

STATE OF FLORIDA

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ORIGINAL

DIVISION OF LEGAL SERVICES
NOREEN S. DAVIS
DIRECTOR
(850) 413-6199

Public Service Commission

November 4, 1999

David B. Erwin, Esquire
127 Riversink Road
Crawfordville, Florida 32327

RE: Docket No. 990975-SU - Application for transfer of Certificate No. 281-S in Lee County from Bonita Country Club Utilities, Inc. to RealNor Hallandale, Inc.

Dear Mr. Erwin:

I am writing in response to your letter to the Acting General Counsel Cathy Bedell, dated October 28, 1999. You have requested an informal opinion as to whether or not the Commission has jurisdiction to determine legal ownership of water and wastewater facilities.

As I stated previously, in telephone conversations, the Commission's legal staff does not give binding legal opinions. Informal legal opinions of the Commission's legal staff are just that and in no way bind the Commission. Pursuant to Section 120.565(1), Florida Statutes, you "may seek a declaratory statement regarding an agency's opinion as to the applicability of a statutory provision, or of any rule or order of the agency, as it applies to the petitioner's particular set of circumstances."

I believe Order No. PSC-93-0810-FOF-WS which was attached in support of your opinion speaks for itself. It is staff's informal opinion that Order No. PSC-93-0810-FOF-WS at page 4 does state that the Commission is not vested with jurisdiction to determine the legal ownership of a utility's lines. Additionally, the Supreme Court of Florida has held that the PSC has no authority to vindicate breaches, if any, of the land sales laws or private contracts. Deltona Corp. v. Mayo, 342 So. 2d 510, 512 (Fla. 1977). Again, this letter represents the informal legal opinion of the Division of Legal Services, and it in no way binds the Commission.

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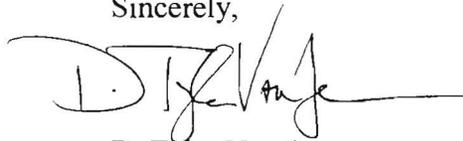
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If you should have any additional questions concerning this matter, please contact me at (850) 413-6185.

Sincerely,

A handwritten signature in black ink, appearing to read "D. Tyler Van Leuven". The signature is fluid and cursive, with a long horizontal line extending to the right.

D. Tyler Van Leuven
Staff Attorney

CB/DTV/dr

cc: Division of Water and Wastewater (Johnson, Redemann, Messer)
Division of Auditing and Financial Analysis (Welch)
Division of Records and Reporting
Roy C. Young, Esquire
G. Helen Athan, Esquire
Mr. Michael J. Miceli

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