

MEMORANDUM

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April ²³ 4, 1998

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11:00
FPSC - Records/Reporting

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSS) *[Handwritten initials]*

RE: DOCKET NO. 960320-WS - REQUEST FOR EXEMPTION FROM FLORIDA PUBLIC SERVICE COMMISSION REGULATION FOR PROVISION OF WATER AND WASTEWATER SERVICE IN VOLUSIA COUNTY BY ANATOLE APARTMENTS.

98-0569-FOF-WS

Attached is an ORDER INDICATING EXEMPT STATUS OF ANATOLE APARTMENTS AND CLOSING DOCKET to be issued in the above-referenced docket.

(Number of Pages in Order - 3)

ALC/dr

Attachment

cc: Division of Water and Wastewater (Clapp)

I: 960320a.alc

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption
from Florida Public Service
Commission regulation for
provision of water and
wastewater service in Volusia
County by Anatole Apartments.

DOCKET NO. 960320-WS
ORDER NO. PSC-98-0569-FOF-WS
ISSUED: April 23, 1998

ORDER INDICATING EXEMPT STATUS
OF ANATOLE APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On March 11, 1996, Anatole Apartments filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. Anatole Apartments is a 208-unit apartment complex located at 1690 Dunn Avenue, Daytona Beach, Florida. Anatole Apartments is owned by Mid America Apartment Communities. Mr. John S. Ranney, Director of Operations of Envirotech Utility Management Services (Envirotech), and primary contact person, filed the application on behalf of Anatole Apartments. Mr. Ranney was authorized to file the application for the apartment complex by Mr. Tim Stover, Vice President, Mid America Apartment Communities. Mr. Ranney's address is c/o Envirotech, 1502 Roberts Drive, Jacksonville, Florida 32250.

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, which 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.

According to Anatole Apartments' application, the service area is limited to the apartment complex located at 1690 Dunn Avenue, Daytona Beach, Florida. Anatole Apartments intends to purchase water and wastewater from the City of Daytona Beach and resell it to its tenants at a rate that does not exceed the actual purchase price. Letters of concern over water and wastewater rates were

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received from one tenant. These concerns have been addressed and remedied by Anatole Apartments' billing agent, Envirotech.

Meters have been installed on each apartment so that the residents will be charged for the actual amount of water used. Envirotech has been retained to read the meters on a monthly basis and bill the residents accordingly on behalf of Anatole Apartments. Anatole Apartments 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.

Anatole Apartments is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 26-30.267, 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 Anatole Apartments is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. However, the owner of Anatole Apartments 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, Anatole Apartments, 1690 Dunn Avenue, Daytona Beach, Florida 32114, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

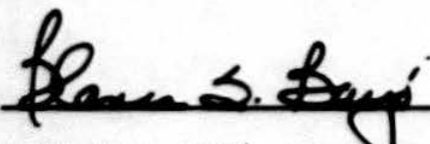
ORDERED that should there be any change in circumstances or method of operation, the owner of Anatole Apartments or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida

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Statutes, it should inform the Commission within 30 days of such change so that its status may be reevaluated. It is further

ORDERED that Docket No. 960320-WS is hereby closed.

By ORDER of the Florida Public Service Commission this 23rd day of April, 1998.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

ALC

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.