

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 940582-WS
from Florida Public Service) ORDER NO. PSC-94-1164-FOF-WS
Commission regulation for) ISSUED: September 22, 1994
provision of water and)
wastewater service in Volusia)
County by LINCOLN TRACE)
APARTMENTS.)
_____)

ORDER INDICATING EXEMPT STATUS OF LINCOLN
TRACE APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On May 25, 1994, Lincoln Trace Apartments (Lincoln Trace) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Lincoln Trace is an apartment complex located at 420 Lakebridge Plaza, Ormond Beach, Florida. Mr. Matthew L. Wakenight, Lincoln Trace's Vice-President and primary contact person, filed the application on behalf of Lincoln Trace. Mr. Wakenight's address is Two North, Riverside Plaza, Chicago, Illinois 60606-2639.

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 Lincoln Trace's application, service is provided at a charge that does not exceed the actual purchase price; Lincoln Trace is aware of the requirements of Rule 25-30.111, Florida Administrative Code; Lincoln Trace provides water and wastewater service; and the service area is limited to the Lincoln Trace Apartment complex.

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. Wakenight acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

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Based on the facts as represented, we find that Lincoln Trace 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 Lincoln Trace or any successors in interest, must inform the Commission within 30 days of such change so its exempt status may be reevaluated.

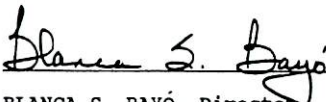
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Lincoln Trace Apartments, Two North, Riverside Plaza, Chicago, Illinois 60606-2639, 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 Lincoln Trace Apartments or any successors in interest shall inform this Commission within 30 days of such a change so that we may reevaluate Lincoln Trace's exempt status. It is further

ORDERED that Docket No. 940582-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 22nd day of September, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

MSN

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.