

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request For Exemption) DOCKET NO. 941062-WS
From Florida Public Service) ORDER NO. PSC-95-0217-FOF-WS
Commission Regulation For) ISSUED: February 16, 1995
Provision of Water and)
Wastewater Service in Duval)
County by The Greens at Marsh)
Landing.)
_____)

The following Commissioners participated in the disposition of this matter:

SUSAN F. CLARK, Chairman
J. TERRY DEASON
JOE GARCIA
JULIA L. JOHNSON
DIANE K. KIESLING

ORDER INDICATING EXEMPT STATUS
OF THE GREENS AT MARSH LANDING AND CLOSING DOCKET

BY THE COMMISSION:

On October 5, 1994, The Greens at Marsh Landing (The Greens) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The Greens is a 192-unit apartment complex located at 1800 The Greens Way, Jacksonville Beach, Florida. Mr. Paul Kiang, Agent for Pacific Mutual Life Insurance Company d/b/a The Greens at Marsh Landing, filed the application on behalf of The Greens. The primary contact person is Mr. Frank R. Manno, c/o Conservation Billing Services, Inc., 90 South Newtown Street Road, Suite #2, Newtown Square, Pennsylvania 19073-4035.

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.

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According to the information provided with the application, due to excessive usage of water by the residents of The Greens, individual meters are being installed so that the residents can be charged for the actual amount of water and wastewater used. The Greens intends to purchase water and wastewater service from the City of Jacksonville Beach (City) and resell these services to the residents at a rate that does not exceed the actual price paid the City for the service.

After The Greens filed its application for exemption, Mr. S. K. Nodland, Professional Engineer and Director of Public Works with the City, advised the Commission Staff that the City's charter prohibits any other entity from providing water and wastewater service within the City's corporate limits. The charter allows the City to grant franchises to provide water and wastewater service; The Greens has not been granted a franchise. The City did not, however, file a formal objection to the application nor did a representative of the City appear at the Agenda Conference on February 7, 1995, to comment on the exemption application.

As stated previously, according to the application, The Greens intends to purchase water and wastewater service from the City and resell it to the residents at a rate that does not exceed the actual price paid the City for the service. Conservation Billing Services, Inc. (CBSI) will read the meters on a monthly basis and bill residents accordingly for The Greens. The charges for service to common areas will be prorated between 192 units. The Greens will pay the charges for the unoccupied units.

The Greens also intends to collect a deposit from the residents, based on the deposit that is charged by the City. The Greens has posted a bond with the City for water and wastewater service. Although the amount of the bond prorated between 192 units is \$78.12, The Greens only intends to collect a deposit of \$20.00 from each unit. The deposit, plus interest, will be credited against the resident's final bill.

No administrative or processing fee will be charged to the residents. All fees for services paid to CBSI will be paid by the property owner. The Greens is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111, and 25-30.262 through 25-30.267, Florida Administrative Code. The service area is limited to the apartment complex located at 1800 The Greens Way, Jacksonville Beach, Florida.

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. Kiang 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 The Greens 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 The Greens 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, The Greens at Marsh Landing, 1800 The Greens Way, Jacksonville Beach, Florida 32250, 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 The Greens at Marsh Landing or any successors in interest shall inform this Commission within 30 days of such a change so that we may reevaluate its exempt status. It is further

ORDERED that Docket No. 941062-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 16th day of February, 1995.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

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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 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.