

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930311-WS
From Florida Public Service) ORDER NO. PSC-93-1835-FOF-WS
Commission Regulation For) ISSUED: December 27, 1993
Provision of Water and)
Wastewater Service in Broward)
County by River Oaks Apartments.)
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The following Commissioners participated in the disposition of this matter:

J. TERRY DEASON, Chairman
SUSAN F. CLARK
JULIA L. JOHNSON
LUIS J. LAUREDO
DIANE K. KIESLING

ORDER INDICATING EXEMPT STATUS
OF RIVER OAKS APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On March 22, 1993, River Oaks Apartments (River Oaks) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Mr. Robert F. Oulton, Agent and primary contact person, filed the application on behalf of River Oaks. Mr. Oulton's address is Post Office Box 5430, Lighthouse Point, Florida 33074-5430.

River Oaks, which is an apartment complex consisting of 219 apartments housed in 4 buildings, is located at 2929 North Dixie Highway, Ft. Lauderdale, Florida. The apartment complex receives water and wastewater service from the City of Oakland Park through six 2-inch meters. Currently the service is included as a nonspecific portion of the rent. To promote water conservation and reduce the costs for these services, River Oaks contracted with H2Oulton Metering Services, Inc. d/b/a Water & Sewer Services of Florida (H2Oulton) to submeter each unit and begin billing for service based on actual consumption. According to the application,

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River Oaks will collect from its tenants only that amount billed by the City.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(8), Florida Statutes, and Rules 25-30.060(2) and (3)(h), Florida Administrative Code.

Section 367.022(8), Florida Statutes, states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation. According to River Oaks's application, service is provided at a charge that does not exceed the actual purchase price. The City of Oakland Park charges River Oaks a base rate of \$2.00 and a gallonage rate of \$1.75 per 1,000 gallons for water; and a base rate of \$8.80 and a gallonage rate of \$2.50 per 1,000 gallons for wastewater. The information filed with the application reflects that River Oaks does not charge in excess of the rates charged by the City.

It should be noted, however, that H2Oulton will collect a customer deposit which exceeds the deposit collected by the City of Oakland Park from River Oaks. According to the information provided, H2Oulton will collect a combined water and wastewater deposit of \$60 per unit (total \$13,140). The City of Oakland Park collects a \$460 combined water and wastewater deposit for each 2-inch master meter (6 meters X \$460 = \$2,760). The deposit collected by River Oaks exceeds the deposit paid to the City by \$10,380. We find that River Oaks qualifies for exemption as a reseller pursuant to Section 367.022(8), Florida Statutes, as long as the amount of the deposit collected by H2Oulton from the tenants of River Oaks does not exceed the amount the City of Oakland Park would collect from the tenants if each individual apartment was connected directly to the City. The City collects a deposit of \$112 for an individual residential water and wastewater connection.

River Oaks is aware of the requirements of Rule 25-30.111, Florida Administrative Code, which requires a reseller to file a report with the Commission each year indicating whether or not it has collected more than the amount paid by the reseller to the provider of service, and that it provides water and wastewater service only to the apartment complex.

In addition, pursuant to Section 837.06, Florida Statutes, and Rule 25-30.060(2)(f), Florida Administrative Code, anyone knowingly

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making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Oulton acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that River Oaks is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of River Oaks or any successors in interest, must inform the Commission within 30 days of such change so its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, River Oaks Apartments, 2929 North Dixie Highway, Ft. Lauderdale, Florida 33334, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

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

ORDERED that Docket No. 930311-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 27th day of December, 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.