

ORIGINAL

RECEIVED
FLORIDA PUBLIC
SERVICE COMMISSION

BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

DOCKET NO. 971659-TP98 JAN 30 AM 10:20

MAIL ROOM

IN RE: PARC CORNICHE CONDOMINIUM
ASSOCIATION, INC., WELLINGTON
PROPERTY MANAGEMENT, INC. AND
EMERSON COMMUNICATIONS
CORPORATION

RESPONDENTS' ANSWER TO PETITION

WELLINGTON PROPERTY MANAGEMENT, INC. and EMERSON
COMMUNICATIONS CORPORATION (hereinafter collectively "Respondents")
file this Answer to the Complaint of Parc Corniche Condominium
Association, Inc. and further state:

1. Admitted.
2. Admitted.
3. With respect to paragraph 3, it is admitted that these
are the allegations of Parc Corniche.
4. Admitted.

Affirmative Defenses

ACK _____

AFA _____

APP _____

CAF _____

CMU 1 _____

CTR _____

EAG _____

LEG 1 _____

LIN _____

OPC _____

RON _____

SEC 1 _____

WAS _____

OTH _____

1. Section 364.02(12), Florida Statutes, defines a
telecommunications company as a person or entity "offering two-way
telecommunications service to the public for hire within the state
by the use of a telecommunications facility". Jurisdiction cannot
properly be invoked under Chapter 364 with respect to Respondents'
ownership of the cable television lines in the units since they do
not constitute two-way communications and would appear otherwise to

DOCUMENT NUMBER-DATE
01619 JAN 30 98
FPSC-RECORDS/REPORTING

fall outside of the jurisdiction of the Public Service Commission under Chapter 364.

2. In the event that the Commission determines that Respondents lack authority to claim ownership of the subject telephone lines at the condominium, Respondents would state that the Association has received the benefit of the wire and the maintenance undertaken of the wire by the Respondents and that any violation of Chapter 364 by the Respondents was not willful and, therefore, no penalty pursuant to Section 364.285, Florida Statutes, should be imposed upon the Respondents.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Houston Short, Esq., Pohl & Short, P.A., P.O. Box 3208, Winter Park, Florida 32790, this 29 day of January, 1998.



Michael E. Marder
Florida Bar No. 251887
Greenspoon, Marder, Hirschfeld,
Rafkin, Ross & Berger, P.A.
135 West Central Boulevard
Suite 1100
Orlando, Florida 32801
(407) 425-6559
(407) 422-6583 (facsimile)
Counsel for Respondents

g:\judi\3849\004\answer.psc