

December 15, 1998

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ADMINISTRATION
MAIL ROOM

Donald Gill
674 Brigantine Blvd
North Fort Myers FL 33917

Director
Division of Records and Reporting
2540 Shumard Oak Boulevard
Tallahassee FL 32399-0850

RE: **Objection to North Fort Myers Utility Inc.'s
"amended certificate of authorization."**

981781-SU

Dear Director:

I object to North Fort Myers Utility Inc., Post Office Box 2547, Fort Myers, Florida (hereafter referred to as NFMU) "amended certificate of authorization" for the good and sufficient reasons listed below:

Prior to NFMU's application for an extension of service, NFMU in collusion with Snowbirdland Vistas, Inc., Manufactured Home Community, Inc. (MHCI), and MHC-DeAnza Financing Limited Partnership, did conspire to, and did extend NFMU's service area without acquiring the proper statutory authorization from the Commission.

There is reason to believe that, in the least, Snowbirdland Vistas, Inc., Manufactured Home Community, Inc., and MHC-DeAnza Financing Limited Partnership may have more than a casual relationship.

North Fort Myers Utility's application for a "certificate of authorization" is an ex post facto application for extension of service. NFMU's application is blatantly in violation of Section 367.045 (2) of the Florida State Statutes.

ACK _____
AFA _____
APP _____
CAF _____
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LEG 1 _____
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OTH orig to Hong done 12/29/98

DOCUMENT NUMBER-DATE
14254 DEC 18 98
FPSC-RECORDS/REPORTING

Section 367.045 (2) of the Florida State Statutes (emphasis and comments added)

(2) A utility **may not** delete or **extend** its service outside the area described in its certificate of authorization **until** it has obtained an amended certificate of authorization from the commission. When a utility applies for an amended certificate of authorization from the commission, it shall:

Comment: NFMU did extend its service without first obtaining an amended certificate of authorization.

- (a) Provide notice of the actual application filed by mail or personal delivery to the governing body of the county or municipality affected, to the Public Counsel, to the commission, and to such other persons and in such other manner as may be prescribed by commission rule;

Comment: It is unrealistic for the average person to conclude that NFMU complied with this section before extending its service area since NFMU notified the residents of Manufacture Homes Community of its “intent to apply” in a “NOTICE OF APPLICATION FOR AN EXTENSION OF WASTWATER [SIC] SERVICE AREA” that NFMU sent to the residents dated December 10, 1998 (copy herein attached marked “Exhibit ‘A.’”

- (b) Provide all information required by rule or order of the commission, which information may include a detailed inquiry into the ability or inability of the applicant to provide service, the need or lack of need for service in the area that the applicant seeks to delete or add; the existence or nonexistence of service from other sources within geographical proximity to the area that the applicant seeks to delete or add, and a description of the area sought to be deleted or added to the area described in the applicant’s current certificate of authorization;

Comment: See and apply to subsection (b) the “Comment” added to subsection (a) above.

- (c) Provide a reference to the number of the most recent order of the commission establishing or amending the applicant’s rates and charges;

Comment: See and apply to this section "Comment" that is added to subsection (a) above. Also see Exhibit "E," this is a notice of charges assessed by NFMU for "System Capacity Charges" in the amount of \$448,602.00 ("the total connection cost") and the "community owner" assigned to NFMU their right to collect from the Residents the per connection cost of \$462 on or before December 1, 1998.

Although Section 723.021 of the Florida Statutes requires an "Obligation of good faith and fair dealings," to facilitate MHCI's transfer of its wastewater obligation to NFMU, MHCI has breached its lease agreement with me. My lease expires on or about March 1, 1999, a rental agreement covering the period from March 1, 1998 to April 31, 1999. In the seventh item listed on page #40 in my rental agreement (see Exhibit "F") with MHCI it states: "Sewage -- \$ Included in lot rent." Without my prior knowledge or consent MHCI unilaterally broke its contract with me and transferred its obligation of contract to an unqualified third party (NFMU). MHCI's assignment of its contractual obligation to NFMU, allowed NFMU to conspire with MHCI to change the terms of the lease to their financial benefit.

