

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Request for Exemption)	DOCKET NO. 921149-WS
From Florida Public Service)	ORDER NO. PSC-93-0220-FOF-WS
Commission Regulation for)	ISSUED: 02/10/93
Provision of Water and)	
Wastewater Service in Palm)	
Beach County, Florida, by)	
The Vinings II At Town Place)	
Apartments.)	
_____)	

ORDER INDICATING EXEMPT STATUS OF THE
VININGS II AT TOWN PLACE APARTMENTS AND CLOSING DOCKET

BY THE COMMISSION:

On November 4, 1992, The Vinings II At Town Place Apartments (The Vinings) filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The Vinings is a 252 unit apartment complex located at 5881 Town Bay Drive, Boca Raton, Florida. Mr. Charles C. Frey, Agent for Florida Town Place Limited Partnership (Owner of the Vinings), and primary contact person, filed the application on behalf of The Vinings.

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, and Rules 25-30.060(2) and (3)(h), Florida Administrative Code.

Section 367.022(8), Florida Statutes, 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. The City of Boca Raton provides water and wastewater service to the Vinings. According to The Vinings' application, service is provided at a charge that does not exceed the actual purchase price; it is aware of the requirements of Rule 25-30.111, Florida Administrative Code; it provides both water and wastewater service; and the service area is limited to the apartment complex.

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. Frey

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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 The Vinings is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. In the event of any change of circumstances or method of operation, the owner of The Vinings or any successors in interest, must inform the Commission within 30 days of such change so its exempt status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, The Vinings II At Town Place Apartments, 6400 Congress Avenue, Suite 2000, Boca Raton, Florida 33487, 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 The Vinings II At Town Place Apartments or any successors in interest shall inform this Commission within 30 days of such a change so that we may reevaluate The Vinings' exempt status. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 10th day of February, 1993.



STEVE TRIBBLE, Director
Division of Records and Reporting

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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.