

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 921325-WS
from Florida Public Service) ORDER NO. PSC-95-0179-FOF-WS
Commission Regulation for) ISSUED: February 8, 1995
Provision of Water and)
Wastewater Service in St. Lucie)
County by HARBOUR RIDGE PROPERTY)
OWNERS ASSOCIATION, INC.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF HARBOUR RIDGE
PROPERTY OWNERS ASSOCIATION, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On December 30, 1992, Harbour Ridge Property Owners Association, Inc. (Harbour Ridge) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Harbour Ridge is located at 13403 Wax Myrtle Terrace, Palm City, Florida. Mr. John B. Dodge, President filed the application on behalf of Harbour Ridge. The primary contact person is Mr. Jack C. Schuler. Mr. Schuler's address is P.O. Box 2451, Palm City, Florida 34990.

This case was delayed pending our review of the provisions of Rule 25-30.060(3)(g), Florida Administrative Code. This section of the Rule requires that turnover control of the association to the non-developer members must occur when the ownership of the association by the non-developer members reaches 51 per cent or within a time period not to exceed 5 years. Harbour Ridge's turnover to the non-developer members was not scheduled to occur until the ownership of the association to the non-developer members reached 95 per cent which did not meet the provisions of Rule 25-30.060(3)(g), Florida Administrative Code. However, On December 5, 1994, we received notice from Mr. Dodge that control had been turned over to the non-developer members on October 4, 1994, thereby meeting the requirements of Rule 25-30.060(3)(g), Florida Administrative Code.

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(7), Florida Statutes.

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

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exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; providing service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the non-developer members.

In its application, Harbour Ridge stated that it is a nonprofit corporation organized pursuant to Chapter 617, Florida Statutes; that it will provide service solely to its members who own and control it; and that it will provide water and wastewater service for which it will provide its own billing. The service area is specified as the Harbour Ridge development. The Association provided a recorded warranty deed granting it the use of the land upon which the facilities are located. In addition, it provided a copy of a bill of sale verifying that the Association purchased and owns the water and wastewater plant facilities, thereby establishing proof of ownership of the facilities and continued use of the land where the facilities are located.

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. Dodge 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 Harbour Ridge 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, a representative of the Association must inform the Commission within thirty days of such change, so that we may reevaluate Harbour Ridge's exempt status.

It is, therefore,

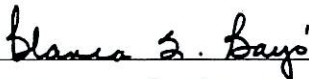
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Harbour Ridge Property Owners Association, Inc., 13403 Wax Myrtle Terrace, Palm City, Florida 34990, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

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ORDERED that should there be any change in circumstances of or method of operation, a representative of Harbour Ridge Property Owners Association, Inc., or any successors in interest, shall inform the Commission within thirty days of such change so that Harbour Ridge Property Owners Association, Inc.'s exempt status may be reevaluated. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 8th day of February, 1995.

A handwritten signature in cursive script, reading "Blanca S. Bayo", is written over a horizontal line.

BLANCA S. BAYO, 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 and/or wastewater 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 Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.