

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption as) DOCKET NO. 921332-WS
a non-profit association from) ORDER NO. PSC-93-0612-FOF-WS
Florida Public Service) ISSUED: April 21, 1993
Commission regulation for)
provision of water and)
wastewater service in St. Lucie)
County by VISTA ST. LUCIE)
PROPERTY OWNERS ASSOCIATION,)
INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
VISTA ST. LUCIE PROPERTY OWNERS ASSOCIATION, INC.

BY THE COMMISSION:

On December 30, 1992, Vista St. Lucie Property Association, Inc. (Vista or applicant) filed its request for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes. Jane L. Cornett, Attorney and contact person for the applicant, filed the application on behalf of Vista. Vista is located at 30-A Lake Vista Trail, Port St. Lucie, Florida 34952, and the applicant currently provides water and wastewater service to residential units and to the common areas of the condominium.

Vista requested that it be found exempt pursuant to Section 367.022(7) of Chapter 367, Florida Statutes. Under this section, "[N]onprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation. In addition, Vista filed its application in accordance with Rule 25-30.060 (3) (g), Florida Administrative Code.

In its application Vista states that it is a nonprofit corporation, that it provides water and wastewater service solely to its members who own and control it, and that it provides its own billing for this service. The service area is specified as the Vista St. Lucie Condominium. Proof of ownership of the utility facilities was provided by a Warranty Deed. However, in 1987, when control passed from the developer to the homeowner association there were legal questions regarding deficiencies in the water and wastewater system that are the subject of current litigation between Vista and the developer; the goal of this litigation is to make the developer repair the systems properly. Therefore, Vista did not fully sign-off the complex withholding a general release of the water and wastewater systems. Nonetheless, in accordance with the provisions found in its Declaration of Covenants and Restrict-

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tions, Vista has assumed its obligations and has operated and maintained the water and wastewater facilities since 1987.

In addition, the application form states that pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Gus Messineo acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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 Vista is exempt from our regulation under the terms of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances of Vista, a representative of the Association must inform the Commission within thirty 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, Vista St. Lucie Property Owners Association, Inc., located at c/o Wackeen, Cornett, Googe, P.A., Post Office Box 66, Stuart, Florida 34995, 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 Princess, a representative of Vista St. Lucie Property Owners Association, Inc. shall inform the Commission within thirty days of such change so that we may reevaluate the applicant's exempt status. It is further

ORDERED that this docket is closed.

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By ORDER of the Florida Public Service Commission this 21st
day of April, 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.