

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for exemption )  
from Florida Public Service ) DOCKET NO. 920945-WU  
Commission regulation for ) ORDER NO. PSC-93-0090-FOF-WU  
provision of water service in ) ISSUED: 01/19/93  
St. Lucie County by FONTENELE )  
PLAZA )  
\_\_\_\_\_)

ORDER INDICATING THE EXEMPT  
STATUS OF FONTENELE PLAZA

BY THE COMMISSION:

On September 18, 1992, Fontenele Plaza applied for an exemption from Commission regulation pursuant to Section 367.022(5), Florida Statutes, which provides for a landlord/tenant exemption. Fontenele Plaza is a converted hotel, which now has space available for 19 offices. The offices are leased on a month-to-month basis, without a lease or rental agreement from the tenants. The contact person is Mr. Roy P. Clark and the mailing address is 2303 North Federal Highway, Ft. Pierce, Florida 34950. Water service is provided by a well. Wastewater service is provided by a septic tank.

The application was filed in accordance with Section 367.022, Florida Statutes, and Rules 25-30.060(1), (2), and (3)(e), Florida Administrative Code. The applicant stated that it provides water service solely to its tenants and charges for such service is nonspecifically contained in the monthly rental charges. Furthermore, the applicant acknowledged Section 837.06, Florida Statutes, regarding false statements.

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.

Fontenele Plaza requested recognition of its exempt status under Section 367.022(5), Florida Statutes, which provides that landlords providing service to their tenants without specific compensation for the service shall not be subject to regulation by the Commission.

In addition, Rule 25-30.060(e) states:

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For an exemption pursuant to Section 367.022(5), Florida Statutes, a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; stating whether it provides water service, wastewater service or both; and specifying the service area. A copy of the landlord's most recent version of a standard lease or rental agreement, stating that there is no separate charge for water service, wastewater service, or both, shall be submitted with the application;...

Based on the facts as represented, we find that Fontenele Plaza is exempt from our regulation under the terms of Section 367.022(5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Fontenele Plaza or any successor in interest, must inform the Commission within thirty days of such change, so we may determine whether exempt status is still appropriate.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based on the facts as represented, Fontenele Plaza, located at 2303 North Federal Highway, Ft. Pierce, Florida 34950, with Mr. Roy P. Clark as contact person, and a mailing address of 2303 North Federal Highway, Ft. Pierce, Florida 34950, is hereby exempt from Commission regulation pursuant to the terms of Section 367.022(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation of Fontenele Plaza's water facility, the owner of Fontenele Plaza, or any successor in interest, shall inform the Commission within 30 days of such change. It is further

ORDERED that this docket be closed.

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By ORDER of the Florida Public Service Commission this 19th  
day of January, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

KAC

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 Civil Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.