

## BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request by BAREFOOT POINTE CLUB )	DOCKET NO. 890448-SU
for exemption from FPSC regulation for )	ORDER NO. 21388
a sewage treatment plant in Monroe )	ISSUED: 6-16-89
County. )	

ORDER INDICATING THE EXEMPT STATUS OF  
BAREFOOT POINTE CLUB

BY THE COMMISSION:

Barefoot Pointe Club (Barefoot Pointe) is a luxury residential and vacationing complex in Upper Matecumbe Key in Monroe County. Barefoot Pointe proposes to construct a sewage treatment plant to serve its complex. Pursuant to Section 367.031, Florida Statutes (1987), before DER will issue a construction permit, it requires either a certificate authorizing service or proof that the utility is not subject to the regulation of this Commission. Therefore, by letter received March 28, 1989, and affidavit received June 6, 1989, Barefoot Pointe has requested recognition of the exempt status of its sewage treatment plant.

The affidavit and letter show that Barefoot Pointe will provide sewer service solely to its tenants; the proposed sewage treatment plant will be located on-site; and Barefoot Pointe will not collect any specific charge for sewer service from its tenants, as those charges are nonspecifically included in the tenants' nightly rental fee.

As a matter of practice, upon request and sufficient proof, the Commission will issue an order indicating the exempt status of water or sewer facilities, if they qualify under the appropriate section of Chapter 367, Florida Statutes (1987). Barefoot Pointe requested recognition of the exempt status of its sewage treatment plant under Section 367.022(5), Florida Statutes (1987).

Section 367.022(5), Florida Statutes (1987), states that landlords providing service to their tenants are exempt from Commission regulation. Based upon the facts as represented, we find that Barefoot Pointe is exempt from our regulation under the terms of Section 367.022(5), Florida Statutes (1987). However, should there be any change in circumstances or method of operation, the owner of Barefoot Pointe, or his successor(s) in interest, must inform the Commission within thirty days of such change, so that we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Barefoot Pointe Club, located at 80581 Old Highway, Islamorada, Florida 33036, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(5), Florida Statutes (1987). It is further

ORDERED that should there be any change in circumstances or method of operation of Barefoot Pointe Club's sewage

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treatment plant, the owner of Barefoot Pointe Club or any successor in interest shall inform the Commission within thirty days of such change. It is further

ORDERED that this docket be closed.

By ORDER of the Florida Public Service Commission,  
this 16th day of JUNE, 1989.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

DCS

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 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 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.