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DIVISION OF ECONOMIC REGULATION  
(850) 413-6900

Public Service Commission

February 24, 2003

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03 FEB 25 AM 9:51  
COMMISSION  
CLERK

Ms. K. R. Hoffman  
President, Mobile Manor, Inc.  
150 Lantern Lane  
North Fort Myers, FL 33917-6515

Re: Docket No. 021251-WU, Request for acknowledgment of nonprofit exemption in Lee County and for cancellation of Certificate No. 056-W by Mobile Manor, Inc.

Dear Ms. Hoffman:

As the Board of Directors (Board) of Mobile Manor, Inc. (Mobile Manor) is aware, Section 367.022(7), Florida Statutes, exempts from Commission regulation any "[n]onprofit corporations, associations, or cooperatives providing service solely to members who own and control such nonprofit corporations, associations, or cooperatives." For the exemption to apply, Mobile Manor must be providing service solely to members. In my October 30, 2002, letter to Ms. Carol Julius was the following warning:

AUS  
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OTH

...[T]he letter to non-members must not be constructed such that it appears the Commission is no longer allowing service to non-members. The burden of resolving non-member service resides with the utility as a condition precedent to the acknowledgment of the exemption. The Commission can not be made a party to those decisions.

Unfortunately, in the January 7, 2003, letter from the Board to all Mobile Manor Subdivision owners/residents was the statement that:

This means that as soon as this process [cancellation of certificate] is complete, we will no longer be permitted to sell water to owners/residents who are not members of Mobile Manor Inc.

Staff believes that the phrase "we will no longer be permitted" implies that the Commission will no longer be permitting Mobile Manor to sell water to non-members. That is categorically not the case. Staff hopes that, in any further communication with members or non-members, the Board does not again misrepresent the Commission's jurisdiction in this matter.

Also, the Commission will need to make a public interest determination before approving or denying the cancellation of Mobile Manor's water certificate. The Board's affidavits indicated that service will be provided to non-members at no charge until such time as membership can be resolved. Staff is unclear what the statement "until such time as membership can be resolved" means. Specifically, we will need to understand under what circumstances and for how long service will be provided to existing customers who are not members of the corporation if Mobile Manor's certificate is cancelled. Please clarify by responding to the following questions:

DOCUMENT NUMBER - DATE  
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1. Did Mobile Manor consider resolving the matter of membership prior to requesting exemption and cancellation of its certificate? If not, please explain why not. If so, please explain why this was not done.
2. Has Mobile Manor ever attempted to require nonmembers receiving water service to join the corporation? If so, please describe the circumstances and outcome.
3. If its water certificate is cancelled, how does Mobile Manor intend to resolve the matter of nonmembers who currently receive water service from the corporation?
4. If its water certificate is cancelled and Mobile Manor is subsequently unsuccessful in requiring nonmembers to become members of the corporation, does Mobile Manor intend to provide water service at no charge to nonmembers indefinitely? If not, what does Mobile Manor propose to do?
5. Has Mobile Manor attempted to work with Lee County to obtain service for the Mobile Manor Subdivision directly from the County instead of from Mobile Manor? If so, describe the steps taken and the outcome. If not, would Mobile Manor be willing to assist nonmembers in attempting to obtain water service directly from the County?

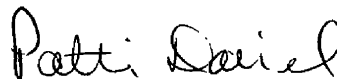
It is extremely important that all the above questions be answered as honestly and accurately as possible. Staff is somewhat troubled that, when this matter first came up for discussion in the Spring of 2002, we were told there were approximately five lots receiving service from Mobile Manor which were not members. It appears the number at that time was closer to 50 lots. Therefore, staff requests that the response to the above questions be filed along with an affidavit from a member of the Board attesting that the Board is aware of the penalty pursuant to Section 837.06, Florida Statutes, for knowingly making a false statement in writing with the intent to mislead a public servant in the performance of his or her official duty.

An original and four copies of the Board's response to the above questions along with the above referenced affidavit should be filed no later than March 28, 2003, directly with:

The Director, Division of the Commission Clerk and Administrative Services  
Florida Public Service Commission  
2540 Shumard Oak Boulevard  
Tallahassee, FL 32308-0850

If you have any questions with regard to the information requested please feel free to contact either a member of my staff, Ms. Patricia Brady, at (850) 413-6686, [pbrady@psc.state.fl.us](mailto:pbrady@psc.state.fl.us) or the Commission's legal counsels, Ms. Lorena Holley at (850) 413-6185, [lholley@psc.state.fl.us](mailto:lholley@psc.state.fl.us) or Ms. Jennifer Rodan at (850) 413-6189, [jrodan@psc.state.fl.us](mailto:jrodan@psc.state.fl.us).

Sincerely,



Patti Daniel  
Supervisor of Certification

PD:PB

cc: Division of Economic Regulation (Brady, Bass)  
Office of the General Counsel (Holley, Rodan)  
Office of the Commission Clerk and Administrative Services (docket, security)