



Public Service Commission

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

DATE: October 16, 1996

TO: Alice Crosby, Division of Legal Services
Division of Records and Reporting

FROM: Patricia Brady, Division of Water and Wastewater *pb [signature]*

RE: Docket No. ~~951233-WS~~ Resolution of the Board of County Commissioners of Manatee County declaring Manatee County subject to the provisions of Chapter 367, F.S. - Request for exemption for provision of water service by TAMIAMI SPORTS ASSOCIATES, LTD.

On October 10, 1995, the Board of County Commissioners of Manatee County adopted Resolution No. R-95-109, pursuant to Section 367.171, Florida Statutes, declaring that as of October 10, 1995, the water and wastewater utilities in that County shall become subject to the provisions of the Water and Wastewater Regulatory Law, Chapter 367, Florida Statutes. The resolution was acknowledged by this Commission on November 9, 1995, by Order No. PSC-95-1393-FOF-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 January 2, 1996, an application for a non-jurisdictional finding for a water system was filed on behalf of Church Triumphant pursuant to Section 367.021(12), Florida Statutes. The application was signed by Mr. N.J. Olivieri, who is the General Partner of Tamiami Sports Associates, Ltd., (Tamiami Sports) which owns the well. Tamiami Sports has provided proof of application to the Department of State for reinstatement of the limited partnership. The application lists Mr. Michael Hodgkinson as the primary contact. The mailing address for Mr. Hodgkinson and the water system is 1937 Golf Street, Sarasota, Florida, 34236 (941/365-0450). The physical address of the system is 6412 14th Street West, Bradenton, Florida, 34207, in Manatee County.

Upon review by staff and discussions with the contact, it appears that Tamiami Sports provides water service from a privately-owned well to two commercial rental properties located at 6212 and 6214 14th Street in Bradenton. Wastewater service is provided by Manatee County. Since water service is provided for compensation, the more appropriate application appears to be for landlord-tenant exemption from regulation.

On March 15, 1996, a revised application was filed on behalf of Tamiami Sports pursuant to Section 367.022(5), Florida Statutes. In accordance with Rules 25-30.060(2), and (3)(e), Florida Administrative Code, Mr. Olivieri filed a statement that water service is provided solely to tenants and the charge for the service is non-specifically contained in the rent. A copy of the landlord's standard lease was included with the application. However, Item 22 on Page 6 of the lease states:

- ACK _____
- AFA _____
- APP _____
- CAF _____
- CMR _____
- CRP _____
- EAS _____
- LEA _____
- LI _____
- OP _____
- PCP _____
- SEC _____
- WAS _____
- OTH _____

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Water and electrical service shall be separately metered to the demised premises and the cost of the same shall be paid by the Lessee.

By letter dated October 15, 1996, Mr. Olivieri provided a supplemental statement clarifying that, regardless of Item 22 in the lease agreement, there is no separate charge for water service. Instead, the cost for the service is non-specifically included in gross rent. By signing the application, Mr. Olivieri acknowledged that he is aware of the penalty pursuant to Section 837.06, Florida Statutes, for knowingly making false statements in writing with the intent to mislead.

Section 2.08(C)(14) of the Administrative Procedures Manual grants staff authority to administratively approve requests for determination of exempt status that are clear-cut and without controversy. Staff finds the application in compliance with statutory requirements and without apparent controversy. Staff therefore recommends that an administrative order be issued finding Tamiami Sports Associates, Ltd., exempt from Commission regulation pursuant to Section 367.022(5), Florida Statutes. Staff recommends that the order require the current owner, or any successors in interest, to notify the Commission within 30 days of any change in circumstances or method of operation which causes it to no longer qualify for exemption pursuant to Section 367.022, Florida Statutes. The docket should remain open to process additional applications for exemption.