

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption ) DOCKET NO. 960393-WU  
from Florida Public Service ) ORDER NO. PSC-97-0349-FOF-WU  
Commission Jurisdiction for ) ISSUED: March 26, 1997  
Provision of Water Service in )  
Lake County by Citrus Cove )  
Homeowners Association, Inc. )  
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ORDER INDICATING THE EXEMPT STATUS OF  
CITRUS COVE HOMEOWNERS ASSOCIATION AND CLOSING DOCKET

BY THE COMMISSION:

On March 28, 1996, Citrus Cove Homeowners Association (Citrus Cove or Association) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. From a review of the application, it was determined that Citrus Cove's registration with the Division of Corporation of the Department of State was not current and active. Citrus Cove's corporate charter was reinstated effective August 13, 1996.

Citrus Cove is located at 17606 Mandarin Circle, Winter Garden, Florida. Mr. O. F. Bennett, President, and primary contact person filed the application on behalf of Citrus Cove.

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; and who will do the billing. Additionally, the applicant must submit its Articles of Incorporation as filed with the Department 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.

In its application, Citrus Cove 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

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control it; and that it will provide water service for which it will provide its own billing. Wastewater service is provided by septic tank.

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. Bennett 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 Citrus Cove is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of Citrus Cove 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.

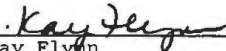
It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Citrus Cove Homeowners Association, Inc., 17606 Mandarin Circle, Winter Garden, Florida 34787, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 26th day of March, 1997.

BLANCA S. BAYÓ, Director  
Division of Records and Reporting

  
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Kay Flynn  
Chief, Bureau of Records

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NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.