

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from )	DOCKET NO. 900936-SU
Florida Public Service Commission )	
for provision of wastewater services )	ORDER NO. 23969
in Monroe County by Little Conch )	
Harbor Apartments )	ISSUED: 1-8-91
_____ )	

ORDER INDICATING THE EXEMPT STATUS OF  
LITTLE CONCH HARBOR APARTMENT

BY THE COMMISSION:

Little Conch Harbor Apartments is a seven unit apartment complex located in Key West, Florida. The complex is near completion and will have a wastewater treatment and disposal system on site. Pursuant to Section 367.031, Florida Statutes (1989), the Department of Environmental Regulation (DER) will not issue a permit for the construction of a new water or wastewater facility until it receives either a certificate authorizing the system to provide service or an order recognizing that the system is not subject to the regulation of the Commission. Therefore, by letter and affidavit received November 26, 1990, Little Conch Harbor Apartments has requested recognition of the exempt status of its proposed wastewater system.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater facilities, if they qualify under the appropriate provision of Chapter 367, Florida Statutes. Little Conch Harbor Apartments requested recognition of the exempt status of its wastewater system under Section 367.022(6), Florida Statutes.

The letter, affidavit, and accompanying information show that: Little Conch Harbor Apartments is a seven unit apartment complex to be located in Key West, Florida; the complex is near completion and will have a wastewater treatment and disposal system on site; Little Conch Harbor Apartments will provide wastewater service only; the system will have the capacity to serve 100 or fewer persons; the system will be capable of treating up to 5,000 gallons per day of standard domestic waste; the service area will be limited to the site on which the complex is to be built; and the system's physical address is 30 Hilton Haven Drive, Key West, Florida 33040.

Section 367.022(6), Florida Statutes, states that systems with the capacity to serve 100 or fewer persons are exempt from Commission regulation. In addition, Rule 25-30.055, Florida

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Administrative Code, states, "A water or sewer system is exempt under Section 367.022(6), Florida Statutes, if its current or proposed water or sewage treatment facilities and distribution or collection system have and will have a capacity, excluding fire flow capacity, of no greater than 10,000 gallons per day . . ." Based upon the facts as represented, we find that Little Conch Harbor Apartments' system is exempt from our regulation under the terms of Section 367.022(6), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Little Conch Harbor Apartments or any successor in interest must inform the Commission within thirty (30) 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, based upon the facts as represented, Little Conch Harbor Apartments' wastewater system located at 30 Hilton Haven Drive, Key West, Florida 33040, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(6), Florida Statutes. It is further

ORDERED that should there be any change in the circumstances or method of operation of Little Conch Harbor Apartments' system, the owner of Little Conch Harbor Apartments or any successor in interest shall inform the Commission within thirty (30) days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission this 8th day of JANUARY, 1991.

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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )  
NRF

by: *Kay Flynn*  
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.