

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 930917-WS
From Florida Public Service) ORDER NO. PSC-94-0487-FOF-WS
Commission Regulation for) ISSUED: April 25, 1994
Provision of Water and)
Wastewater Service in Lee County)
by PADDLE CREEK CONDOMINIUM)
ASSOCIATION, INC.)
_____)

ORDER INDICATING EXEMPT STATUS OF
PADDLE CREEK CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On September 16, 1994, Douglas Suitor filed a request for exemption from this Commission's regulation on behalf of Paddle Creek Condominium Association, c/o Benson's Inc., Certified Community Association Managers, 12650 Whitehall Drive, Fort Myers, Florida, 33907-3619 (Paddle Creek), under Section 367.022(7), Florida Statutes, as a nonprofit corporation. Paddle Creek supplies water and wastewater service to the Paddle Creek Condominium in Lateen, Florida.

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. Pursuant to Section 367.022(7), Florida Statutes, nonprofit corporations, associations or cooperatives which provide service solely to members who own and control them may be exempt from this Commission's regulation.

Paddle Creek's application included a statement that it is a nonprofit corporation and that it provides service solely to members who own and control it, articles of incorporation and bylaws which show the requirements for membership and a statement that the members' rights are one vote per unit of ownership. As proof of ownership of the utility facilities and the land upon which the facilities will be located, the applicant provided a copy of the Declaration of Condominium and a warranty deed from an individual condominium unit which demonstrates that each resident owns a percentage of the common elements. The utility is considered to be a part of the common elements.

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

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of a misdemeanor. By signing the application, Mr. Suitor 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 Paddle Creek is exempt from Commission regulation, pursuant to the provisions of Section 367.022(7), Florida Statutes. However, should there be any change in circumstances or method of operation, Paddle Creek or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

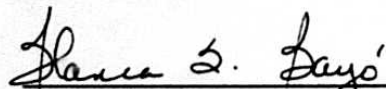
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Paddle Creek Condominium Association, c/o Benson's Inc., Certified Community Association Managers, 12650 Whitehall Drive, Fort Myers, Florida, 33907-3619, is exempt from Commission regulation, pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

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

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 25th day of April, 1994.



BLANCA S. BAYO, 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.