

MEMORANDUM

July 17, 1995

RECEIVED

5115

TO: DIVISION OF RECORDS AND REPORTING
FROM: DIVISION OF LEGAL SERVICES (VACCARO) *OV* *PH* RECORDS/REPORTING
RE: DOCKET NO. 941044-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WASTEWATER SERVICES BY INDIGO ISLES MOBILE HOME PARK OWNERS ASSOCIATION, INC.

0880-FoF

Attached is an ORDER INDICATING THE EXEMPT STATUS OF INDIGO ISLES MOBILE HOME PARK OWNERS ASSOCIATION, INC., with attachments, to be issued in the above-referenced docket. (Number of pages in Order - 4)

TV/ji

Attachment

cc: Division of Water and Wastewater (Tomlinson)

I: Indigo.TV

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 94104-WS
of County Commissioners of) ORDER NO. PSC-95-0880-FOF-WS
Charlotte County Declaring) ISSUED: July 19, 1995
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request for)
Exemption for Provision of)
Wastewater Services by INDIGO)
ISLES MOBILE HOME PARK OWNERS)
ASSOCIATION, INC.)

ORDER INDICATING THE EXEMPT STATUS OF
INDIGO ISLES MOBILE HOME PARK OWNERS ASSOCIATION, INC.

BY THE COMMISSION:

On November 29, 1994, Indigo Isles Mobile Home Park Owners Association, Inc. (Indigo Isles or utility) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Indigo Isles is located at 9181 Griggs Road #73, Englewood, Florida 34224. Mr. James T. Carey, President of Indigo Isles, filed the application on behalf of Indigo Isles. The primary contact person for Indigo Isles is Mr. Jack Shinaver.

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 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 nondeveloper members.

DOCUMENT NUMBER-DATE

06814 JUL 1995

FPSC-RECORDS/REPORTING

In its application, Indigo Isles 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 wastewater service for which it will provide its own billing. Water service will be provided by the Englewood Water Management District. The service area is specified as the mobile home park located at 9181 Griggs Road #73, Englewood, Florida 34224. Indigo Isles has attached its Articles of Incorporation and By-Laws showing the requirements for membership and that the members' voting rights are one vote per unit of ownership. Control of the corporation has already passed to the members, who have 100% ownership of the condominium. The Association provided a recorded warranty deed granting it the use of the land upon which 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. Carey 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 Indigo Isles Mobile Home Park Owners Association, Inc. 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 Indigo Isles Mobile Home Park Owners Association, Inc.'s exempt status.

It is, therefore,

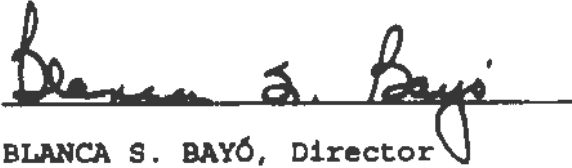
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Indigo Isles Mobile Home Park Owners Association, Inc., 9181 Griggs Road #73, Englewood, Florida 34224, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that should there be any change in circumstances of or method of operation, a representative of Indigo Isles Mobile Home Park Owners Association, Inc. shall inform the Commission within thirty days of such change so that Indigo Isles Mobile Home Park Owners Association, Inc.'s exempt status may be reevaluated. It is further

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ORDERED that this docket shall remain open.

By ORDER of the Florida Public Service Commission, this 19th
day of July, 1995.

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

BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

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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.