While MHCI decreased the residents rent \$6.07 (see page #2 of Exhibit "E") to cover their cost of providing waste water service, NFMU new rates (see Exhibit "E") raised the residents cost approximately 150% from \$6.07 to \$10.98 per month plus \$3.98 per thousand gallons of waste water. On top of these increases the residents were required to pay a \$462.00 connection fee. With the exception of the residents, all the principals in this matter are guilty of deceptive, fraudulent and unfair business practices.

- (d) Submit an affidavit that the utility has tariffs and annual reports on file with the commission;

Comment: See and apply to subsection (d) the "Comment" added to subsection (a) above.

(e) File the application fee required by s. 367.145; and

Comment: See and apply to subsection (e) the "Comment" added to subsection (a) above.

(f) Submit an affidavit that the applicant has provided notice of its actual application pursuant to this section.

Comment: See and apply to subsection (f) the "Comment" added to subsection (a) above.

Enclosed:

"Exhibit 'A'" Notice of Application for an Extension of Wastewater[sic] Service Area, dated December 10, 1998.

"Exhibit 'B'" dated November 25, 1998, entitled R2 CPI Lease in reference to a "Notice of Increase in lot Rental Amount." This is a notice of a rental increase of \$4.87 after reducing the lot rent by \$6.07 and increasing the rent \$4.87 pursuant to Rule 61B-32.002, Florida Administrative Code, and Section 723.037. This notice became effective December 1, 1998 reflecting a rent increase, the elimination of MHCI's wastewater service charge and a transfer of the wastewater obligation from MHCI to NFMU.

"Exhibit 'C'" a "NOTICE" dated November 23, 1998 is a qualified waiver of the collection of a \$31.00 security deposit NFMU had previously imposed on all residents of MHCI.

"Exhibit 'D'" A letter from NFMU to MHCI's residents dated November 12, 1998. Notification that NFMU took over the obligation of providing wastewater service to "Buccaneer Estate (residents of Manufactured Homes Community and their wastewater rates.

"Exhibit 'E'" A Notice of reduction in utilities and notice of increase in lot rental sent to the homeowners of Buccaneer Estates from Snowbirdland Vistas, Inc., MHC-DeAnza Financing Limited Partnership and Manufactured Home Communities Inc., dated August 27, 1998. Although not listed in the notice's "RE:" this is also a notice of charges assessed by NFMU for "System Capacity Charges.

The Notice contains a deceptive and misapplied "90 day notice." In the notice the wastewater increase was justified pursuant to the application of Sections 723.037 and 723.046 of the Florida Statutes. A reading of Sections 723.037 and 723.046 clearly shows that these sections were intended to regulate existing rate changes between a community owner and the residents and misapplied rate changes generated by a community owner's unilateral assignment of a wastewater system to a third party.

"Exhibit 'F'" Page #40 of the rental agreement.

This letter contains most of my objections; however, some areas of the business practices of all the participants involved in the unauthorized extension of NFMU's service area need to be fully exposed and investigated by the proper authority. As can be gleaned from the information provided in this letter, before your commission grants an approval to NFMU's application, NFMU unauthorized extension of their wastewater service area and all the matters complained of in this letter demand that these matters be fully investigated by the proper authorities.

