

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption from)	DOCKET NO. 900962-WS
Florida Public Service Commission)	
regulation for water and wastewater)	ORDER NO. 24180
services in Lee County by JAMAICA BAY)	
WEST ASSOCIATES LIMITED d/b/a JAMAICA)	ISSUED: 2-28-91
BAY WEST)	
)	

The following Commissioners participated in the disposition of this matter:

THOMAS M. BEARD, Chairman
 J. TERRY DEASON
 BETTY EASLEY
 GERALD L. GUNTER
 MICHAEL MCK. WILSON

ORDER GRANTING EXEMPTION

BY THE COMMISSION:

Jamaica Bay West Associates Limited d/b/a/ Jamaica Bay West (Jamaica Bay or applicant) is a mobile home community in Lee County serving approximately 1,400 units. The wastewater system also will serve a proposed strip mall, the Jamaica Bay West Plaza.

On December 6, 1991, Jamaica Bay applied for exemptions for its water and wastewater systems. Jamaica Bay seeks exemption of its wastewater system under Section 367.022(5), Florida Statutes, and exemption of its water system under Section 367.022(8), Florida Statutes. Included with the application were two affidavits, one addressing the wastewater system and another addressing the water system.

Section 367.022(5), Florida Statutes, provides for the exemption from Commission regulation of "[l]andlords providing service to their tenants without specific compensation for the service." According to the affidavit regarding the wastewater system, Jamaica Bay will provide service solely to its tenants; it will provide unlimited wastewater service as a non-specific portion of the monthly rents; and the service area will be limited to Jamaica Bay West and Jamaica Bay West Plaza located at 15235 South Tamiami Trail, Fort Myers, Florida.

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Section 367.022(8), Florida Statutes, provides for the exemption from Commission regulation of:

[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof, if such person files at least annually with the commission a list of charges and rates for all water service sold, the source and actual purchase price thereof, and any other information required by the commission to justify the exemption; but such person is subject to the provisions of s. 367.122.

According to the affidavit regarding water service, Jamaica Bay provides water service to the mobile home tenants as a nonspecific portion of the monthly homesite fee for usage that does not exceed 24,000 gallons in a six month period. Residents using more than 24,000 gallons of water in a six month period will be billed for the gallonage in excess of 24,000 gallons at the rate of \$2.16 per 1000 gallons, the minimum rate currently being charged by Lee County Utilities. Each mobile home is individually metered as a conservation measure. Also, according to the affidavit, Jamaica Bay will provide service solely to its tenants and its service area will be limited to Jamaica Bay West located at 15235 South Tamiami Trail, Fort Myers, Florida. The affidavit also states that Jamaica Bay is aware of the reporting requirements of Rule 25-30.111, Florida Administrative Code.

Based on the facts as presented, we find that Jamaica Bay is exempt from Commission regulation. The wastewater system is exempt pursuant to Section 367.022(5), Florida Statutes, and the water system is exempt pursuant to Section 367.022(8), Florida Statutes. We further find that Jamaica Bay, or its successor in interest, should inform this Commission of any change in circumstances or method of operation within thirty days of such change so that we may review the matter to determine whether exempt status is still appropriate.

It is therefore

ORDERED by the Florida Public Service Commission that the wastewater facility operated by Jamaica Bay West is exempt from Commission regulation pursuant to Section 367.022(5), Florida Statutes. It is further

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ORDERED that the water facility operated by Jamaica Bay West is exempt from Commission regulation pursuant to Section 367.022(8), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, Jamaica Bay West or its successor in interest shall inform this Commission within thirty days of such change. It is further

ORDERED that this docket is closed.

By ORDER of the Florida Public Service Commission this 28th day of February, 1991.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

MJL

by: Kay J. [Signature]
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

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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.