

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption ) DOCKET NO. 921330-WS  
from Florida Public Service ) ORDER NO. PSC-95-1049-FOF-WS  
Commission regulation for ) ISSUED: August 24, 1995  
provision of water and )  
wastewater service in St. Lucie )  
County by INDIAN RIVER LANDING )  
CONDOMINIUM ASSOCIATION, INC. )  
\_\_\_\_\_ )

ORDER INDICATING THE EXEMPT STATUS OF  
INDIAN RIVER LANDING CONDOMINIUM  
ASSOCIATION, INC. AND CLOSING DOCKET

BY THE COMMISSION:

On December 30, 1992, Indian River Landing Condominium Association, Inc. (Indian River) filed a request for recognition of its exempt status pursuant to Section 367.022(7), Florida Statutes. The physical location and mailing address of Indian River is 13505 Indian River Drive, Jensen Beach, Florida 34957. Mr. James R. Fowler, president of Indian River, filed the application on behalf of Indian River. The primary contact person is Ms. Jane L. Cornett. Her mailing address is P.O. Box 66, Stuart, Florida 34995.

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 entity is nonprofit; that the entity provides service solely to the members who own and control it; whether the entity 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 for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control passes to the non-developer members.

In its application, Indian River stated that it is a nonprofit corporation; that it will provide service solely to its members who own and control it; that it will provide water and wastewater service; and that there is no separate billing for such service -- water and wastewater services are paid as part of the condominium

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association assessment. The service area is specified as the Indian River Landing complex, located at the above address.

Indian River submitted a copy of its Articles of Incorporation as filed with the Secretary of State and a copy of its Bylaws. The Articles of Incorporation show the requirements for membership and that the members' voting rights are one vote per unit of ownership. Mr. Fowler provided an affidavit stating that control of the association has passed to the non-developer members. In addition, the Association provided a quit claim deed and an opinion of title granting it the use of the land upon which the utility facilities are located.

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. Fowler 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 Indian River Landing Condominium 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 (30) days of such change, so that we may reevaluate Indian River's exempt status.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Indian River Landing Condominium Association, Inc., 13505 Indian River Drive, Jensen Beach, Florida 34957, 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 or method of operation, a representative of Indian River Landing Condominium Association, Inc. shall inform the Commission within thirty (30) days of such change so that its exempt status may be reevaluated. It is further

ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 24th day of August, 1995.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

by: Kay DeLeon  
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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.