

MEMORANDUM

June 29, 1993

TO: ALICE CROSBY, DIVISION OF LEGAL SERVICES
DIVISION OF RECORDS AND REPORTING

FROM: JACKIE GILCHRIST, DIVISION OF WATER AND WASTEWATER *JGC*

RE: DOCKET NO. 920999-WS: REQUEST FOR EXEMPTION FROM FLORIDA
PUBLIC SERVICE COMMISSION REGULATION FOR PROVISION OF
WATER AND WASTEWATER SERVICE IN ST. LUCIE COUNTY BY
COUNTRY COVE MOBILE HOME PARK.

On July 1, 1992, this Commission received a Resolution of the Board of St. Lucie County Commissioners declaring St. Lucie County subject to the provisions of Chapter 367, Florida Statutes (FS). Resolution No. 92-112 became effective on October 1, 1992 and was acknowledged by this Commission on July 21, 1992 by Order No. PSC-92-0704-FOF-WS. Pursuant to Section 367.031, FS, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing that the system is exempt from Commission regulation.

Country Cove Mobile Home Park (CC) is a mobile home park in St. Lucie County which provides water and wastewater service to 148 lot owners within the park. CC is located at 4015 North U.S. Highway 1, Fort Pierce, Florida and the mailing address is Post Office Box 3815, Fort Pierce, Florida 34948. CC is owned by the Autullos' and June Autullo is listed as the contact person.

On October 5, 1992, an application was filed in accordance with 367.021(12), FS, and Rules 25-30.060(2) and (3)(j), Florida Administrative Code. A conversation with Ms. Autullo on October 15, 1992 revealed that CC did not qualify for exemption as a nonjurisdictional entity, but, possibly qualified for a landlord/tenant exemption pursuant to Section 367.022 (5), FS. In order to determine whether CC qualified for a landlord-tenant exemption, we asked Ms. Autullo by correspondence dated October 21, 1992, to provide us with a copy of CC's prospectus or standard lease. On November 18, 1992 we received a copy of CC's prospectus, park rules and regulations, covenants and restrictions, and rental agreement.

Pursuant to Section 367.022(5), FS, an exemption is granted under this authority when a utility provides water or wastewater service to its tenants and where charges for such service are non-specifically included in the rent. There are several provisions within the prospectus which caused staff to question the applicability of the landlord/tenant exemption. First, there are several references to the tenants' responsibility to pay additional water and wastewater charges based on increased water consumption (Page 12 - VIII(B)(7) and Item 9(b) and 9(c) of Exhibit A). Second, the prospectus indicates that CC intends to install

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individual meters for the purpose of billing each tenant individually. Third, there are several paragraphs in the prospectus relating to "pass-through charges" and government and utility charges" (Page 12 - VIII (C) and (D) and Page 13 - 1c). On February 25, 1993, staff wrote to the applicant requesting an explanation of these various provisions within the prospectus.

On May 23, 1993, Mr. David Eastman, legal counsel for CC, responded to the staff's letter. In his letter, Mr. Eastman acknowledged that there are sections of the prospectus which indicate that there may be additional charges for extra water consumption. He states that at this time these charges have not been collected, and that at the beginning of the next rental term, the Autullos will give notice that there will be no charges collected for additional water or wastewater service. With regard to the intention to install individual water meters, Mr. Eastman advised that in the event that the park does this, it will notify the Commission in writing within thirty days of such change in order that the Commission may reevaluate its jurisdictional status.

With regard to the sections of the prospectus relating to pass through and government and utility charges, Mr. Eastman advises that the disclosure of these types of charges is consistent with the requirements of Section 723.031 (5) and 723.031 (6), Florida Statutes. He states that the park owner does not at this time assess these types of charges, but reserves the right to begin charging them at some time in the future. Mr. Eastman further states that in the event the park owner's relationship with its tenants change and water and wastewater services are charged separately from the base rent, the Commission will be notified so that the park's jurisdictional status can be reevaluated.

On June 25, 1993, an application was filed in accordance with 367.022 (5), FS, and Rules 25-30.060 (2) and (3) (e), Florida Administrative Code. Included with the application is a statement from the landlord that it provides service solely to tenants; that charges for service are non-specifically contained in rental charges; it provides both water and wastewater service; and its service area is limited to the mobile home park. As mentioned previously, a copy of the landlords most recent version of a standard lease was filed with the Commission on November 18, 1992.

Based on the information contained in the application and on the facts represented in Mr. Eastman's letter of May 23, 1993 regarding the utility's understanding and intentions pertaining to separate charges and metering, Staff recommends that an administrative order be issued within thirty days finding Country Cove Mobile Home Park to be exempt pursuant to Section 367.022 (5),

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FS. In the event of any change of circumstances or method of operation, CC has agreed that it will notify the Commission within thirty days of such change so that its exempt status may be reevaluated.

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APPLICATION FOR LANDLORD-TENANT EXEMPTION

4. The service area is located at: 4015 No. U.S.I. - 77. Pine, Fl.

Received
11/18/92

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 is attached to this application.

I am aware that pursuant to Section 837.06, Florida Statutes, whoever knowingly makes a false statement in writing with the intent to mislead a public servant in the performance of his official duty shall be guilty of a misdemeanor of the second degree, punishable as provided in S. 775.082, S. 775.083, or S. 775.084.

Country Cove. M.H.P.
(Applicant please type or print)

6-15-93
(Date)

Michael J. Lullo Sr.
(Signature)

(Owner)
(Title)

When you finish filling out the application, the original and two copies of application and lease or rental agreement should be mailed to: **Director, Division of Records and Reporting, Florida Public Service Commission, 101 East Gaines Street, Tallahassee, Florida 32399-0850.**