

FLORIDA PUBLIC SERVICE COMMISSION

Fletcher Building  
101 East Gaines Street  
Tallahassee, Florida 32399-0850

M E M O R A N D U M

October 3, 1991

TO : DIRECTOR, DIVISION OF RECORDS AND REPORTING

FROM : DIVISION OF WATER AND WASTEWATER (VON FOSSEN) *RWF P. D. J. M.*  
DIVISION OF LEGAL SERVICES (FRAZIER) *ART*

RE : UTILITY: HIAWATHA MANAGEMENT INC.  
DOCKET NO.: 910526-WS  
COUNTY: PUTNAM  
CASE: EXEMPTION REQUEST

AGENDA : OCTOBER 15, 1991- CONTROVERSIAL- PARTIES MAY PARTICIPATE

CRITICAL DATES: NONE

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CASE BACKGROUND

On April 26, 1991, Hiawatha Management, Inc. (Hiawatha), which is a condominium association pursuant to its Articles of Incorporation, filed its request for an exemption to continue operating its existing water and wastewater plants. Hiawatha provides water and wastewater services to 58 condominium units from on-site plants.

The condominium as well as the utilities were constructed in 1982. Hiawatha is presently upgrading its wastewater plant and needs either an exemption or a certificate from the Commission to obtain construction permits.

DOCUMENT NUMBER-DATE

09788 OCT-3 1991

FPSC-RECORDS/REPORTING

**DISCUSSION OF ISSUES**

**ISSUE 1:** Should the request by Hiawatha Management Inc. for an exemption from Florida Public Service Commission regulation for its water and wastewater utilities be granted?

**RECOMMENDATION:** Yes, Hiawatha Management, Inc's exemption request pursuant to Section 367.022(7), Florida Statutes should be approved. (VON FOSSEN)

**STAFF ANALYSIS:** On April 26, 1991, Hiawatha filed its request for exemption from regulation by this Commission. The request was filed pursuant to Section 367.022(7), Florida Statutes. Under this section, "Nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives" are exempt from Florida Public Service Commission regulation.

In an affidavit dated April 19, 1991, the president of Hiawatha attests that Hiawatha is a nonprofit association organized pursuant to Chapter 617, Florida Statutes, that Hiawatha will provide service solely to its members who own and control it, and that Hiawatha will provide both water and wastewater service.

To support its representations, Hiawatha filed its Declaration of Condominium, Articles of Incorporation, Bylaws and an Agreement and Release wherein the developer turned over ownership of the condominium to Hiawatha. These documents show that Hiawatha is a nonprofit corporation organized to operate, maintain and manage the condominium and that each unit owner is a member of Hiawatha entitled to one vote. All units have been sold and in 1984 the developer executed an Agreement and Release wherein the developer turned Hiawatha as well as all interest in the condominium over to the individual unit owners.

Based upon the Declaration of Condominium (Declaration), the developer submitted the land and improvements associated with the Hiawatha project to the condominium form of ownership as provided by Chapter 718, Florida Statutes. The common property of the condominium, including the water and wastewater systems, is declared as an appurtenance to each unit. According to the Declaration, the owner or owners of each condominium unit shall have an undivided interest in the common facilities. Such interest is conveyed to each unit owner by the deed for the individual units. Since the 58 unit owners comprise the association, Hiawatha owns and controls the utilities and the land upon which they are sited.

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Based upon the above documentation and representation of Hiawatha, staff recommends that the Commission find that Hiawatha qualifies under Section 367.022(7), Florida Statutes, as a nonprofit association which is exempt from its regulation.

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**ISSUE NO.2:** Should this docket be closed?

**RECOMMENDATION:** Yes. Since there is no further action to be taken, the docket should be closed. (Frazier)

**STAFF ANALYSIS:** If the Commission approves staff's recommendation in issue No. 1, there would be no further action required and the docket should be closed.

Commissioners:  
THOMAS M. BEARD, CHAIRMAN  
MICHAEL WILSON  
BETTY BASLEY  
J. TERRY DEASON

State of Florida



STEVE TRIBBLE, Director  
Division of Records and Reporting  
(904) 488-8371

## Public Service Commission

OCTOBER 4, 1991

TO: All Interested Persons  
FROM: Steve Tribble, Director of Records and Reporting  
RE: Notice of Commission Conference

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Attached is an excerpt of the Agenda for the Commission's regular conference, which is scheduled to begin at 9:30 a.m. on OCTOBER 15, 1991 in Room 106 of the Fletcher Building, 101 East Gaines Street, Tallahassee. The attached excerpt summarizes the issues to be decided in a docket in which you have expressed an interest. As a party of record or interested person in this docket, you may wish to obtain a copy of the Commission staff's recommendation. To do so, call the Records Section of this office at (904) 488-8371.

Also, as a party of record or interested person, you may wish to attend the conference and address the Commission regarding the docket. If this is your intent, you will need to sign the appearance register, which is located on a table at the back of the hearing room near the double doors. (If you fail to sign the register, you may miss the opportunity to speak before the Commissioners vote on the docket.) The Chairman will then announce each item as it is taken up and ask for your comments at the appropriate time. Any comments you wish to make should be limited to approximately five minutes.

If you have any questions regarding this information, please feel free to call me.

ST:ds  
Attachment

PSC/RAR 34 (Rev 1/91)