

State of Florida



Public Service Commission

CAPITAL CIRCLE OFFICE CENTER • 2540 SHUMARD OAK BOULEVARD
TALLAHASSEE, FLORIDA 32399-0850

-M-E-M-O-R-A-N-D-U-M-

DATE: January 4, 2019

TO: Adam J. Teitzman, Commission Clerk, Office of Commission Clerk

FROM: Margo A. DuVal, Senior Attorney, Office of the General Counsel *MJD*

RE: Docket No. 20180142-WS - Initiation of show cause proceedings against Palm Tree Acres Mobile Home Park, in Pasco County, for noncompliance with Section 367.031, F.S., and Rule 25-30.033, F.A.C.

Please file the attached documents in the correspondence section of the docket file for Docket No. 20180142-WS.

Margo DuVal

From: Richard A. Harrison <rah@harrisonpa.com>
Sent: Wednesday, November 28, 2018 11:13 AM
To: 'bruce.may@hklaw.com'; Braulio Baez; Keith Hetrick; Margo DuVal
Cc: Daniela N. Leavitt; Lisa Ferrara; jabobo@lutzbobo.com; jbgabel@lutzbobo.com; Richard A. Harrison
Subject: RE: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park

You are correct – that should have said you were copied on item 3 (consistent with the itemized list that appears immediately before that statement). I apologize for the error. In any event, items 1, 2, and 4 were provided to you in my email last night.

RICHARD A. HARRISON, P.A.
ATTORNEYS AT LAW

Richard A. Harrison
Florida Bar No.: 602493
Board Certified by The Florida Bar in City, County
& Local Government Law
400 N. Ashley Drive
Suite 2600
Tampa, FL 33602
rah@harrisonpa.com
Office: 813-712-8757 Ext. 7057
Cell: 813-230-7317
www.harrisonpa.com

CONFIDENTIALITY NOTICE: This email transmission and any documents attached to or accompanying this email contain information from the law firm of Richard A. Harrison, P.A., which is confidential and/or legally privileged. The information is intended solely for the use of the individuals or entities to whom this email is intended to be delivered. Any transmission of confidential and/or legally privileged information to persons or entities other than the intended recipients, whether through inadvertence or otherwise, shall not be construed as a waiver of any legal privilege or confidentiality. If you are not the intended recipient, you are hereby notified that the opening, review, disclosure, copying, distribution, or forwarding of this email or its contents or attachments, or the taking of any action in reliance thereon, is strictly prohibited. If you have received this email in error, please immediately and permanently delete it and any attachments from your records and notify us via email so that we may take appropriate corrective action. Thank you.

From: bruce.may@hklaw.com [mailto:bruce.may@hklaw.com]
Sent: Wednesday, November 28, 2018 10:50 AM
To: Richard A. Harrison; bbaez@psc.state.fl.us; khetrick@psc.state.fl.us; mduval@psc.state.fl.us
Cc: Daniela N. Leavitt; Lisa Ferrara; jabobo@lutzbobo.com; jbgabel@lutzbobo.com
Subject: RE: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park

Mr. Harrison, with due respect, you represented to Mr. Baez that I was “copied on item 4” of your email. Your email lists item 4 as “Email 11/27/18 from me [Richard Harrison] to PSC staff transmitting an order entered by the Second DCA in the certiorari proceedings”. That email was sent to staff yesterday. Notwithstanding the requirements of Rule 25-22.033(2), I was not copied on that email and neither was any other representative of the Park. My client is entitled to due process in this quasi-judicial proceeding, and deferring the matter to January 8 prejudices no one.

D. Bruce May, Jr. | Holland & Knight

Partner

Holland & Knight LLP

315 South Calhoun Street, Suite 600 | Tallahassee, FL 32301

Phone 850.425.5607 | Fax 850.224.8832

bruce.may@hkllaw.com | www.hkllaw.com

[Add to address book](#) | [View professional biography](#)

From: Richard A. Harrison [mailto:rah@harrisonpa.com]

Sent: Wednesday, November 28, 2018 10:17 AM

To: May, D Bruce (TAL - X35607) <bruce.may@hkllaw.com>; bbaez@psc.state.fl.us; khetrick@psc.state.fl.us; mduval@psc.state.fl.us

Cc: Daniela N. Leavitt <dnl@harrisonpa.com>; Lisa Ferrara <Lisa@harrisonpa.com>; jabobo@lutzbobobob.com; jbgabel@lutzbobobob.com; Richard A. Harrison <rah@harrisonpa.com>

Subject: RE: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park

I did not say Mr. May was copied on any email from *yesterday*; my email below clearly indicates that he was copied on an email from our office on 11/12, which is in fact the case. There is no good cause for further delay.

