

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption) DOCKET NO. 921072-WU
from Florida Public Service) ORDER NO. PSC-93-0223-FOF-WU
Commission Regulation for) ISSUED: 02/10/93
Provision of Water Service)
by Swan Plaza in St. Lucie)
County, Florida.)
_____)

ORDER INDICATING EXEMPT STATUS OF
SWAN PLAZA AND CLOSING DOCKET

BY THE COMMISSION:

On October 16, 1992, Swan Plaza filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Swan Plaza is a shopping center located at 702 Southwest Bayshore Boulevard, Port St. Lucie, Florida. Mr. Robert J. Schultz, Sr., General Partner and primary contact person, filed the application on behalf of Swan Plaza.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater facilities, if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(5), Florida Statutes.

Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service. The application indicates that Swan Plaza provides water and wastewater service only to its tenants and the service territory is limited to the shopping center. Also, the water service is included as a nonspecific portion of the monthly rent. Wastewater service is provided by septic tanks.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Schultz acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Swan Plaza is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Swan Plaza or any successor in interest must inform the Commission

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within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Swan Plaza, 702 Southwest Bayshore Boulevard, Port St. Lucie, Florida 34983, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Swan Plaza or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate the shopping center's exempt status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



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 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.