

MEMORANDUM

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August ²⁵ 24, 1998

RECORDS AND
REPORTING

TO: DIVISION OF RECORDS AND REPORTING

FROM: DIVISION OF LEGAL SERVICES (CROSBY) *JCS*

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 FROM FLORIDA PUBLIC SERVICE COMMISSION REGULATION FOR PROVISION OF WATER AND WASTEWATER SERVICE BY EMERALD LAKE.

98-1156-FOF

Attached is an ORDER INDICATING EXEMPT STATUS OF EMERALD LAKE to be issued in the above-referenced docket.

(Number of Pages in Order - 3)

ALC/dr

Attachment

cc: Division of Water and Wastewater (Clapp)

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BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION

In re: Resolution of the Board of Commissioners of Charlotte County declaring Charlotte County subject to provisions of Chapter 367, F.S. - request for exemption from Florida Public Service Commission Regulation for provision of water and wastewater service by Emerald Lake.

DOCKET NO. 941044-WS
ORDER NO. PSC-98-1156-FOF-WS
ISSUED: August 25, 1998

The following Commissioners participated in the disposition of this matter:

JULIA L. JOHNSON, Chairman
J. TERRY DEASON
SUSAN F. CLARK
JOE GARCIA
E. LEON JACOBS, JR.

ORDER INDICATING EXEMPT STATUS OF EMERALD LAKE

BY THE COMMISSION:

On April 30, 1996, Emerald Lake filed an application with this Commission for recognition of its exempt status, pursuant to Section 367.022(8), Florida Statutes. The application was filed after the Board of County Commissioners of Charlotte County adopted a resolution on September 27, 1994, which made the utilities in the County subject to the provisions of Chapter 367, Florida Statutes.

Emerald Lake is a 201-unit mobile home park located at 24300 Airport Road, Punta Gorda, Florida. Emerald Lake is owned by Chateau Communities, Inc. Mr. Robert S. Munro, Utilities Director, and primary contact person, filed the application on behalf of Emerald Lake. Mr. Munro was authorized to file the application for Emerald Lake by Mr. James B. Grange, Executive Vice President, Chateau Communities, Inc. Mr. Munro's address is 14205 East Colonial Drive, Orlando, Florida 32826.

DOCUMENT NUMBER-DATE

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FPSC-REGULATORY REPORTING

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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(8), Florida Statutes, which states, in part, that "[a]ny person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price thereof," and who complies with certain reporting requirements, is exempt from Commission regulation.

According to Emerald Lake's application, the service area is limited to the mobile home park located at 24300 Airport Road, Punta Gorda, Florida. Emerald Lake purchases water and wastewater from the City of Punta Gorda and resells it to the residents/tenants at a rate that does not exceed the actual purchase price. Meters have been installed on each lot so that the residents/tenants will be charged for the actual amount of water used. Emerald Lake will be responsible for service to common areas and vacant lots. No administrative or processing fees or miscellaneous charges will be charged to the residents for the service.

Emerald Lake is aware of the requirements of Section 367.122, Florida Statutes, and Rules 25-30.111 and 25-30.262 through 25-30.267, Florida Administrative Code. In addition, pursuant to Section 837.06, Florida Statutes, anyone knowingly making a false statement in writing with the intent to mislead is guilty of a misdemeanor. By signing the application, Mr. Munro acknowledged that he is aware of Section 837.06, Florida Statutes, and the penalties for making false statements in the application.

Based on the facts as represented, we find that Emerald Lake is exempt from Commission regulation as a reseller pursuant to Section 367.022(8), Florida Statutes. However, the owner of Emerald Lake 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 status may be reevaluated.

It is, therefore,

ORDERED by the Florida Public Service Commission that, based upon the facts as represented, Emerald Lake, c/o Chateau Communities, Inc., 14205 East Colonial Drive, Orlando, Florida

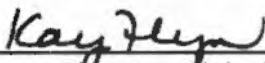
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32826. is hereby exempt from Commission regulation pursuant to the provisions of Section 367.022(8), Florida Statutes. It is further

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

By ORDER of the Florida Public Service Commission this 25th day of August, 1998.

BLANCA S. BAYÓ, Director
Division of Records and Reporting



Kay Flynn, Chief
Bureau of Records

(S E A L)

ALC

NOTICE OF FURTHER PROCEEDINGS OR JUDICIAL REVIEW

The Florida Public Service Commission is required by Section 120.569(1), 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.