

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption ) DOCKET NO. 921331-SU  
from Florida Public Service ) ORDER NO. PSC-93-0442-FOF-SU  
Commission Regulation for ) ISSUED: 03/23/93  
Provision of Wastewater Service )  
in St. Lucie County by SEAWIND )  
CONDOMINIUM ASSOCIATION, INC. )

ORDER INDICATING THE EXEMPT STATUS  
OF SEAWIND CONDOMINIUM ASSOCIATION, INC.

BY THE COMMISSION:

Seawind Condominium Association, Inc. (Seawind or applicant) is a nonprofit corporation in St. Lucie County providing wastewater service to residents of the condominium association. The contact person is Mr. James McDonald and the mailing address is 10044 South Ocean Drive, Jensen Beach, Florida 34957.

On December 30, 1992, Seawind filed an application for exemption from Commission regulation pursuant to Section 367.022(7), Florida Statutes, as a nonprofit association. This section provides an exemption from Commission regulation for "nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such corporations, associations or cooperatives."

Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit, providing service solely to the members who own and control it; whether it provides water service, wastewater service, or both; who will do the billing; and the service territory. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

The application was filed by Seawind in accordance with Section 367.022(7), Florida Statutes, and Rules 25-30.060(2), Florida Administrative Code. The application included a statement from Seawind that: the corporation is non-profit; service will be provided solely to members who own and control it; Seawind will do the billing; the service area will be limited to the Seawind Condominium, Hutchinson Island, Florida; and control passed to the nondeveloper members in 1983.

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Seawind provided the Articles of Incorporation as filed with the Secretary of State and the Bylaws, which clearly show the requirements for membership and that the members' voting rights are one vote per unit of ownership. The Articles filed with the application are in the name of Sand Dollar Tower Condominium Association. The name of the association was changed to Seawind Condominium Association, Inc., by an amendment to the Articles, dated September 17, 1988.

In addition, Seawind provided a copy of a Stipulation of Settlement wherein R. James Erskine conveys a license to Seawind to construct and operate a sewage treatment system on his property. This license includes an easement for the operation of the sewage treatment facility. The license conveyed by this stipulation will expire in the event Seawind ceases use of the wastewater treatment facility or a regional wastewater treatment facility becomes available, whichever occurs first. This license and easement constitute sufficient evidence of Seawind's ability to have continued use of the utility facilities and land. The applicant also acknowledged Section 837.06, Florida Statutes, regarding false statements.

Based on the facts as represented, we find that Seawind is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes, as a nonprofit association providing service solely to members who own and control it. In the event of any change in circumstances or method of operation that might affect its exempt status, Seawind, or its successor(s) in interest, shall notify this Commission within 30 days of the change so we may reevaluate its exempt status. It is, therefore,

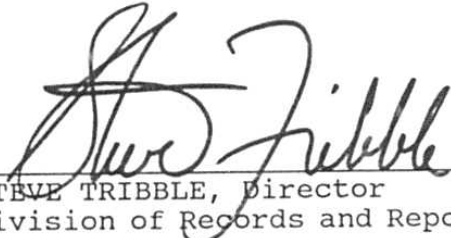
ORDERED by the Florida Public Service Commission that Seawind Condominium Association, Inc., is exempt from Commission regulation under Section 367.022(7), Florida Statutes, as a nonprofit association providing service solely to its members who own and control it. It is further

- ORDERED that should there be any change in circumstances or method of operation, Seawind Condominium Association, Inc., or its successor(s) in interest, shall notify this Commission within 30 days of the change so we may reevaluate its exempt status. It is further

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ORDERED that this docket is hereby closed.

By ORDER of the Florida Public Service Commission this 23rd  
day of March, 1993.

  
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STEVE TRIBBLE, Director  
Division of Records and Reporting

( S E A L )

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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.