RICHARD A. HARRISON, P.A.
ATTORNEYS AT LAW

Richard A. Harrison

Florida Bar No.: 602493

Board Certified by The Florida Bar in City, County
& Local Government Law

400 N. Ashley Drive

Suite 2600

Tampa, FL 33602

rah@harrisonpa.com

Office: 813-712-8757 Ext. 7057

Cell: 813-230-7317

www.harrisonpa.com

CONFIDENTIALITY NOTICE: This email transmission and any documents attached to or accompanying this email contain information from the law firm of Richard A. Harrison, P.A., which is confidential and/or legally privileged. The information is intended solely for the use of the individuals or entities to whom this email is intended to be delivered. Any transmission of confidential and/or legally privileged information to persons or entities other than the intended recipients, whether through inadvertence or otherwise, shall not be construed as a waiver of any legal privilege or confidentiality. If you are not the intended recipient, you are hereby notified that the opening, review, disclosure, copying, distribution, or forwarding of this email or its contents or attachments, or the taking of any action in reliance thereon, is strictly prohibited. If you have received this email in error, please immediately and permanently delete it and any attachments from your records and notify us via email so that we may take appropriate corrective action. Thank you.

From: bruce.may@hkllaw.com [mailto:bruce.may@hkllaw.com]

Sent: Wednesday, November 28, 2018 10:00 AM

To: Richard A. Harrison; bbaez@psc.state.fl.us; khetrick@psc.state.fl.us; mduval@psc.state.fl.us

Cc: Daniela N. Leavitt; Lisa Ferrara; jabobo@lutzbobobob.com; jbgabel@lutzbobobob.com

Subject: RE: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park

Good morning Mr. Baez.

Contrary to Mr. Harrison's claim, I was not copied on his email to your staff of yesterday, neither was any other representative of the Park. That email was sent to "Keith Hetrick" and "Margo Duval", and the only people copied on that email were "Richard A. Harrison, Daniela N. Leavitt, Lisa Ferrara." This pattern of sending written communications to staff without contemporaneously providing the same information to other parties disregards Rule 25-22.033(2), concerning written communications with staff. It is also highly prejudicial to my client in this quasi-judicial disciplinary proceeding. With respect to the Nov. 19 letter Mr. Harrison shared, the reference to collection of "back monies owed" related to the lot owners' use of the Park's roads, drainage, amenities, garbage collection, and management services as reflected in paragraph 49 of its amended counterclaim. Be assured that the Park has agreed not to charge for water and sewer. Accordingly, the Park renews its request to defer this matter until after the PSC provides the Park with the public records it has requested. The PSC clerk has advised that the records will be produced not later than December 11, 2018. Thus the Park is only requesting that the matter be deferred until the next PSC Agenda Conference, which is on January 8, 2019. Thank you for your consideration.

D. Bruce May, Jr. | Holland & Knight

Partner

Holland & Knight LLP

315 South Calhoun Street, Suite 600 | Tallahassee, FL 32301

Phone 850.425.5607 | Fax 850.224.8832

bruce.may@hklaw.com | www.hklaw.com

[Add to address book](#) | [View professional biography](#)

From: Richard A. Harrison [<mailto:rah@harrisonpa.com>]

Sent: Tuesday, November 27, 2018 6:28 PM

To: 'bbaez@psc.state.fl.us' <bbaez@psc.state.fl.us>; 'Keith Hetrick' <khetrick@psc.state.fl.us>; 'Margo DuVal' <mduval@psc.state.fl.us>

