

State of Florida

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DIVISION OF WATER &  
WASTEWATER  
CHARLES HILL  
DIRECTOR  
(904) 488-8482

Public Service Commission

February 14, 1995

ORIGINAL  
FILE COPY

Mr. Jesse W. Hill  
Mary Lu Homeowners Assoc., Inc.  
24437 Harborview Road, Box 222  
Charlotte Harbor, Florida 33980

RE: Docket No. ~~941044-WS~~; Resolution of Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, Florida Statutes.

Dear Mr. Hill:

Staff has reviewed your response dated January 25, 1995 and has found that additional information is needed to complete the above reference application for an exemption. It is imperative that the following deficiencies be corrected as soon as possible in order to avoid any further delay in the processing of your application.

1. Proof of Ownership - The warranty deed which you submitted refers to an Exhibit A which was not included with the documents that you filed. Therefore, please submit Exhibit A of the warranty deed which describes the land.

2. Articles of Incorporation and Bylaws - As required by Rule 25-30.060(3)(g), Florida Administrative Code (F.A.C.), your articles of incorporation as filed with the Secretary of State and your bylaws must clearly show the requirements for membership, that the members' voting rights are one vote per unit of ownership, and the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: (1) at 51 percent ownership, by the non-developer members, or, (2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation.

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FPSC-RECORDS/REPORTING

In order to qualify for exemption pursuant to Rule 25-30.060(3)(g), F.A.C., service must be to members only. Article IX(b)(2) of the Bylaws makes reference to "Non-membership account records . . . , amount of rents applicable . . ." In your response dated January 25, 1995, you stated that you currently serve 9 residents who are not members of the association. As stated before, pursuant to Section 367.022(7), Florida Statutes (F.S.) and Rule 25-30.060(3)(g), F.A.C., the association may only provide service to its members; therefore these customers must become members of the association in order for the association to receive its exemption from the Public Service Commission. If you have any questions, please feel free to contact Alice Crosby of our Legal Division at (904) 487-2740 or myself.


Also, in our letter dated January 4, 1995, we asked that you submit an official copy of the Articles of Incorporation as filed with the Secretary of State. The copy which was submitted with the application was not notarized or dated and did not show the official stamp as filed with the Secretary of State. What you submitted in your response to our letter was a copy of the notice of incorporation as filed with the Secretary of State. This notice of incorporation was notarized and showed the official stamp of the Secretary of State. Unfortunately it is not the notice of incorporation that we needed notarized and officially stamped by the Secretary of State, but rather the Articles of Incorporation. Again the copy of the Articles which was submitted was not notarized or dated and does not show the official stamp of the Secretary of State. Therefore please send an exact copy of the Articles of Incorporation as filed with the Secretary of State which has been signed, dated, notarized and shows the official stamp of the Secretary of State.

In addition, if the Association is currently 100% membership owned, please provide a statement indicating that the non-developer members have total control of the Association. If the developer currently has control of the Association, then the By-laws must be amended to reflect the circumstances under which control of the corporation passes to the non-developer members. Control of the corporation must pass: (1) at 51 percent ownership, by the non-developer members, or, (2) at some greater percentage delimited by a time period not to exceed 5 years from the date of incorporation.

Please file an original and two copies of the requested information by March 17, 1995, to Director, Division of Records and Reporting, 101 East Gaines Street, Tallahassee, Florida

32399. Also please be sure to reference the Docket Number, indicated at the top of this letter, on all future correspondence in order to ensure proper and timely processing. If you have any questions, please do not hesitate to contact me at (904) 488-8482.

Sincerely,

A handwritten signature in black ink that reads "Christine C. Tomlinson". The signature is written in a cursive style with a large initial "C".

Christine C. Tomlinson  
Regulatory Analyst

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cc: Division of Legal Services (Crosby)  
Division of Records and Reporting