

MEMORANDUM

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October 17, 1995

2:15  
FPSC-RECORDS/REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (JAGGER) *JAS*

RE: DOCKET NO. 941044-WS - Resolution of 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 service by Fantasy Island Condominium Association, Inc.

*1297-FOI*

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Attached is an ORDER INDICATING THE EXEMPT STATUS OF FANTASY ISLAND CONDOMINIUM ASSOCIATION, INC., to be issued in the above-referenced docket. (Number of pages in Order - 3)

RRJ/dp

Attachment

cc: Division of Water and Wastewater (Brady, Messer)

I: 941044-P.RRJ

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of Board of ) DOCKET NO. 941044-WS  
County Commissioners of ) ORDER NO. PSC-95-1297-FOF-WS  
Charlotte County declaring ) ISSUED: October 19, 1995  
Charlotte County subject to the )  
provisions of Chapter 367, )  
Florida Statutes - Request for )  
exemption for provision of )  
wastewater service by Fantasy )  
Island Condominium Association, )  
Inc. )

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ORDER INDICATING THE EXEMPT STATUS OF  
FANTASY ISLAND CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On May 17, 1995, Fantasy Island Condominium Association, Inc. (Fantasy Island or Homeowners Association), filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Ms. Cora de Jonge, Secretary/Treasurer of the Homeowners Association, filed the application on behalf of Fantasy Island and is the primary contact person. Her mailing address is 2767 North Beach Road, No. 208, Englewood, Florida 34223. The physical location and service territory of Fantasy Island is 2765 North Beach Road, Englewood, Florida 34223.

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; that it provides 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 # 10346 DATE

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In its application, Fantasy Island supplied a copy of its Articles of Incorporation as filed with the Secretary of State and its By-Laws, and 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 would do its own billing for wastewater service, with water service being provided by the Englewood Water District directly to the homeowners. The service area is specified as the 28-unit condominium complex located at the above-noted address. The Association provided a copy of a homeowner's deed which reflects that each member retains a 1/28th share in ownership of the common elements. These deeds effectively grant the Homeowners Association 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, Ms. de Jonge acknowledged that she 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 Fantasy Island 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 Fantasy Island's exempt status.

It is, therefore,


ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Fantasy Island Condominium Association, Inc., 2765 North Beach Road, Englewood, Florida 34223, 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 Fantasy Island Condominium Association, Inc., or any successors in interest, shall inform the Commission within thirty days of such change so that Fantasy Island Condominium Association, Inc.'s exempt status may be reevaluated. It is further

ORDERED that this docket shall remain open.

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

  
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BLANCA S. BAYÓ, Director  
Division of Records and Reporting

( S E A L )

RRJ

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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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.