

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 960583-WS
from Florida Public Service) ORDER NO. PSC-96-1280-FOF-WS
Commission Regulation for) ISSUED: October 15, 1996
Provision of Water and)
Wastewater Service in Palm Beach)
County by Delray I Limited)
Partnership (Vinings at Delray)
Beach).)

ORDER INDICATING EXEMPT STATUS OF DELRAY I LIMITED
PARTNERSHIP (VININGS AT DELRAY BEACH) AND CLOSING DOCKET

BY THE COMMISSION:

On May 10, 1996, Vinings at Delray Beach filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The Vinings at Delray Beach is a 228-unit apartment complex located at 650 Lavers Circle, Delray Beach, Florida. The apartment complex is owned by Delray I Limited Partnership. Mr. John S. Ranney, of Envirotech Utility Management Services (Envirotech), and primary contact person, filed the application on behalf of Vinings of Delray Beach.

After reviewing the application, it was determined that the name, Vinings at Delray Beach, is not registered with the Secretary of State's office as a fictitious name. Although the owner is currently in the process of registering the name with the Secretary of State, it has requested that the exemption be granted to Delray I Limited Partnership (Delray I/Vinings) for the apartment complex known as Vinings at Delray Beach.

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 Rule 25-30.060(1), (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.

DOCUMENT NUMBER-DATE

10996 OCT 15 86

FPSC-RECORDS/REPORTING

According to the application, Delray I/Vinings provides service only to the apartment complex located at 650 Lavers Circle, Delray Beach, Florida. Delray I/Vinings intends to purchase water and wastewater from the City of Delray Beach and resell it to its residents at a rate that does not exceed the actual purchase price. Delray I/Vinings has eleven master meters. In addition, meters have been installed on each apartment so that the residents will be charged for the actual amount of water used. The residents will be charged a set amount for each 1,000 gallons used (e.g., \$1.05 per 1,000 gallons for the first 3,000 gallons used; and \$1.16 per 1,000 gallons for usage of 3,001 to 17,000 gallons). The residents will also be charged a prorated share of the base rates charged by the City of Delray Beach. Envirotech has been retained to read the meters on a monthly basis and bill the residents accordingly on behalf of Delray I/Vinings. Delray I/Vinings will be responsible for service to common areas and vacant apartments. No administrative or processing fees or miscellaneous charges will be charged to the residents. Delray I/Vinings does, however, intend to collect a \$30.00 refundable customer deposit.

Delray I/Vinings 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. 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. Ranney 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 Delray I/Vinings is exempt from our regulation pursuant to Section 367.022(8), Florida Statutes. However, the owner of Delray I/Vinings or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Delray I Limited Partnership, 650 Lavers Circle, Delray Beach, Florida 33444, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes, only for the apartment complex known as Vinings at Delray Beach. It is further

ORDER NO. PSC-96-1280-FOF-WS
DOCKET NO. 960583-WS
PAGE 3

ORDERED that Docket No. 960583-WS is hereby closed.

By ORDER of the Florida Public Service Commission, this 15th
day of October, 1996.

BLANCA S. BAYÓ, Director
Division of Records and Reporting

by: Kay Flynn
Chief, Bureau of Records

(S E A L)

ALC

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.