30) days of such change so that its exempt status may be reevaluated.

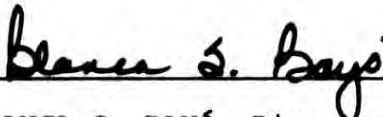
Based on the foregoing, it is

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Palma Sola Shores Condominium Association, Inc., 2107 Palma Sola Boulevard, Bradenton, Florida, 34209, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket shall remain open to process additional applications.

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By ORDER of the Florida Public Service Commission, this 6th
day of May, 1996.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

RGC

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 and/or wastewater 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.