

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by KEEWAYDIN CLUB	)	DOCKET NO. 890958-WS
UTILITY ASSOCIATION, INC. for exempt-	)	ORDER NO. 22071
tion from FPSC regulation for water	)	ISSUED: 10-19-89
and sewer systems in Collier County	)	
	)	

The following Commissioners participated in the disposition of this matter:

MICHAEL McK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

ORDER INDICATING THE EXEMPT STATUS OF  
 KEEWAYDIN CLUB UTILITY ASSOCIATION, INC.

BY THE COMMISSION:

Keewaydin Club Utility Association, Inc. (Keewaydin or the Association) is a non-profit corporation which was organized to provide water and sewer service to Keewaydin Club Planned Development, a proposed 70 residence development. Pursuant to Section 367.031, Florida Statutes, before the Department of Environmental Regulation (DER) will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter and affidavit received July 21, 1989, Keewaydin has requested recognition of its exempt status.

Upon review of evidence submitted, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes. The Association requested recognition of its exempt status under Section 367.022(7), Florida Statutes.

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In response to our request, Keewaydin submitted additional documents, such as an affidavit, letters, Articles of Incorporation, Bylaws, lease, revised lease, and accompanying Department of Environmental Regulation permit application. The information shows that Keewaydin is a non-profit corporation that will provide water and sewer service solely to its members. The members will own and control the Association when 51% of the units in the development are sold. The water and sewer facilities and underlying land are held by Keewaydin in a long-term lease subject to terminate when the City of Naples assumes responsibility for servicing the development. Further, the Association is responsible for billing its members for water and sewer service; and, the water and sewer facility is located on-site.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Based upon the facts as represented, we find that Keewaydin is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner(s) of Keewaydin, or any successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It it, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Keewaydin Club Utility Association, Inc., located at 1175 First Avenue South, Naples, Florida 33940, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Keewaydin Club Utility Association, Inc.'s water and sewer facility, the owner(s) of Keewaydin Club Utility Association, Inc., or any successor(s) in interest, shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

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By ORDER of the Florida Public Service Commission  
this 19th day of OCTOBER, 1989.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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by: Kay Flynn  
Chief, Bureau of Records

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