

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 921320-WS
from Florida Public Service) ORDER NO. PSC-93-0372-FOF-WS
Commission Regulation for) ISSUED: 03/09/93
provision of water and)
wastewater service in St. Lucie)
County by Reelstone Dev. Corp.)
D/B/A Whispering Creek Village.)

The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
THOMAS M. BEARD
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO

ORDER INDICATING THE EXEMPT STATUS
OF REELSTONE DEVELOPMENT CORP.

BY THE COMMISSION:

On December 28, 1992, Reelstone Dev. Corp., d/b/a Whispering Creek Village (Whispering Creek) applied for an exemption for a water and wastewater facility from the Florida Public Service Commission under Section 367.022 (5), Florida Statutes, which provides for a landlord-tenant exemption. Whispering Creek serves approximately 244 mobile homes and one house from two potable wells and a 25,000 gallon-per-day wastewater treatment plant.

Whispering Creek provides water and wastewater service to the tenants of the Whispering Creek Village, which is located at 2023 St. Lucie Boulevard, Fort Pierce, Florida 34936, and the charge for such service is nonspecifically contained in the rental charges. The applicant provided a copy of the lease agreement for the mobile home park, which contains a provision for a lump sum lot rental and a late payment charge. The lease does not include a specific charge for water or wastewater service. In addition, the applicant acknowledged Section 837.06, Florida Statutes, regarding the penalty for making false statements to a public servant in the performance of his official duty. Based on this information, we find that Whispering Creek qualifies for exemption from Commission regulation under the landlord/tenant exemption for its service to the Whispering Creek Village.

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PSC-RECORDS/REPORTING

In addition, Whispering Creek provides water and wastewater service to one single-family house located at 2013 St. Lucie Boulevard. Previously, Whispering Creek charged \$10 monthly for water and \$10 monthly for wastewater service. According to a letter dated October 9, 1992, from the President of Reelstone Dev. Corp. to Mr. Johnson, the owner of the house, service is now being provided at no charge. A copy of this letter was contained in the application for exemption. Based on the fact that this customer is not charged for service, we find that Whispering Creek is not providing service to this house as a utility pursuant to the definition of "utility" contained in Section 367.021(12), Florida Statutes. That provision of the statute defines utility as "every person, lessee, trustee, or receiver owning, operating, managing, or controlling a system ... who is providing, or proposes to provide, water or wastewater service to the public for compensation."

Based on the facts as represented, we find that Whispering Creek is exempt from Commission regulation pursuant to a combination of Sections 367.022(5), Florida Statutes, which provides for the landlord/tenant exemption, for service to the mobile home park, and 367.021(12), Florida Statutes, which provides for nonjurisdictional status, because it does not charge the single-family home. In the event of any change in circumstances or method of operation that might affect its status, Whispering Creek, or its successor(s) in interest, shall inform this Commission within 30 days of this change so its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that Reelstone Dev. Corp. d/b/a Whispering Creek Village, 2023 St. Lucie Boulevard, Fort Pierce, Florida 34946, with Dale T. Mosher as the contact person, is exempt from Commission regulation under Section 367.022(5), Florida Statutes, for its service to the mobile home park, and is not a utility subject to Commission regulation for its service to the single-family home, pursuant to Section 367.021(12). It is further

ORDERED that should there be any change in circumstances or method of operation, Reelstone Dev. Corp. d/b/a Whispering Creek Village, or its successor(s) in interest, shall notify this Commission within 30 days of the change so we may reevaluate its status. It is further

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ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 9th day
of March, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)
KAC

by: Kay Hegan
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 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.