Yours truly,



Donald Gill

PC: Martin S. Friedman, Esq. Rose, Sundstrom & Bentley, LLP
2548 Blairstone Pines Drive
Tallahassee FL 32301

December 10, 1998

REC'D
12-14-98
D. Gill

**NOTICE OF APPLICATION FOR AN
EXTENSION OF WASTEWATER SERVICE AREA**

North Fort Myers Utility, Inc., Post Office Box 2547, Fort Myers, Florida 33902, pursuant to Section 367.045 (2), Florida Statutes, hereby notices its intent to apply to the Florida Public Service Commission for an extension of its service area to provide wastewater service to the Buccaneer Estates mobile home community in Section 35, Township 43 South, Range 24 East in Lee County, Florida, more particularly described as follows:

Township 43 South, Range 24 East, Lee County. That part of the North $\frac{1}{2}$ of Section 35 lying East of State Road 45-A (also known as U.S. Highway 41 Business) except the South $\frac{1}{4}$ of the Southwest $\frac{1}{4}$ of the Northeast $\frac{1}{4}$ of said Section 35.

Any objections to the Application must be filed with the Director, Division of Records & Reporting, 2540 Shumard Oak Boulevard, Tallahassee, Florida 32399-0850, with a copy to Martin S. Friedman, Esquire, Rose, Sundstrom & Bentley, LLP, 2548 Blairstone Pines Drive, Tallahassee, Florida 32301, no later than 30 days after the last date that the Notice was mailed or published, whichever is later.

- EXHIBIT -
"A"

Manufactured Home Communities, Inc.
Buccaneer Estates

2210 North Tamiami Trail
North Fort Myers, Florida 33903
(941) 995-3337
Fax (941) 995-1769

R2 CPI LEASE

TO: DON GILL
25 Fiume Street
WEST WARWICK RI 02893

LOT # 674

FROM: Don Barton, Community Manager, for MHC, Inc., Park Operator, for the park Owner.

DATE: November 25, 1998

RE: Notice of Increase in Lot Rental Amount

Pursuant to Rule 61B-32.002, Florida Administrative Code, and Section 723.037, Florida Statutes, this serves as a notice of a lot rental amount increase, including the following charges and assessment, in accordance with Chapter 723, Florida Statutes, and your lease.

Pursuant to the terms of your lease, the applicable Consumer Price Index (CPI) is 1.5%. Additionally, your lot rental amount was modified by the Notice of Reduction in Utilities and Notice of Increase in Lot Rental Amount due to Pass-through Charge dated August 27, 1998. The increase in lot rental amount (base rent plus other applicable fees and charges) disclosed herein will be effective on March 1, 1999, and will include the following:

Your current monthly rent is \$ 324.93 (See NOTE 1 below)

Your monthly increase is \$ 4.87

Your monthly rent effective 3/1/99 is \$ 329.80

NOTE 1: After reducing your lot rental amount by \$6.07 effective December 1, 1998 to reflect change in wastewater utility (sewer) service now payable to the third-party utility, North Fort Myers Utility, Inc.

All payments of the pass-through (per site connection cost) as described in the August 27, 1998, Notice should be made directly to North Fort Myers Utility, Inc., as set forth in the August 27, 1998, Notice which remains effective and is incorporated herein by reference.

The increase disclosed in this notice applies to the Buccaneer Estates Homeowners shown above.

cc: Board of Directors of Buccaneer Estates Homeowners Association.

- EXHIBIT -
"B" 81



NOTICE

November 23, 1998

Dear Buccaneer Estates Residents,

The Management of North Fort Myers Utility, Inc. (NMFU), and upon advice of our Corporate Counsel, is pleased to announce, our decision to waive the collection of the \$31.00 security deposit from the existing residents of Buccaneer Estates. However NFMU reserves the right pursuant to our Tariff and the Florida Public Service Commission Rule 25.30.311 Florida Administrative Code to collect a deposit from those customers which fail to maintain a satisfactory payment record.

Should you have any questions please call our office at 941-543-1005

North Fort Myers Utility, Inc.

- EXHIBIT -
"C"

N O R T H
F O R T M Y E R S
U T I L I T Y
I N C O R P O R A T E D

1601 Bay Drive, Bldg. 501 • North Fort Myers, Florida 33916

Mailing Address: P.O. Box 2547 • Fort Myers, Florida 33901

(941) 543-1000

November 12, 1998

Dear Buccaneer Estates Resident,

North Fort Myers Utility, Inc. (NFMU) has taken over the obligation of providing wastewater treatment and service for the residents of Buccaneer Estates. All residents of Buccaneer Estates were notified of this on August 27, 1998.

