

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for Exemption) DOCKET NO. 930286-WS
From Florida Public Service) ORDER NO. PSC-93-0554-FOF-WS
Commission Regulation for) ISSUED: 04/12/93
Provision of Water and)
Wastewater Service in Marion)
County by Sunshine Gardens ACLF.)

ORDER INDICATING EXEMPT STATUS OF SUNSHINE GARDENS ACLF
AND CLOSING DOCKET

BY THE COMMISSION:

On March 16, 1993, Sunshine Gardens ACLF (Sunshine Gardens), filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(6), Florida Statutes. Sunshine Gardens is located 200 feet west of SW 121 Avenue on County Road 484 in Marion County. Mr. Robert R. Hilger, owner and primary contact person, filed the application on behalf of Sunshine Gardens.

On March 22, 1993, we informally advised the utility because the capacity of Sunshine Gardens was over 120,000 gallons of water a day it did not meet the small system exemption requirement set forth in Section 367.022(6), Florida Statutes, which requires a system to have a capacity of no greater than 10,000 gpd.

Therefore, on March 29, 1993, the Sunshine Gardens filed an application for recognition of its exempt status pursuant to Section 367.055(5), Florida Statutes. Sunshine Gardens is an adult congregate living facility, which will provide water and wastewater service to approximately 18 semi-private rooms, four private rooms, one kitchen and a beauty shop.

Upon request and sufficient proof, this Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater facilities if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The amended application was filed under Section 367.022(5), Florida Statutes, and Rule 30.060(3)(g), Florida Administrative Code.

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Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants without specific compensation for the service. The application for an exemption for the wastewater system was filed in error because wastewater service will be provided by a septic system that will be permitted by the county, and it is not subject to the jurisdiction of the Commission at this time.

The application indicates that Sunshine Gardens provides water service only to its tenants, the service territory is the site location, and the service is included as a nonspecific portion of the monthly rent.

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. Hilger acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based upon the facts as represented, we find that Sunshine Gardens' water system is exempt from Commission regulation, pursuant to the provisions of Section 367.022(5), Florida Statutes. However, should there be any change, however, in circumstances or method of operation, the owner of Sunshine Gardens or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

Based upon the foregoing, it is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Sunshine Gardens ACLF, 11700 SW 121st, Dunnellon, Florida 34432, is exempt from Commission regulation, pursuant to the provisions of Section 367.055(5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Sunshine Gardens ACLF or any successor in interest, shall inform this Commission within 30 days of such change so that its exempt status may be reevaluated. It is further

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ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission this 12th
day of April, 1993.

STEVE TRIBBLE, Director
Division of Records and Reporting

(S E A L)

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by: 
Chief, Bureau of Records

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.