



# Public Service Commission

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

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**DATE:** November 22, 1995  
**TO:** Division of Records and Reporting  
Division of Legal Services (Crosby)  
**FROM:** Edith Xanders, Division of Water and Wastewater *EX*  
**RE:** Docket No. 941044-WS: Request for exemption for provision of wastewater service by Lemon Bay Breezes Condominium Association, Inc.

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Please place the attached in the above referenced docket file. If you have any questions, please feel free to contact me.

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November 15, 1995

**RECEIVED**

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Edie Xanders  
Public Service Commission  
2540 Shumard Blvd.  
Tallahassee, FL 32399

Florida Public Service Commission  
Division of Water and Wastewater

Re: Lemon Bay Breeze Condominium Association  
Our File: 95-95

Dear Edie,

This letter will confirm my telephone conversation with you today, concerning the status of the Lemon Bay Breeze Utility. Since my last correspondence I've continued my investigation of the necessary steps to transfer ownership and operation of the Sewer Utility for Lemon Bay Breeze, from the Developer to the Association, which was a prerequisite to me proceeding directly with an application to the Public Service Commission.

I also represent the Association in a law suit, filed by West Charlotte Utilities, which has a bearing on our situation. West Charlotte Utilities was the prior supplier of sewer service in the portion of Charlotte County where the Lemon Bay Breeze Condominium is located. West Charlotte Utility was a franchise utility of Charlotte County, which has subsequently sold their entire utility to the Englewood Water District which is a Bi-County political subdivision of the State of Florida. The nature of the suit was to collect connection charges and impact fees, which West Charlotte claimed were due from Lemon Bay Breeze, even though the inter-connection never occurred. Our position, before the Court, is that the Developer, being the current owner of the waste water facilities, is the true party in interest and I believe the court will recognize that posture as well. The Association has been reluctant to move forward with the turn over of the Condominium facilities, including the sewer plant, until such time as the Developer settles the suit with West Charlotte utilities. In the meantime, the Englewood Water District has made an offer to Lemon Bay Breeze to discontinue the use of the Lemon Bay Breeze facilities and connect with the public utility at a substantially reduced cost. This election needs to be made by the end of the year with connection as soon thereafter as possible. The unit owners, I believe, are desirous of taking the Englewood Water District up on their offer, which we believe will terminate the litigation by West Charlotte.

It appears that West Charlotte and the Englewood Water District have an Agreement whereby any fees connected after their agreement will be reimbursed to West Charlotte so that they would be financially satisfied. The end result is, I believe, that all of the parties will move forward with an inter-connect, with Englewood Water District and discontinuance of the use of the current Lemon Bay Facilities at or soon after the 1st of the year. In such event, it is my understanding that you would only require a letter from our office indicating that the transfer has occurred. In the event, for any reason this does not occur as anticipated, I will certainly keep you informed and it would be my client's intent to move forward with the exemption as soon as they are the owner of the facilities. We have requested clarification of the Developer's position at the present time and expect that momentarily.

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While I'm sure that this entire matter is quite confusing should you have any questions please don't hesitate to contact me. I will try to keep you informed as to the progress of our negotiations.

Very truly yours,

ROBERT A. DICKINSON

RAD;kmw

cc: Richard Sullivan