

MEMORANDUM

January 25, 1996

RECEIVED
JAN 26 1996

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (NASH) *WJN YH*

RE: DOCKET NO. 941044-WS - RESOLUTION OF BOARD OF COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER AND WASTEWATER SERVICE BY JANICE COMMERCIAL CONDOMINIUM ASSOCIATION, INC.

3:30
FPSC RECORDS/REPORTING

0130-fdF

Attached is an Order Indicating the Exempt Status of Janice Commercial Condominium Association, Inc. and Closing Docket to be issued in the above referenced docket. (Number of Pages in Order - 3)

Attachment

cc: Division of Water and Wastewater (Brady)

I:941044-E.MSN

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 941044-WS
of County Commissioners of) ORDER NO. PSC-96-0130-FOF-WS
Charlotte County Declaring) ISSUED: January 29, 1996
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request for)
Exemption for Provision of Water)
and Wastewater Service by Janice)
Commercial Condominium)
Association, Inc.)

ORDER INDICATING THE EXEMPT STATUS OF
JANICE COMMERCIAL CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

On February 6, 1995, Janice Commercial Condominium Association, Inc. (Janice or utility) filed a request for recognition of its exempt status pursuant to Section 367.022(7), Florida Statutes. Janice is located at 23355 Janice Avenue, Charlotte Harbor, Florida. Mr. Doug Aber, President and primary contact person, whose address is P.O. Box 1913 Punta Gorda, Florida 33951, filed the application on behalf of Janice.

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. See Rule 25-30.060(3)(g), Florida Administrative Code.

In its application, Janice stated that . . . 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 commercial condominium association. Janice

DOCUMENT NUMBER-DATE

01029 JAN 29 96

FPSC-RECORDS/REPORTING

ORDER NO. PSC-96-0130-POF-WS
DOCKET NO. 941044-WS
PAGE 2

provided a recorded property deed indicating that it owns 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. Aber 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 Janice is exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. However, it is put on notice that if there is any change in circumstance or method of operation, it should inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Janice Commercial Condominium Association, Inc., 23355 Janice Avenue, Charlotte Harbor, Florida 33980, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this docket shall remain open to process additional applications.

By ORDER of the Florida Public Service Commission, this 29th day of January, 1996.



BIANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)
MSN

ORDER NO. PSC-96-0130-POF-WS
DOCKET NO. 941044-WS
PAGE 3

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 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.