

MEMORANDUM

February 24, 1995

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TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *[Signature]*

RE: DOCKET NO. 941044-WS - RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF CHARLOTTE COUNTY DECLARING CHARLOTTE COUNTY SUBJECT TO THE PROVISIONS OF CHAPTER 367, FLORIDA STATUTES - REQUEST FOR EXEMPTION FOR PROVISION OF WATER AND WASTEWATER SERVICE BY BAY PALM R.V. PARK

0298-FOF

Attached is an Order Indicating Exempt Status of Bay Palm R.V. Park and Closing Docket to be issued in the above-referenced Docket. (Number of Pages in Order - 4) (Document No. 941044J.ALC)

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Attachment

cc: Division of Water and Wastewater
(Coker)

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Resolution of the Board) DOCKET NO. 941044-WS
of County Commissioners of) ORDER NO. PSC-95-0298-POF-WS
Charlotte County Declaring) ISSUED: March 2, 1995
Charlotte County Subject to the)
Provisions of Chapter 367,)
Florida Statutes - Request For)
Exemption For the Provision of)
Water and Wastewater Service by)
Bay Palm R.V. Park.)
_____)

ORDER INDICATING EXEMPT STATUS OF
BAY PALM R.V. PARK

BY THE COMMISSION:

On November 14, 1994, Bay Palm R.V. Park (Bay Palm) filed an application with this Commission for recognition of its exempt status pursuant to Section 367.022(5), Florida Statutes. Bay Palm is a recreational vehicle park, which is owned by the Y.M.C.A. Foundation. The park is located at 220801-A Bayshore Road, Charlotte Harbor, Florida. Mr. Robert Olson, Treasurer of the Y.M.C.A. Foundation, and primary contact person, filed the application on behalf of Bay Palm.

Upon request and sufficient proof, the 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 application was filed in accordance with Section 367.022(5), Florida Statutes, and Rule 25-30.060(3)(e), Florida Administrative Code. However, upon review of the application, it was determined that Bay Palm qualifies for exemption pursuant to Sections 367.022(4) and (5), Florida Statutes, since it has short term guests as well as long term tenants.

Section 367.022(4), Florida Statutes, states that public lodging establishments providing service solely in connection with

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service to their guests are exempt from Commission regulation. Section 367.022(5), Florida Statutes, states that an entity qualifies for exemption from Commission regulation if it provides service solely to its tenants, and there are no specific charges for the utility service.

According to Bay Palm's application, water and wastewater service is provided only to its tenants and guests and the service territory is limited to the recreational vehicle park located at 220801-A Bayshore Road, Charlotts Harbor, Florida. Bay Palm has no formal lease or agreement which is signed by its guests and tenants; rent is on a daily, weekly or monthly basis. The water and wastewater service is included as a nonspecific portion of the 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. Olson 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 Bay Palm is exempt from Commission regulation, pursuant to the provisions of Sections 367.022(4) and (5), Florida Statutes. However, should there be any change in circumstances or method of operation, the owner of Bay Palm or any successor in interest must inform the Commission within 30 days of such change so that its exempt status may be reevaluated.

It is, therefore,

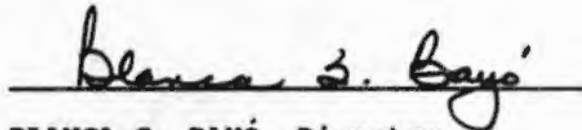
ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Bay Palm R.V. Park, 2000 Tamiami Trail, Unit 217, Port Charlotts, Florida 33948, is exempt from Commission regulation, pursuant to the provisions of Sections 367.022(4) and (5), Florida Statutes. It is further

ORDERED that should there be any change in circumstances or method of operation, the owner of Bay Palm R.V. Park or any successors in interest, shall inform this Commission within 30 days of such a change so that we may reevaluate its exempt status. It is further

ORDERED that this Docket shall remain open to process additional applications.

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By ORDER of the Florida Public Service Commission, this 2nd day of March, 1995.



BLANCA S. BAYÓ, Director
Division of Records and Reporting

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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 and/or wastewater 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

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filing must be completed within thirty (30) days after the issuance of this order, pursuant to Rule 9.110, Florida Rules of Appellate Procedure. The notice of appeal must be in the form specified in Rule 9.900 (a), Florida Rules of Appellate Procedure.