

STATE OF FLORIDA

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

Public Service Commission

November 13, 2000

ORIGINAL

Mr. Donald E. Kepus
943 Lantania Place
Oviedo, Florida 32765

Re: Docket No. 991984-WS - Application for transfer of Certificates Nos. 277-W and 223-S in Seminole County from Alafaya Palm Valley Associates, Ltd. to CWS Communities LP d/b/a Palm Valley.

Dear Mr. Kepus:

I am writing in response to your October 20, 2000, letter sent to the Commission via facsimile. In your letter, you state that the Palm Valley Homeowner's Association, Inc. wishes to offer objections and comments on the Application for Transfer in the above-referenced docket. By Order No. PSC-00-1675-PAA-WS, issued September 9, 2000, the Commission approved the transfer from Alafaya Palm Valley Associates, Ltd. to CWS Communities, LP d/b/a Palm Valley. On October 13, 2000, Order No. PSC-00-1675-WS became final and effective by Order No. PSC-00-1875-CO-WS. During our November 6, 2000, telephone conversation, you indicated that you intended for your letter to be comments on the present situation in Palm Valley and not a request for hearing. Accordingly, staff has not treated your facsimile as a protest and request for hearing.

Our records indicate that on February 18, 2000, notice of the transfer was published in the Orlando Sentinel and sent to the customers of the Palm Valley Mobile Home Park (Park) and the Fox Run subdivision pursuant to Section 367.045(2), Florida Statutes and Rule 25-30.030, Florida Administrative Code. The notice that was sent to you included a statement that any objections to the application should be filed in writing within 30 days from the date of the notice. Therefore, the Commission should have received objections to the application by March 20, 2000.

It should be noted that the Park is exempt from the Commission's regulation pursuant to Section 367.022(8), Florida Statutes. Section 367.022(8), Florida Statutes states that "Any person who resells water or wastewater service at a rate or charge which does not exceed the actual purchase price of the water or wastewater" is not subject to the regulation by the Commission as a utility or subject to the provisions of Chapter 367, Florida Statutes. Therefore, since the Park is merely reselling water bought from the utility, it not subject to regulation provided that the Park is only charging for the cost of the water or wastewater.

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As to your comments concerning the lot rent and the Park changing from a flat rate to a metered billing structure, Chapter 723, Florida Statutes, addresses the lot rent reduction issues. The Commission does not have the authority to enforce Chapter 723, Florida Statutes. Further, the billing structure inside the Park is not subject to the Commission's regulation because the Park is an exempt reseller.

Please be advised that this letter represents the informal opinion of the Commission staff and in no way binds the Commission. If you should have any questions pertaining to this letter, please feel free to contact me at (850) 413-6185.

Sincerely,

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

D. Tyler Van Leuven
Staff Attorney

DTV/dm

Enclosure

cc: Division of Regulatory Oversight (Johnson, Redemann, Messer)
Division of Consumer Affairs
Division of Records and Reporting
Kathryn G.W. Cowdery, Esquire

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