

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by SENATE MANOR	)	DOCKET NO. 881493-SU
HOMEOWNER'S ASSOCIATION, INC. for an	)	
exemption from FPSC regulation for a	)	ORDER NO. 21079
sewer system in Pasco County	)	
	)	ISSUED: 4-20-89

The following Commissioners participated in the disposition of this matter:

MICHAEL MCK. WILSON, Chairman  
 THOMAS M. BEARD  
 BETTY EASLEY  
 GERALD L. GUNTER  
 JOHN T. HERNDON

NOTICE OF PROPOSED AGENCY ACTIONORDER DENYING REQUEST FOR EXEMPT STATUS BY  
 SENATE MANOR HOMEOWNER'S ASSOCIATION, INC.

BY THE COMMISSION:

NOTICE IS HEREBY GIVEN by the Florida Public Service Commission that the action discussed herein is preliminary in nature and will become final unless a person whose substantial interests are affected files a petition for a formal proceeding pursuant to Rule 25-22.029, Florida Administrative Code.

Senate Manor is a residential community consisting of 395 residents in Pasco County. Prior to 1988, sewer service was provided to this community by Senate Manor Corporation. In 1988, Senate Manor Homeowner's Association, Inc. (Association) purchased the sewer system from Senate Manor Corporation. The Association currently serves the 395 residents referenced above, all of which are members of the Association, as well as 45 single units, 22 commercial units and a travel trailer park which are not members of the Association.

By letter dated November 3, 1988, the Association requested that it be found exempt from this Commission's regulation under the nonprofit association exemption, Section 367.022(7), Florida Statutes. Under that section, a nonprofit association which provides service solely to members who own and control it is exempt from the Commission's regulation. Included with its request were copies of its Articles of Incorporation, Bylaws and an affidavit reciting the facts upon which its asserted status is based.

According to the Association's affidavit and information supplied by its President, the Association serves customers other than its members, as mentioned above. We find, therefore, that it does not meet the statutory criteria for the nonprofit association exemption. Its request is, therefore, denied.

We are informed that the Association is aware that, if we find that it is not exempt from our regulation, it must file an application for a transfer of Certificate No. 158-S from Senate Manor Corporation.

It is, therefore,

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ORDERED by the Florida Public Service Commission that the request by Senate Manor Homeowner's Association, Inc., that it be found exempt from this Commission's regulation under Section 367.022(7), Florida Statutes, as a nonprofit association providing service solely to members who own and control it, is hereby denied, as set forth in the body of this Order. It is further

ORDERED that this Order is issued as proposed agency action and will become final unless an appropriate petition, in the form prescribed by Rule 25-22.036, Florida Administrative Code, is received by the Director of the Division of Records and Reporting at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the close of business on May 11, 1989. It is further

ORDERED that after May 11, 1989, this Commission shall either issue a notice of further proceedings or an order indicating that this Order has become final and effective.

By ORDER of the Florida Public Service Commission,  
this 20th day of APRIL, 1989.

  
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STEVE TRIBBLE, Director,  
Division of Records and Reporting

( S E A L )

RJP

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.

The action proposed herein is preliminary in nature and will not become effective or final, except as provided by Rule 25-22.029, Florida Administrative Code. Any person whose substantial interests are affected by the action proposed by this order may file a petition for a formal proceeding, as provided by Rule 25-22.029(4), Florida Administrative Code, in the form provided by Rule 25-22.036(7)(a) and (f), Florida Administrative Code. This petition must be received by the Director, Division of Records and Reporting at his office at 101 East Gaines Street, Tallahassee, Florida 32399-0870, by the

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close of business on May 11, 1989. In the absence of such a petition, this order shall become effective May 12, 1989, as provided by Rule 25-22.029(6), Florida Administrative Code, and as reflected in a subsequent order.

Any objection or protest filed in this docket before the issuance date of this order is considered abandoned unless it satisfies the foregoing conditions and is renewed within the specified protest period.

If this order becomes final and effective on May 12, 1989, any party adversely affected may request judicial review by the Florida Supreme Court in the case of an electric, gas or telephone utility or by the First District Court of Appeal in the case of a water or sewer 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 of the effective date 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.