

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In Re: Request for exemption) DOCKET NO. 921088-SU
from Florida Public Service) ORDER NO. PSC-96-1254-FOF-SU
Commission regulation for) ISSUED: October 8, 1996
provision of wastewater service)
in St. Lucie County by BREAKERS)
LANDING CONDOMINIUM ASSOCIATION.)
_____)

ORDER INDICATING THE EXEMPT STATUS OF
BREAKERS LANDING CONDOMINIUM ASSOCIATION
AND CLOSING DOCKET

BY THE COMMISSION:

On October 21, 1992, Breakers Landing Condominium Association (Breakers or Association) filed a request for recognition of its exempt status, pursuant to Section 367.022(7), Florida Statutes. Breakers is located at 4949 North A-1-A, Fort Pierce, Florida. Because of the age of the docket and changes in Rule 25-30.060(3)(g), Florida Administrative Code, staff requested that Breakers provide a new application. The new application, signed by the President of the Association, Mr. William Jones, was received on August 23, 1996. The primary contact person for Breakers is Mr. Jones and his mailing address is P.O. Box 2441, Fort Pierce, Florida 34949.

Upon request and sufficient proof, the Commission will issue an order indicating the nonjurisdictional or exempt status of water or wastewater systems if they qualify under the appropriate provision of Chapter 367, Florida Statutes. The application was filed in accordance with Section 367.022(7), Florida Statutes.

Section 367.022(7), Florida Statutes, states that nonprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit entities are exempt from Commission regulation. Before an exemption of this nature may be granted, the applicant requesting the exemption must file with the Commission a statement specifying the following: that the corporation is nonprofit; providing service solely to the members who own and control it; whether it provides water service, wastewater service, or both; and who will do the billing. Additionally, the applicant must submit its Articles of Incorporation as filed with the Secretary of State and its Bylaws. These documents must show clearly the requirements of membership, the members' voting rights, and the circumstances under which control passes to the nondeveloper members.

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Breakers' application was filed in accordance with section 367.022(7), Florida Statutes, and Rule 25-30.060(3)(g), Florida Administrative Code. Mr. Jones acknowledged Section 837.06, Florida Statutes, regarding false statements. Breakers provided a certificate from the Secretary of State showing that it was formed under Chapter 718, Florida Statutes; and, provided a statement that it provides wastewater service solely to members who own and control it. In addition, Breakers provided documentation that control of the Association was given to the individual unit owners in August of 1993.


Based on the facts as represented, we find that Breakers is exempt from our regulation pursuant to Section 367.022(7), Florida Statutes. However, the owner of Breakers or any successors in interest are put on notice that if there is any change in circumstance or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes, it should 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, Breakers Landing Condominium Association, 4949 North A-1-A, Fort Pierce, Florida 34949, is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(7), Florida Statutes. It is further

ORDERED that this Docket is hereby closed.

By ORDER of the Florida Public Service Commission, this 8th day of October, 1996.



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, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, 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 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.