



# Public Service Commission

-M-E-M-O-R-A-N-D-U-M-

ORIGINAL  
FILE COPY

**DATE:** January 31, 1995  
**TO:** TIM VACCARO, DIVISION OF LEGAL SERVICES  
~~DIVISION OF RECORDS AND REPORTING~~  
**FROM:** GERALD D. EDWARDS, DIVISION OF WATER AND WASTEWATER ~~SERVICE~~ *LCV*  
**RE:** DOCKET NO. 941044-SU; RESOLUTION OF BOARD OF COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO PROVISIONS OF CHAPTER 367, F. S. - REQUEST FOR EXEMPTION FOR PROVISION OF WASTEWATER SERVICE BY WESTCHESTER WOODS CONDOMINIUM ASSOCIATION, INC.

*On September 27, 1994, the Board of County Commissioners of Charlotte County adopted Resolution No. 94-195, pursuant to Section 367.171, Florida Statutes, declaring that as of September 27, 1994 water and wastewater utilities in Charlotte County are subject to the provisions of the Water and Wastewater Regulatory Law, Chapter 367, Florida Statutes. The resolution was acknowledged by this commission on November 28, 1994, by Order No. PSC-94-1451-POF-WS. Pursuant to Section 367.031, Florida Statutes, a utility subject to the jurisdiction of this Commission must obtain a certificate of authorization or an order recognizing the exempt status of the system.*

*On November 28, 1994, Westchester Woods Condominium Association (Westchester Woods or applicant) filed an application for an exemption from the Commission's jurisdiction for the provision of wastewater service in Charlotte County, pursuant to Section 367.022(7), Florida Statutes, which provides exemptions to qualifying nonprofit entities. The applicant's facility is physically located at 22481 Westchester Blvd., Port Charlotte, Florida, 33980. Mr. John Hughes is the president of the association and the primary contact person is Ms. Rebecca E. Rothfuss. Ms. Rothfuss' and Westchester Wood's mailing address is P. O. Box 758, Murdock, Florida, 33938-0758. The applicant will provide wastewater service solely to Westchester Woods condominiums (48 units) members and Charlotte County Utilities will provide water service.*

*To reiterate, the application was filed in accordance with Section 367.022 (7), Florida Statutes and Rule 25-30.060 (3) (g), Florida Administrative Code. Included with the application was a statement from Mr. Hughes, president, that Westchester Woods is a nonprofit corporation, that it will provide wastewater service solely to members who own and control it, that Westchester Woods will do the billing and that the service area is located: 22481 Westchester Blvd., Port Charlotte, Florida, 33980. Also included with the application were the Articles of Incorporation as filed with the Secretary of State and the Bylaws which documents clearly show the requirements for membership, and that the members' voting rights are one vote per unit of ownership, and the circumstances under which control passes to the non-developer members.*

*In addition, Mr. Hughes provided an indenture as proof of ownership of the utility facilities and the land upon which the facilities will be located. Because Section 367.022 (7), Florida Statutes is well defined with regards to proof of ownership, staff and legal counsel requested supporting documentation. The applicant provided the following documentation as proof of ownership of the utility facility and the land upon which the facilities are located:*

- 1) A sworn statement that Westchester Woods Condominium Association is 100% membership owned;
- 2) copies of the entire recorded Declaration of Condominium for Westchester Woods;
- 3) copies of owners Warranty Deed;

DOCUMENT NUMBER-DATE

01209 FEB-18

FPSC-RECORDS/REPORTING

ACK \_\_\_\_\_  
 AFA \_\_\_\_\_  
 APP \_\_\_\_\_  
 CAF \_\_\_\_\_  
 CMI \_\_\_\_\_  
 CTR \_\_\_\_\_  
 EAG \_\_\_\_\_  
 IFI \_\_\_\_\_  
 LIA \_\_\_\_\_  
 RIA \_\_\_\_\_  
 SIA \_\_\_\_\_  
 VAS \_\_\_\_\_  
 OTH \_\_\_\_\_

**DOCKET NO. 941044-SU**

**January 31, 1995**

4) copies of the owner's title insurance policy.

*Ms. Rothfuss stated that taxes for the year 1994 and prior years are paid in full. In addition, Mr. Hughes acknowledged Section 867.06, Florida Statutes, regarding false statements.*

*Based on the above, staff recommends that an order be issued within thirty days finding Westchester Woods Condominium Association, Inc. exempt from the Commission's regulation pursuant to Section 367.022 (7), Florida Statutes. Staff further recommends that in the event of change of circumstances or methods of operation, Westchester Woods Condominium Association, Inc. or successor(s) in interest, should be required to notify this Commission, within thirty days of such change of circumstances or method of operation of its wastewater treatment system, so that its exempt status may be reevaluated.*

cc: Charles H. Hill