

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BOOT KEY HARBOR PLAZA)	DOCKET NO. 891089-SU
for an exemption from FPSC regulation)	ORDER NO. 21970
for a sewage treatment plant in Monroe)	ISSUED: 9-28-89
County.)	
)	

ORDER INDICATING EXEMPT STATUS OF
BOOT KEY HARBOR PLAZA

BY THE COMMISSION:

Plaza Development Group proposes to develop and own Boot Key Harbor Plaza, a retail shopping center in Monroe County. Wastewater generated at the establishment will be treated and disposed of by a secondary wastewater treatment and disposal system. Since no regional sewage system exists, the developer proposes to provide sewage service by means of a package treatment system.

A letter was received by the Commission on August 28, 1989, from Glen Boe, P. E., containing an affidavit dated August 21, 1989, signed by Terry J. Franzen, vice-president, Plaza Development Group. In that letter application was made to this Commission for exemption from regulation by the Commission of Boot Key Harbor Plaza's sewage treatment plant.

In Plaza Development Group's affidavit, Mr. Franzen stated that "There will be no specific charge levied to tenants for sewage service. The plant will accept wastewater only from buildings on the shopping center property and will neither solicit nor accept offsite hookups." He also stated that exemption was claimed on the basis of a landlord providing sewage service solely to his tenants without specific compensation for the service.

Section 367.022(5), Florida Statutes, provides that "Landlords providing service to their tenants without specific compensation for the service" are not subject to our regulation. On the facts as represented, we find the subject entity to be exempt under Section 367.022(5), Florida Statutes.

It is, therefore

ORDERED by the Florida Public Service Commission that, based on the facts as represented, the sewage treatment

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facilities in Monroe County owned by Boot Key Harbor Plaza, which is owned and operated by Plaza Development Group, c/o Terry J. Franzen, Southeast Financial Center, Suite 3440, Miami, Florida 33131-2325, is hereby exempt from Commission regulation under Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of the subject sewage treatment facility Boot Key Harbor Plaza, or its successor(s) in interest, shall inform this Commission within thirty (30) days of such change so that we may determine whether our decision herein is still appropriate. It is further

ORDERED that this docket shall be closed.

By ORDER of the Florida Public Service Commission
this 28th day of SEPTEMBER, 1989.



STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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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

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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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900(a), Florida Rules of Appellate Procedure.