

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by ESCORIAL COUNTRY)	DOCKET NO. 890369-WS
CLUB PROPERTY OWNERS' ASSOCIATION, INC.)	ORDER NO. 22299
for exemption from FPSC regulation for)	ISSUED: 12-11-89
water and sewer facilities in Martin)	
County.)	
)	

The following Commissioners participated in the disposition of this matter:

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

ORDER INDICATING THE EXEMPT STATUS OF
ESCORIAL COUNTRY CLUB PROPERTY OWNERS' ASSOCIATION, INC.

BY THE COMMISSION:

Escorial Country Club Property Owners' Association, Inc. (Escorial) is a nonprofit corporation in Martin County. Escorial was incorporated under Chapter 617, Florida Statutes, to own, control, and operate all common areas of Escorial Country Club, a residential development, including a proposed on-site water and wastewater system. 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, affidavit, Articles of Incorporation, and Bylaws received March 13 1989, Escorial has requested recognition of its exempt status.

The affidavit, Articles, and Bylaws show that Escorial is a nonprofit corporation that will provide water and sewer service solely to homeowners of Escorial Country Club. The requirement for membership is ownership of a development parcel. For the corporation's voting matters, a member is entitled to one vote for each parcel owned. Control of the corporation will pass from the developer to the homeowners upon the sale of fifty-five (55) percent of the development parcels. Pursuant to a new affidavit received November 30, 1989, title to the water and wastewater plants and underlying land will be transferred to Escorial upon sale of the first unit. Escorial will be responsible for billing its members for

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water and sewer service.

Upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or wastewater systems, if they qualify under the appropriate section of Chapter 367, Florida Statutes. Escorial requested recognition of its exempt status under Section 367.022(7), Florida Statutes.

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 Escorial is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Escorial, a representative of Escorial must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that Escorial Country Club Property Owners' Association, Inc., 4474 Woodfield Boulevard, Boca Raton, Florida 33434 is hereby exempt from Commission regulation pursuant to Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of Escorial Country Club Property Owners' Association, Inc., a representative of Escorial Country Club Property Owners' Association, Inc. shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission,
 this 11th day of DECEMBER, 1989.

STEVE TRIBBLE, Director
 Division of Records and Reporting

(S E A L)

DCS

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 Chief, Bureau of Records

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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 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.