The Florida Public Service Commission (FPSC) authorizes NFMU to collect its approved wastewater fees, rates and charges from all the residents of Buccaneer Estates. In accordance with the FPSC rules, all customers of NFMU are required to pay a \$31.00 security deposit, which will earn interest annually pursuant to (FPSC) rule 25-30.311. This deposit and interest is refunded if a customer has a satisfactory payment record for a period of 23 months. Therefore your first bill from NFMU will include this \$31.00 deposit. In addition to the deposit, you must either pay to NFMU in full the one time \$462.00 system capacity fee (connection cost) or make arrangements to pay NFMU the fee on an installment basis of \$7.01 per month for eight (8) years, which includes simple interest at 10% per year. You will also be receiving from us your first monthly wastewater bill in early January 1999. The current monthly residential wastewater service rates are as follows:

Monthly:

* Base facility charge \$10.98

*Plus gallonage charge per
1,000 gallons of water usage \$3.98
(Maximum of 10,000 gallons)

*This monthly base charge is applicable as long as a person is a customer of the utility, regardless of whether there is usage.

- EXHIBIT -
"D"
1 of 2
5

Page 2 (Buccaneer Form)

NFMU also provides the convenience of the automatic bill payment to its customers. Attached is the information and Authorization Agreement should you elect to take advantage of the Automated Bill payment.

For your convenience NFMU will have a customer representative available to sign up for wastewater service at the following times and places, or you may come to our office at 5660 Bayshore Road, Suite 51:

Time: 8:30 AM to 4:30 PM

Date: December 1st and 2nd 1998

Location: Buccaneer Estates Main Clubhouse

For those who cannot come to our office or may be out of town, call or write us a note and we will mail you the information.

Should you have any questions, please do not hesitate to contact our office at 941-543-1005.

Sincerely,
NORTH FORT MYERS UTILITY, INC.

NOTICE

TO: Homeowners of Buccaneer Estates Manufactured Home Community

FROM: Snowbirdland Vistas, Inc.
MHC-DeAnza Financing Limited Partnership
Manufactured Home Communities, Inc.

LOT # 674

DATE: August 27, 1998

DON GILL
25 Fiume Street
WEST WARWICK RI 02893

RE: Notice of Reduction in Utilities and
Notice of Increase in Lot Rental Amount Due to Pass-Through Charge

This serves as a 90-day notice pursuant to Sections 723.037 and 723.046, Florida Statutes, of a charge to be assessed by North Fort Myers Utility, Inc. (the "Utility") for "System Capacity Charges" in the total amount of \$448,602 (the "Total Connection Cost"), which is the total cost for connection of Buccaneer Estates Manufactured Home Community (the "Community") to the Utility's central wastewater collection, treatment and disposal system (the "System"). The Community Owner (as defined below) has been mandated pursuant to Lee County, Florida Ordinance No. 91-01 to make a capital improvement consisting of connection of the Community to the System for wastewater utility service. The Total Connection Cost was computed at the Utility's standard rate of \$462 (the "Per Site Connection Cost") for each of the 971 manufactured home sites within the Community. MHC-DeAnza Financing Limited Partnership (together with its nominee title holder, Snowbirdland Vistas, Inc.) and Manufactured Home Communities, Inc., as the owner and operator of the Community (collectively, the "Community Owner"), have agreed to pay the Total Connection Cost to the Utility in advance on behalf of the residents of the Community (the "Residents"), subject to the obligation of the Residents to repay such amount directly to the Utility as set forth herein. This Notice affects all Residents of the Community, current and future.

