

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 940981-WS
from Florida Public Service) ORDER NO. PSC-94-1561-FOF-WS
Commission regulation for) ISSUED: December 14, 1994
provision of water and)
wastewater service in Palm Beach)
County by BOCA BEND MARINA)
APARTMENTS)

ORDER INDICATING EXEMPT STATUS OF BOCA BEND MARINA APARTMENTS

BY THE COMMISSION:

On September 15, 1994, pursuant to Section 367.022 (8), Florida Statutes, Boca Bend Marina Apartments (Boca Bend) filed an application for a reseller exemption. Mr. Frank Manno, Conservation Billing Services, Inc. (CBSI), 90 S. Newton Street Road, Suite #2, Newton Square, Pennsylvania 19073-4035, is the primary contact person for Boca Bend. Mr. Steven Segien, Trust Agent, Segien Family Trust, filed the application on behalf of Boca Bend.

Boca Bend is an apartment complex of six buildings and 104 residential units, located at 3100 South Dixie Highway, Boca Raton, Florida 33432. Boca Bend has engaged CBSI to install individual meters in each of the 104 units and to provide billing services. Boca Bend purchases water and wastewater services from the City of Boca Raton Public Utilities (BRPU) and resells these services to the apartment residents.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water and wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. Boca Bend filed its application in accordance with Section 367.022 (8), Florida Statutes, and Rules 25-30.060 (1), (2), and (3) (h), Florida Administrative Code. Boca Bend furnished a schedule of its current charges, an explanation of its reseller's proposed charges, separate explanations of its proposed method of billing its customers for water and wastewater services, and a schedule showing that its service charges do not exceed its purchase prices. In particular, Boca Bend states that the Segien Family Trust pays CBSI for the billing service, and that CBSI does not recover any administrative costs in the charges billed to the Boca Bend residents.

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FPSC-RECORDS/REPORTING

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. According to Boca Bend's application, services will be provided at charges that do not exceed its actual purchase prices. Boca Bend acknowledges the requirements of Rule 25-30.111, Florida Administrative Code, regarding annual reporting requirements, as well as Section 367.122, Florida Statutes, which explains the responsibility of the reseller to examine and test meters, and Rules 25-30.262 through 25-30.267, which explain the responsibilities of the utility owner for insuring the accuracy of the meters. Boca Bend's service area is limited to the apartment complex at 3100 South Dixie Highway, Boca Raton, Florida 33432.

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 a public servant in the performance of his official duty is guilty of a misdemeanor. By signing the application, Mr. Segien has acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements.

Based on the above facts and pursuant to Section 367.022 (8), Florida Statutes, we find that Boca Bend is exempt from Commission regulation as a reseller. In the event of any change in circumstances or methods of operation, the owner of Boca Bend, or any successor(s) in interest, must inform the Commission within thirty days of such change so its exempt status may be reevaluated.

It is therefore,

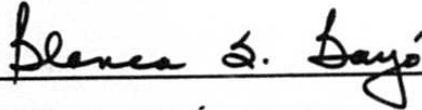
ORDERED by the Florida Public Service Commission that, pursuant to Section 367.022 (8), Florida Statutes, Boca Bend Marina Apartments, 3100 South Dixie Highway, Boca Raton, Florida 33432, is hereby exempt from Commission regulation. It is further

ORDERED that if any change in circumstances or methods of operation occur, the owner of Boca Bend Marina Apartments, or its successor(s) in interest, shall notify this Commission within thirty days of such changes so that 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 14th
day of December, 1994.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

(S E A L)

CJP

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.