

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 920715-WS
from Florida Public Service) ORDER NO. PSC-92-0745-FOF-WS
Commission regulation for) ISSUED: 08/03/92
provision of water and)
wastewater services in Lake)
County by COUNTRY CLUB OF MT.)
DORA HOME OWNER'S ASSOCIATION,)
INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
COUNTRY CLUB OF MT. DORA HOME OWNER'S ASSOCIATION, INC.
IN LAKE COUNTY

BY THE COMMISSION:

On July 9, 1992, Country Club of Mt. Dora Home Owner's Association, Inc., (CCMD or Applicant) filed its request for an exemption from Florida Public Service Commission (Commission) regulation pursuant to Section 367.022(8), Florida Statutes, as a nonprofit association. CCMD purchases water and wastewater service from JJ's Mobile Homes, Inc., which it then resells to its members. CCMD currently provides water and wastewater service to 4 customers, however, when the service area is fully developed, its territory will include Phase I, which consists of Units 1, 2, and 3. CCMD will serve approximately 216 customers upon completion of the development.

Exemption Request

CCMD requested that it be found exempt pursuant to Section of Chapter 367, Florida Statutes. Under this section, "[N]onprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation. In addition, Rule 25-30.060 (g) states:

For an exemption pursuant to Section 367.022(7), Florida Statutes, a statement from the corporation, association, or cooperative that it is nonprofit; that it provides service solely to members who own and control it; stating whether it provides water service, wastewater service or both; specifying who will do the billing for such service; and specifying the service area. The applicant must submit its articles of incorporation as filed with the Secretary of State and its bylaws, which documents must clearly show the

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requirements for membership that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: 1) at 51 percent ownership by the non-developer members or, 2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation. The applicant must provide proof of ownership of the utility facilities and the land upon which the facilities will be located or other proof of its right to continued use of the land, such as a 99-year lease....

In its application, dated July 9, 1992, CCMD states that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes, that it will provide service solely to its members who own and control it, and that it will provide water and wastewater service for which it will provide its own billing. The service area is specified. However, since CCMD does not own a water or wastewater plant, the requirement for proof of ownership of the land upon which the facility is located is not applicable. CCMD has submitted a bill of sale demonstrating ownership of the lines located within CCMD Units 1, 2, and 3, which were installed in order to connect its members to the facilities owned by JJ's Mobile Homes, Inc.

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

In addition, CCMD shall file a copy of this Order with the Clerk of Court of Lake County within 30 days of the issuance of this Order.

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It is, therefore,

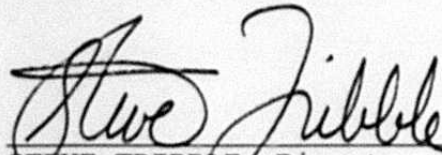
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Country Club of Mt. Dora Home Owner's Association, Inc., located at 1400 Country Boulevard, Mt. Dora, Florida 32757, with Jesse E. Graham, Esq. as contact person, and a mailing address of 201 North New York Avenue, Suite 200, Winter Park, Florida 32789, 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 of Country Club of Mt. Dora Home Owner's Association, Inc. a representative of Country Club of Mt. Dora Home Owner's Association, Inc., shall inform the Commission within thirty days of such change. It is further

ORDERED that Country Club of Mt. Dora Home Owner's Association, Inc. shall file a copy of this Order with the Clerk of Court of Lake County within 30 days of issuance of this Order. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission, this 3rd day of August, 1992.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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

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