Cc: Richard A. Harrison <rah@harrisonpa.com>; Daniela N. Leavitt <dnl@harrisonpa.com>; Lisa Ferrara <Lisa@harrisonpa.com>; Allen Bobo <jabobo@lutzbobobob.com>; May, D Bruce (TAL - X35607) <bruce.may@hklaw.com>; Jody B. Gabel <jbgabel@lutzbobobob.com>

Subject: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park

Mr. Baez,

We represent a group of lot owner/utility customers who are interested parties in the referenced action. This email is in response to the letter dated November 27, 2018, from Bruce May, counsel for Palm Tree Acres, requesting that the Commission's consideration of the matter at the December 11 Agenda Conference be deferred to some unspecified date. We object to any such postponement of the proceedings.

First, Mr. May does not allege that any improper ex parte communications prohibited by Fla. Stat. §350.042 have occurred. Let me assure you that there have been no such communications by us with any Commissioner.

Second, my limited email communications with PSC staff and counsel have generally related to pending appellate proceedings dealing with the matter of the PSC's exclusive jurisdiction. Those emails consist of the following items:

1. Email 10/16/18 from me to PSC staff transmitting an order entered by the circuit court
2. Email 11/12/18 from me to PSC staff transmitting a copy of the Petition for Certiorari that we filed in the Second DCA
3. Email 11/12/18 from my assistant to PSC staff (with copies to Palm Tree Acres' counsel) transmitting two letters addressed to Mr. Hetrick
4. Email 11/27/18 from me to PSC staff transmitting an order entered by the Second DCA in the certiorari proceedings

So that Mr. May suffers no undue delay in obtaining items 1, 2 and 4 listed above (he was copied on item 4) they are attached to this email. Note that the attachments to these emails are court filings in either the circuit court or the Second DCA and were timely served on Palm Tree Acres' counsel of record in those cases.

Given that these communications relate to the PSC's jurisdiction and not to the merits of the Show Cause proceedings, and that Palm Tree's trial/appellate counsel are fully aware of the proceedings in both the circuit court and the Second DCA, it is difficult to see how Palm Tree Acres can claim any prejudice.

Third, the Commission's consideration of this matter was already delayed once due the effects of Hurricane Michael. That is understandable, of course, but yet another delay would be untenable.

Fourth, Mr. May states in his correspondence that my clients would not be prejudiced by yet another delay "since they are not being charged by the Park for water and wastewater." This claim is both misleading and disingenuous. I have attached a copy of the letter dated November 19, 2018 from Palm Tree's owners to my lot owner clients. It touches on a number of things not pertinent here (although the Park seems to be using the threat of PSC regulation as yet another means to intimidate my elderly clients). But pertinent to the claim that my clients would not suffer any prejudice by further delay, please note on Page 3 of the letter that the Park states "In the meantime all legal means will be pursued to collect all back monies owed to Palm tree Acres Mobile Home Park by the 18 lot owners including using collection agencies." In short, the Park by its own admission continues to pursue collection of damages from my clients, including charges for water and wastewater services provided by the Park without proper certification or authority to do so.

We urge you to reject the request for further delay. The staff should be well-prepared at this juncture to make a recommendation to the Commission as scheduled. This matter needs to be resolved without further delay.

Thank you.

RICHARD A. HARRISON, P.A.
ATTORNEYS AT LAW

Richard A. Harrison
Florida Bar No.: 602493
Board Certified by The Florida Bar in City, County
& Local Government Law
400 N. Ashley Drive
Suite 2600
Tampa, FL 33602
rah@harrisonpa.com
Office: 813-712-8757 Ext. 7057
Cell: 813-230-7317
www.harrisonpa.com

CONFIDENTIALITY NOTICE: This email transmission and any documents attached to or accompanying this email contain information from the law firm of Richard A. Harrison, P.A., which is confidential and/or legally privileged. The information is intended solely for the use of the individuals or entities to whom this email is intended to be delivered. Any transmission of confidential and/or legally privileged information to persons or entities other than the intended recipients, whether through inadvertence or otherwise, shall not be construed as a waiver of any legal privilege or confidentiality. If you are not the intended recipient, you are hereby notified that the opening, review, disclosure, copying, distribution, or forwarding of this email or its contents or attachments, or the taking of any action in reliance thereon, is strictly prohibited. If you have received this email in error, please immediately and permanently delete it and any attachments from your records and notify us via email so that we may take appropriate corrective action. Thank you.