The Community Owner has assigned to the Utility the Community Owner's right to collect from the Residents the Per Site Connection Cost for each site within the Community. The Utility will provide each Resident the option to pay the Per Site Connection Cost for such Resident's site either (i) in a single lump sum payment of \$462 on or before December 1, 1998, or (ii) in monthly installments of \$7.01 each (which amount includes interest on the unpaid balance of the Per Site Connection Cost from time to time at the rate of 10% per annum) on the first day of each calendar month over the eight-year period commencing December 1, 1998 and continuing through November 30, 2006 (the "Payment Period"). For the Residents electing to pay the Per Site Connection Cost in monthly installments as provided for above, the Utility will invoice these installments on separate monthly bills to be delivered to the Residents. The payment schedule set forth herein is in accordance with Section 723.046, Florida Statutes.

Effective December 1, 1998, the Utility will begin billing the Residents directly on a monthly basis for the wastewater collection, treatment and disposal service provided by the Utility, and the cost of providing this service will no longer be included within the lot rental amount. Effective as of such date, the charge for wastewater utility service will be the amount charged by the utility provider, and the charge will increase in accordance with any future increase by the provider.



Effective December 1, 1998, the monthly base rent payable under each Resident's lot rental agreement will be reduced by \$6.07. This is the average monthly cost to the Community Owner of providing wastewater utility service to each site in the Community, the cost of which service has previously been included in the base rent. This average monthly cost was determined by averaging, on a per month basis, the cost to the Community Owner of providing wastewater utility service to the Community over the past 12 months.

Roger Maynard, Regional Vice President of the Community Owner, has met with the Board of Directors of Buccaneer Homeowners' Association to discuss the connection of the Community to the System. The Community Owner has offered to attend an open meeting of all Residents to further discuss the matter should the Board of Directors request it to do so.

cc: Board of Directors of
Buccaneer Homeowners' Association

tenant of the park. If this fee is determined to be an entrance fee prohibited by Section 723.041, Florida Statutes, it will be refused.

Excess Resident Fee -- A \$ ___ per month charge is made for residents in excess of two (2) per home (exclusive of immediate family).

Late Payment Fee -- If any payment is not received by Snowbird Vistas, Inc. by the seventh day of the month in which it is due, the payment will be increased by _____ dollars (\$ ___) OR 5%, whichever is greater. Snowbird Vistas, Inc., however, may in its sole discretion refuse to accept any payment not received by the seventh of the month in which it is due except as otherwise provided by law.

Returned Check Fee -- A charge of \$ ___ is charged to those people whose checks are returned by the bank for any reason.

Clean-up Fee -- A fee of \$ ___, based on actual labor and materials incurred, is charged to the resident failing to clean-up after a private function on park property.

Damage of Home -- A fee of \$ ___ based on actual labor and material to remove, will be charged to an owner who fails to remove a home damaged by fire or other hazard, or due to run down or deteriorated condition.

Maintenance Fee -- A fee, based on actual labor and material incurred, will be charged to those residents who fail to repair, trim, prune or who otherwise fail to maintain the exterior appearance of their home. Routine exterior washing or gardening operations would normally not exceed \$ ___.

Sewage -- \$ Included in Lot Rent

Trash -- \$ Included per month
in Lot Rent

Storm Drainage -- \$ ___ per month.

Lawn Mowing -- \$ Included in Lot Rent

Damage to park property -- \$ ___ Residents are responsible for damages to any property within the park caused or contributed to by their guests.

From: Kay Flynn
To: Cleveland Ferguson
Subject: fwd: 981781-SU

====NOTE=====1/04/99==8:45am==
CC: Hong Wang

Good morning. Hong is adding all protestors' names to the mailing list in this docket as interested persons (not parties). Once you have made the determination, can you let her know (1) which ones should be marked as parties and (2) whether any names should be deleted from the list? Thanks. Kay

Fwd-by:=Cleveland=Per=1/04/99==9:07am==
Fwd to: Kay Flynn

I will definitely do that, thanks.
Fwd-by:=Kay=Flynn=====

Fwd to: Cleveland Ferguson

Good. Thanks.

AH. to 14254,
Dec. 18, 98'