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

Margo DuVal

From: jennifer.gillis@hklaw.com
Sent: Tuesday, November 27, 2018 4:09 PM
To: Braulio Baez
Cc: Keith Hetrick; Margo DuVal; Jennifer Crawford; jabobo@lutzbobob.com; Johana Nieves; rah@harrisonpa.com; bruce.may@hklaw.com
Subject: Docket No.: 20180142-WS - Palm Tree Acres Mobile Home Park
Attachments: B_Baez_11-27-18-signed.pdf

Mr. Baez:

Please find the attached correspondence from Bruce May dated November 27, 2018 regarding the matter captioned above. Thank you.

Jennifer Gillis | Holland & Knight
Sr. Legal Secretary
Holland & Knight LLP
315 South Calhoun Street, Suite 600 | Tallahassee FL 32301
Phone 850.425.5605 | Fax 850.224.8832
jennifer.gillis@hklaw.com | www.hklaw.com

[Add to address book](#)

NOTE: This e-mail is from a law firm, Holland & Knight LLP ("H&K"), and is intended solely for the use of the individual(s) to whom it is addressed. If you believe you received this e-mail in error, please notify the sender immediately, delete the e-mail from your computer and do not copy or disclose it to anyone else. If you are not an existing client of H&K, do not construe anything in this e-mail to make you a client unless it contains a specific statement to that effect and do not disclose anything to H&K in reply that you expect it to hold in confidence. If you properly received this e-mail as a client, co-counsel or retained expert of H&K, you should maintain its contents in confidence in order to preserve the attorney-client or work product privilege that may be available to protect confidentiality.

Holland & Knight

315 South Calhoun Street, Suite 600 | Tallahassee, FL 32301 | T 850.224.7000 | F 850.224.8832
Holland & Knight LLP | www.hklaw.com

D. Bruce May, Jr.
(850) 425-5607
bruce.may@hklaw.com

November 27, 2018

Via E-Mail (bbaez@psc.state.fl.us)

Braulio L. Baez
Executive Director
Florida Public Service Commission
2540 Shumard Oak Boulevard
Tallahassee, FL 32399-0850

Re: Request for Deferral in Docket No. 20180142-WS

Dear Mr. Baez:

Our law firm represents Palm Tree Acres Mobile Home Park (the “Park”) in the above referenced docket wherein the PSC staff has initiated show cause proceedings against the Park for allegedly failing to comply with PSC rules and regulations. According to the Case Assignment and Scheduling Record, the PSC staff is scheduled to issue its recommendation on November 29, 2018, which the PSC is scheduled to consider at its Agenda Conference on December 11, 2018.

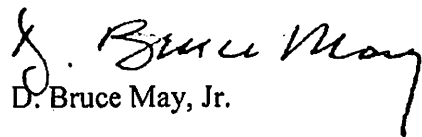
Based on filings made by PSC staff in the docket on November 21, 2018, and again yesterday, we recently discovered that attorneys for substantially interested persons in this docket have had direct written communications with the PSC staff and the Office of Public Counsel without notifying us or our client. Some of those unnoticed written communications appear to have occurred well over a month ago. Given that this is a quasi-judicial disciplinary proceeding, our client is entitled to due process protections and full and fair disclosure of information which the PSC staff may intend to utilize in this docket. Earlier today, our client submitted a public records request to the Commission requesting any other records or communications that may have been furnished to or considered by PSC staff in this proceeding. Therefore, we are respectfully requesting that the Commission defer consideration of this matter until a reasonable time after the Commission provides the Park with the public records it has requested. The deferral will not prejudice the other substantially interested persons in this docket since they are not being charged by the Park for water and wastewater.

Braulio L. Baez
November 27, 2018
Page 2

Thank you for your consideration.

Sincerely,

HOLLAND & KNIGHT LLP


D. Bruce May, Jr.

DBM:kjg

cc: Keith Hetrick
Margo Duval
Jennifer Crawford
Johana Nieves
Allen Bobo
Richard Harrison